

Date January 13, 2025

RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM LUIS E. OCHOA (OWNER), FOR THE FOLLOWING REGARDING PROPERTY LOCATED AT 617 SCOTT AVENUE, TO REZONE THE PROPERTY FROM “DXR” DOWNTOWN DISTRICT TO LIMITED “MX3” MIXED USE DISTRICT, TO ALLOW A “VEHICLE MAINTENANCE AND REPAIR – MINOR” USE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 5, 2024, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Luis E. Ochoa (Owner), for the proposed rezoning from “DXR” Downtown District to Limited “MX3” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Downtown Mixed Use; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on December 5, 2024, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Luis E. Ochoa (Owner), to rezone the Property from “DXR” Downtown District to Limited “MX3” Mixed Use District, to allow a “Vehicle Maintenance and Repair – Minor” use, subject to the following conditions:

1. Permitted uses shall be limited to:
 - a. Vehicle Sales and Service - Vehicle Maintenance/Repair Minor; and
 - b. Any use as permitted in common with and as limited by the DXR District.
2. Any use on the property shall be in accordance with an approved site plan.
3. A site plan for the property shall be submitted no later than April 30, 2025, and the property owner shall obtain approval no later than July 31, 2025.
4. The property shall be brought into conformance with an approved site plan by December 31, 2025.
5. Any future principal building or addition on the site shall conform to the Storefront or General Building Type regulations pursuant to Chapter 135-2.1.; and

WHEREAS, the Property is legally described as follows:

EXCEPT THE WEST 50 FEET, LOTS 8, 9 AND 10, BLOCK 54, TOWN OF DE MOINE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.; and



Roll Call Number

.....

Agenda Item Number

34 ✓

Date January 13, 2025

WHEREAS, on December 23, 2024, by Roll Call No. 24-1719, it was duly resolved by the City Council that the request for approval of the proposed rezoning be set down for hearing on January 13, 2025, 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 proposal; and

WHEREAS, in accordance with said notice, those interested in said proposal, 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 rezoning are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, from "DXR" Downtown District to Limited "MX3" Mixed Use District, to allow a "Vehicle Maintenance and Repair – Minor" use, subject to the conditions set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT. SECOND BY _____.

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill
Assistant City Attorney

(ZONG-2024-000026)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, LAURA BAUMGARTNER, 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

Dec 13, 2024

Communication from Luis E. Ochoa (owner), for the following regarding property located at 617 Scott Avenue:

- A) Determination as to whether the requested rezoning is in conformance with the PlanDSM: Creating Our Tomorrow Comprehensive Plan.
- B) Rezone property from “DXR” Downtown District to Limited “MX3” Mixed Use District, to allow a “Vehicle Maintenance and Repair – Minor” use.

COMMISSION RECOMMENDATION: 11-0

After public hearing, the members voted as follows:

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Leah Rudolphi	X				
Kayla Berkson	X				
Chris Draper	X				
Laura Kessel	X				
Todd Garner					X
Johnny Alcivar	X				
Justyn Lewis					X
Carolyn Jenison					X
William Page					
Andrew Lorentzen	X				
Emily Webb	X				
Katie Gillette	X				
Rick Trower	X				
Jane Rongerude					X

Approval of the following:

Part A) The requested rezoning be found in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan future land use designation of Downtown Mixed Use.

Part B) Rezone the property from “DXR” Downtown District to Limited “MX3” Mixed-Use District subject to the following conditions:

1. Permitted uses shall be limited to:
 - a. Vehicle Sales and Service - Vehicle Maintenance/Repair Minor; and
 - b. Any use as permitted in common with and as limited by the DXR District.
2. Any use on the property shall be in accordance with an approved site plan.
3. A site plan for the property shall be submitted no later than April 30, 2025, and the property owner shall obtain approval no later than July 31, 2025.
4. The property shall be brought into conformance with an approved site plan by December 31, 2025.
5. Any principal building on the site shall conform to the Storefront or General Building Type regulations pursuant to Chapter 135-2.1.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan future land use designation of Downtown Mixed Use.

Part B) Staff recommends approval of the request to rezone the property from “DXR” Downtown District to Limited “MX3” Mixed-Use District subject to the following conditions:

1. Permitted uses shall be limited to:
 - a. Vehicle Sales and Service - Vehicle Maintenance/Repair Minor; and
 - b. Any use as permitted in common with and as limited by the DXR District.
2. Any use on the property shall be in accordance with an approved site plan.
3. A site plan for the property shall be submitted no later than April 30, 2025, and the property owner shall obtain approval no later than July 31, 2025.
4. The property shall be brought into conformance with an approved site plan by December 31, 2025.
5. Any principal building on the site shall conform to the Storefront or General Building Type regulations pursuant to Chapter 135-2.1.

