



Date December 20, 2021

**RESOLUTION HOLDING HEARING ON CITY-INITIATED REQUEST TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY GENERALLY LOCATED IN THE AREA BOUNDED BY EAST UNIVERSITY AVENUE TO THE NORTH, INTERSTATE 235 (FREEWAY) TO THE EAST AND SOUTH, AND EAST 15<sup>TH</sup> STREET TO THE WEST, EXCEPT FOR PARCELS FRONTING EAST UNIVERSITY AVENUE**

**WHEREAS**, on December 6, 2021, by Roll Call No. 21-1823, the City Council received a communication from the City Plan and Zoning Commission advising 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 in the area bounded by East University Avenue to the north, Interstate 235 (Freeway) to the east and south, and East 15<sup>th</sup> Street to the west, except for parcels fronting along East University Avenue (“Property”) from Business Park Use to Low Density Residential, to allow rezoning; and

**WHEREAS**, on December 6, 2021, by Roll Call No. 21-1823, 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 **APPROVAL** of a city-initiated request to rezone real property generally located in the area bounded by East University Avenue to the north, Interstate 235 (Freeway) to the east and south, and East 15<sup>th</sup> Street to the west, except parcels fronting along East University Avenue (“Property”) from ‘EX’ Mixed Use District to ‘NX1’ Neighborhood Mix District; and

**WHEREAS**, on December 6, 2021, by Roll Call No. 21-1823, 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 Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property generally located in the area bounded by East University Avenue to the north, Interstate 235 (Freeway) to the east and south, and East 15<sup>th</sup> Street to the west, except parcels fronting along East University Avenue, legally described as:

**ALL PARCELS IN THE AREA BOUNDED BY: EAST UNIVERSITY AVENUE TO THE NORTH, EXCEPT FOR PARCELS WITH FRONTAGE ALONG EAST UNIVERSITY AVENUE; INTERSTATE 235 (FREEWAY) TO THE EAST AND SOUTH, AND EAST 16<sup>TH</sup> STREET TO THE WEST; AND ADDITIONALLY, ALL PARCELS WITHIN THE BLOCK THAT IS BOUNDED BY EAST 15<sup>TH</sup> STREET TO THE WEST, WALKER STREET TO THE NORTH, E 16<sup>TH</sup> TO THE EAST AND INTERSTATE 235 (FREEWAY) TO THE SOUTH IN THE CITY OF DES MOINES, POLK COUNTY, IOWA.**

from EX Mixed Use District to NX1 Neighborhood Mix District; and

**Date** December 20, 2021

**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 'NX1' Neighborhood Mix 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 Business Park to Low Density Residential, is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to 'NX1' Neighborhood Mix 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.

APPROVED AS TO FORM:

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

(ZONG2021-000036)  
(ZONG2021-000037)

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

**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.

\_\_\_\_\_  
Mayor

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



Date December 20, 2021

**RESOLUTION HOLDING HEARING ON CITY-INITIATED REQUEST  
TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY  
GENERALLY LOCATED IN THE AREA BOUNDED BY EAST UNIVERSITY AVENUE TO THE  
NORTH, INTERSTATE 235 (FREEWAY) TO THE EAST AND SOUTH, AND EAST 15<sup>TH</sup> STREET TO  
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from EX Mixed Use District to NX1 Neighborhood Mix District; and



**Roll Call Number**

**Agenda Item Number**

75

**Date** December 20, 2021

**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 'NX1' Neighborhood Mix 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 Business Park to Low Density Residential, is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to 'NX1' Neighborhood Mix 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.

APPROVED AS TO FORM:

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

(ZONG2021-000036)  
(ZONG2021-000037)

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

**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.

\_\_\_\_\_  
Mayor

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

75

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 City-initiated request to amend PlanDSM: Creating Our Tomorrow future land use designation for an area of real property generally located at in the area bounded by East University Avenue to the north, Interstate 235 (freeway) to the east and south, and East 15<sup>th</sup> Street to the west, except for parcels fronting along East University Avenue ("Property"), from Business Park to Low Density Residential, and to rezone said property, legally described as follows, from EX Mixed Use District to NX1 Neighborhood Mix District:

ALL PARCELS IN THE AREA BOUNDED BY: EAST UNIVERSITY AVENUE TO THE NORTH, EXCEPT FOR PARCELS WITH FRONTAGE ALONG EAST UNIVERSITY AVENUE; INTERSTATE 235 (FREEWAY) TO THE EAST AND SOUTH, AND EAST 16TH STREET TO THE WEST; AND ADDITIONALLY, ALL PARCELS WITHIN THE BLOCK THAT IS BOUNDED BY EAST 15TH STREET TO THE WEST, WALKER STREET TO THE NORTH, E 16TH TO THE EAST AND INTERSTATE 235 (FREEWAY) TO THE SOUTH IN 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 8, 2021.