6. All overhead garage doors on the primary facade facing Scott Avenue shall be removed and replaced with walls and windows compliant with Chapter 135 of the City Code.

STAFF REPORT TO THE PLANNING COMMISSION

GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning of the property known as 617 Scott Avenue would allow expansion of an existing business operating on the adjoining property known as 605 Scott Avenue. The proposed expansion would include an Vehicle Maintenance and Repair – Minor use. The subject property contains a commercial building that was previously occupied by an auto repair business, but has lost legal non-conforming rights for such use.

Should the rezoning be approved, a site plan will be required for a change in the use of the property that complies with applicable design regulations within City Code Chapter 135.

2. **Size of Site:** 16,948 square feet (0.39 acres).
3. **Existing Zoning (site):** “DXR” Downtown District.
4. **Existing Land Use (site):** The subject property includes a 5,732-square-foot, 1-story commercial building with an unpaved parking lot.
5. **Adjacent Land Use and Zoning:**
 - North** – “DX2”: Use is a 2-story brick building known as Settlement House.
 - South** – “DXR”; Use is one-household residential.
 - East** – “DXR”, Uses are one-household residential.
 - West** – “DXR”; Use is an auto repair business with outdoor storage of vehicles.
6. **General Neighborhood/Area Land Uses:** The subject property is located along Scott Avenue, a block southeast of Martin Luther King, Jr. Parkway and Southeast 6th Street. This area is transitional in nature and currently characterized by residential and light industrial type uses. There are Downtown-oriented uses to the north of the Martin Luther King, Jr. Parkway. The subject property is in close proximity to the East Village and Market District.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Historic East Village Neighborhood Association. All neighborhood associations were notified of the public hearing by emailing the Preliminary Agenda on November 15, 2024, and of the Final Agenda on November 26, 2024.

Additionally, an official public notice of the hearing for this specific item was mailed on November 15, 2024 (20 days before the hearing), and on November 25, 2024 (10 days

before the hearing), to any Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site or adjacent to the site. All Neighborhood Association mailings are sent to the primary contact designated by the recognized Neighborhood Association on file with the City of Des Moines' Neighborhood Services Department.

The applicant will provide a summary of the neighborhood meeting at the public hearing.

8. **Relevant Zoning History:** The applicant has been under enforcement for illegally expanding an auto repair business into the subject property from their existing site to the west. On February 9, 2024, the Zoning Inspector sent out a Notice for multiple violations for both properties. The subject property was cited for inoperable, unsafe, and/or unlicensed vehicle(s), vehicular component parts, and/or miscellaneous junk and debris stored outside as per Section 134-3.9.6.E.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Downtown 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 area 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 future land use designation for the property is "Downtown Mixed Use". PlanDSM describes this designation as follows:

Downtown Mixed Use: Allows mixed-use, high density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown. Should include active uses (e.g. retail) on ground floor, particularly at key intersections.

The subject property is currently zoned "DXR" District. The Zoning Ordinance describes "DXR" as "intended for the mainly residential neighborhoods of the downtown, surrounding the downtown, and across the rivers from downtown."

The applicant is proposing to rezone the subject property to a Limited "MX3" District. The Zoning Ordinance describes "MX3" as, "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."

Staff believes that the proposed rezoning to a Limited "MX3" District would be consistent with the Downtown Mixed Use future land use designation, which allows

mixed-use, high density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown, so long as the site is developed and brought to conformance with the recommended conditions of approval.

2. **The Market District of the East Village Master Plan:** The subject property is immediately south of the Market District planning boundary. The Market District is located on the east side of the Des Moines River, across from Downtown Des Moines and immediately south of the East Village. The Plan states that “it is currently dominated by industrial uses, but is beginning to experience redevelopment pressure, with several active redevelopment projects currently in the pipeline”. The general intent of the plan is to create a walkable urban neighborhood that contains a variety of uses, including residential, retail, hospitality, and office. Sustainability and green initiatives are also layered into the framework for this district.

Staff believes that the proposed rezoning is not consistent with the goals and future plans for the Market District and the greater Downtown area. Given its location within the Downtown area and proximity to the Market District, it does not fit with the character of downtown oriented uses that exist now and might potentially develop in the future. However, Staff believes that the site could be improved and may not adversely impact the character of the Downtown and the Market District so long as the site is designed, developed, and brought to conformance according to the conditions of approval.

3. **Planning and Design Ordinance:** Should the rezoning be approved, the applicant would be required to prepare a site plan for any proposed additions or modifications and bring the site to conformance as per the recommendations of approval.

Any future construction or development of the site would include the restoration of the right-of-way adjoining the property and must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).

Additionally, Staff recommends any building on the site must be consistent with the design requirement of the Storefront or General Building Type as allowed in the “MX3” District. Staff also recommends that all existing overhead garage doors on the primary façade must be replaced by appropriately designed wall and windows, as per Section 135-2.5.3. of the City Code.