9



Date 12/20/21  
 Agenda Item 75  
 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 City-initiated request to rezone properties generally located in the area bounded by East University Avenue to the north, Interstate 235 (freeway) to the east and south, and East 15<sup>th</sup> Street to the west, except for parcels fronting East University Avenue from "EX" Mixed Use District to "NX1" Neighborhood Mix 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 "NX1" District be found not in conformance with the existing PlanDSM future land use designation of Business Park.

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

Part C) Approval of the request to rezone the property from "EX" Mixed Use District to "NX1" Neighborhood District. (ZONG-2021-000036 & ZONG-2021-000037)

Written Responses

1 in Favor

0 in opposition

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

Part A) Staff recommends that the requested "NX1" District be found not in conformance with the existing PlanDSM future land use designation of Business Park.

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 Business Park to Low Density Residential.

Part C) Staff recommends approval of the request to rezone the property from "EX" Mixed Use District to "NX1" Neighborhood District.

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

- 1. Purpose of Request:** The subject area is currently zoned "EX" 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 "EX" District. The City is proposing to rezone this area to "NX1" 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 26.3 acres.
- 3. Existing Zoning (site):** "EX" Mixed Use District.
- 4. Existing Land Use (site):** The subject properties consist of primarily one-household residential use.
- 5. Adjacent Land Use and Zoning:**

**North** – "MX1"; Uses include retail, light industrial, warehouse and parking uses along East University Avenue.

**South** – "RX1"; Uses include residential and office uses to the south of Interstate 235.

**East** – "RX1"; and "EX", Uses are residential, office and light industrial east of Interstate 235.

**West** – "P1" & "P2", Uses include East High School's stadium and athletic fields.

- 6. General Neighborhood/Area Land Uses:** The subject area is generally bounded by East University Avenue to the north, Interstate 235 (freeway) to the east and south,

and East 15<sup>th</sup> Street to the west. The area consists of a mix of residential, religious assembly, and open space/public uses.

- 7. Applicable Recognized Neighborhood(s):** The subject property is in the Martin Luther King Jr. 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 Martin Luther King Jr. 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 Martin Luther King Jr. Park Neighborhood mailings were sent to Charice Williams, 1434 East 18<sup>th</sup> Street, Des Moines, IA 50316.

A neighborhood outreach meeting was held on October 13, 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 "EX" Mixed Use District since the new zoning had to be in conformance with the PlanDSM Comprehensive Land Use Plan, which designates this area as Business Park.
- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Business Park.
- 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 "Business Park" to "Low Density Residential." Plan DSM describes these designations as follows:

*Business Park: Accommodates light industrial, office and employment uses along with limited complementary retail uses. Industrial uses in this category would produce little or no noise, odor, vibration, glare, or other objectionable influences, and would have little or no adverse effect on surrounding properties.*

*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 property is currently zoned "EX" District. The Zoning Ordinance describes this district as "intended for locations and corridors with a mix of light industrial and heavier commercial uses." Building types allowed in this district by Chapter 135 include the Storefront, Commercial Cottage, and General Building.

The City is proposing to rezone the area to the "NX1" District. The Zoning Ordinance describes this district as "a mix of single- and smaller scaled multiple-household uses and building forms to preserve the scale and character of the existing neighborhood while allowing for new infill housing". Building types allowed in this district by Chapter 135 include the House Type C, House Type D, and Row Building.

- 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 and building elevations for review before the property can be occupied by the proposed use.

## **SUMMARY OF DISCUSSION**

Jason Van Essen stated this item is very similar to item #1 and could move to public comment.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Denise Olson, 912 E. 17<sup>th</sup> Court, asked if any of these houses will be torn down.

Jason Van Essen stated we are just proposing a change of zoning that would allow residential uses, no property acquisition will take place. This rezoning would get rid of current limitations and allow future development by right.

Denise Olson asked how it would affect a person who wanted to run a small business in this area.

Jason Van Essen stated they would need to seek a rezoning or a conditional use for home occupation which would be a secondary use of the house.

Denise Olson asked if this would be rezoned to residential with limited commercial use.

Jason Van Essen stated there are some uses allowed as home occupation in a residential setting. The property still needs to be used as a primary residence but could be used for such things as home office, barber shop, etc. Store front businesses would be more challenging.

Denise Olson asked if this would affect rental properties.

Jason Van Essen stated no, the City has a rental code for that process, as zoning doesn't mandate ownership.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Chris Draper stated he would like to spark discussion around urban farming in areas like this as Chapter 134 of the City Code has a major gap in allowing these types of opportunities.

Jason Van Essen stated that is an item on their list of code amendments. He would like some time to discuss with City Staff around how potential code revisions would be structured.

## **COMMISSION ACTION:**

Jann Freed made a motion for:

Part A) The requested "NX1" District be found not in conformance with the existing PlanDSM future land use designation of Business Park.

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

Part C) Approval of the request to rezone the property from "EX" Mixed Use District to "NX1" Neighborhood District.

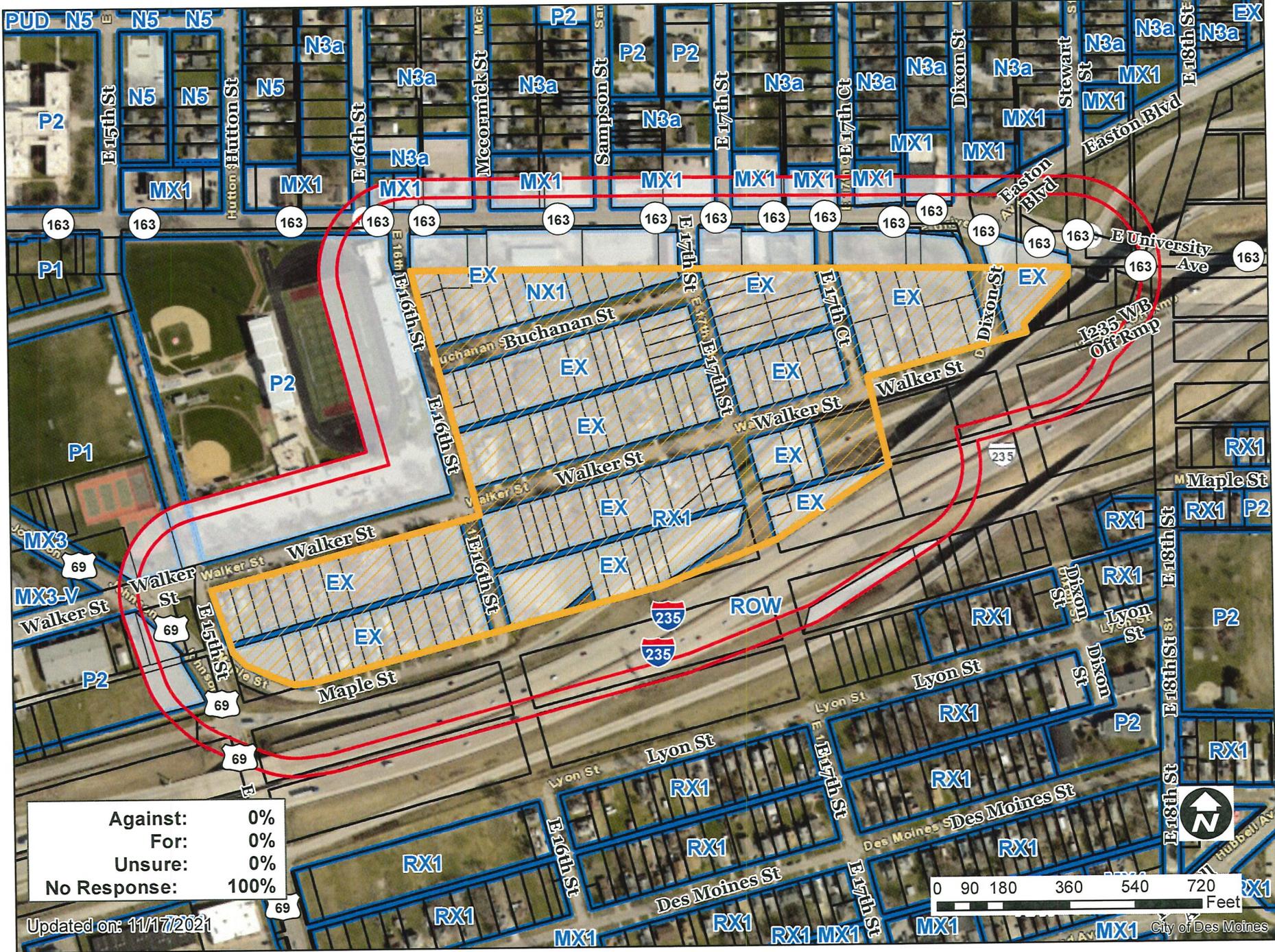
Motion passed: 11-0

Respectfully submitted,



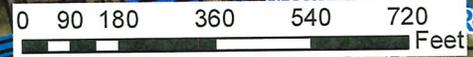
Bert Drost, AICP  
Planning & Urban Design Deputy Administrator

BAD:tjh

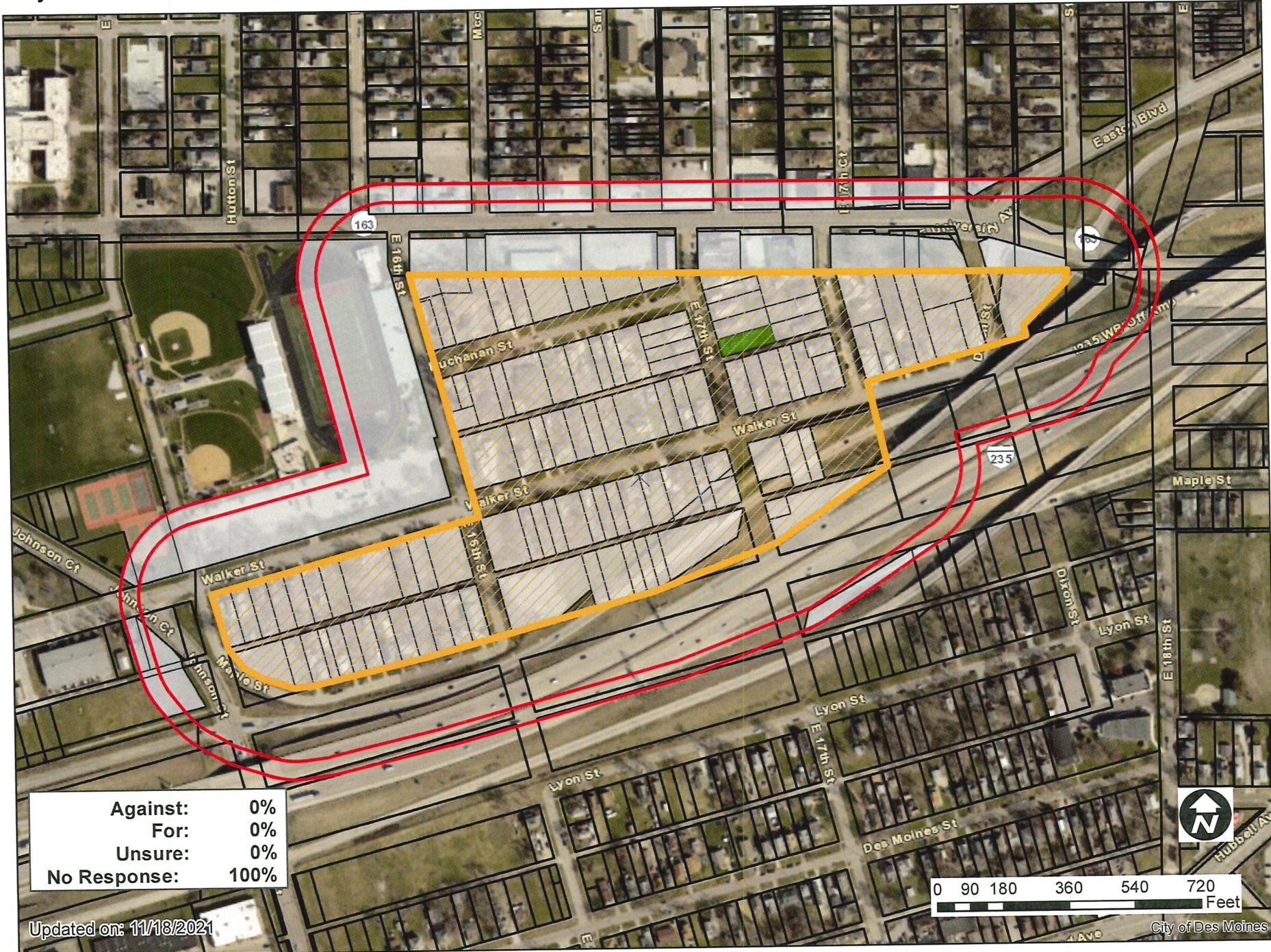


Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 11/17/2021

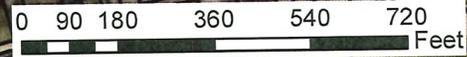


1 inch = 343 feet



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

Updated on: 11/18/2021



City of Des Moines

1 inch = 343 feet



ZONG-2021-000037

Item: \_\_\_\_\_

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

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

Name: EDWARD J JURICH

Address: 913 E 17<sup>TH</sup> ST

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

NOV 15 2021

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

REZONING TO NX1 SHOULD KEEP HEAVY TRAFFIC  
DOWN AND REDUCE NOISE