4. **Supplemental Regulations:** Any future use on the property shall be subject to the following supplemental use regulations pursuant to Section 134-3.5.19.D:

- 1) No more than three vehicles per bay may be stored outdoors while awaiting repair or pick-up.
- 2) No long-term outdoor storage of vehicles beyond 72 hours is allowed.
- 3) Vehicles awaiting repair or pick-up may not occupy required parking spaces.
- 4) All vehicles must have current license tags.
- 5) Outdoor storage of junk, debris, tires or vehicle parts is prohibited.
- 6) All repairs must occur within a completely enclosed building.

SUMMARY OF DISCUSSION

Sreyoshi Chakraborty presented the staff report and recommendation.

Emily Webb asked if the applicant was agreeable to the conditions recommended by staff.

Sreyoshi Chakraborty expressed belief that they were agreeable to most of the conditions, but also wanted to discuss some of the items with the Commission.

Leah Rudolphi asked for clarification on Item 5 (Any principal building on the site shall conform to the Storefront or General Building Type regulations pursuant to Chapter 135-2.1.) Is this in regards to the current building or a future building?

Sreyoshi Chakraborty stated it was for a future building should the current building be demolished.

Leah Rudolphi suggested it should read "Any future principal building" as a point of clarification.

Laura Kessel asked if there were sidewalks on both of the street facing sides of the building.

Sreyoshi Chakraborty stated there were sidewalks on both sides.

CHAIRPERSON OPENED PUBLIC HEARING

Edwin Ochoa 1205 Leland Avenue, appearing with his father Luis Ochoa, stated they were agreeable to the conditions, but did have questions about item 5. He wondered if the building was lost, would they have to change their business type or what adjustments would have to be made.

Jason Van Essen stated the recommendation only applies to the form of the building. Any use permitted by the zoning would be allowed.

Edwin Ochoa stated they were agreeable to the conditions and the timelines to complete the work but had taken issue with item 6 of the conditions to remove and replace the overhead doors. He noted that the doors had always been there and there has never been an issue with traffic in the area due to the placement of the door. The overhead doors are important to their business flow and they were willing to negotiate to be certain that cars were never parked in front of this area. They would also be willing to add another overhead door to the back portion of the building so cars could flow through and not have to back up into the street.

Jason Van Essen stated that this had been discussed and he felt the condition was a middle ground for now and the future for this area while trying to respect their business needs.

Edwin Ochoa stated that their business has been there since 2006 and they have always given back to the community. They will be working to resolve the violations at 605 Scott and believe they can meet all the timelines set forth by the City of Des Moines. He would

ask that the Commission consider allowing them to keep the two front overhead doors and they will end the parking in front of the building immediately. They are just a small family company and working hard to meet the conditions.

Andrew Lorentzen requested to view the pictures of the building and then asked the applicant how the overhead doors would impact their business on the day to day.

Edwin Ochoa stated it is important as the building has central wall and it impacts their ability to have cars flow from front to back of building. They have had to cut the amount of cars they can take and staff to work on them due to the limitations. They are working hard to make the building look better, rearrange parking, and meet the standards that the city is asking for on both 605 and 617 Scott Ave.

Chris Draper asked if the reason this was before the Commission was because the legal non-conforming use lapsed and now the property needs to be rezoned for the use the applicant is requesting.

Jason Van Essen stated that was correct that the property would need to be rezoned.

Chris Draper summarized the situation, explaining that the property requires rezoning to support the proposed business expansion. He emphasized the necessity of retaining the overhead doors to facilitate the operational flow needed for the quicker oil change services the business intends to offer.

Edwin Ochoa explained the building layout, highlighting the benefits of retaining the front overhead door and adding a second overhead door at the back. This configuration would enhance the operational flow, making it more suitable for the quick oil change services the business plans to provide.

Francis Boggus felt that the parking was far more of an eyesore than the overhead doors.

Edwin Ochoa stated that they are working to correct all the issues with parking and they will immediately stop parking on the right-of-way on the front of the building. Having the ability to have the flow to the back of the building with both doors will alleviate much of these problems over time.

Katie Gillette asked if there was a curb in front of the building.

Jason Van Essen stated there is not currently, but they will be required to install one with the site plan.

Katie Gillette noted that if there was a curb, it would potentially remedy some of this problem.

CHAIRPERSON CLOSED PUBLIC HEARING

COMMISSION ACTION

Franic Boggus a motion for approval subject to the following with conditions:

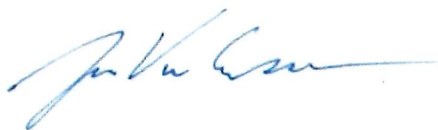
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THE VOTE 11-0

Respectfully submitted,



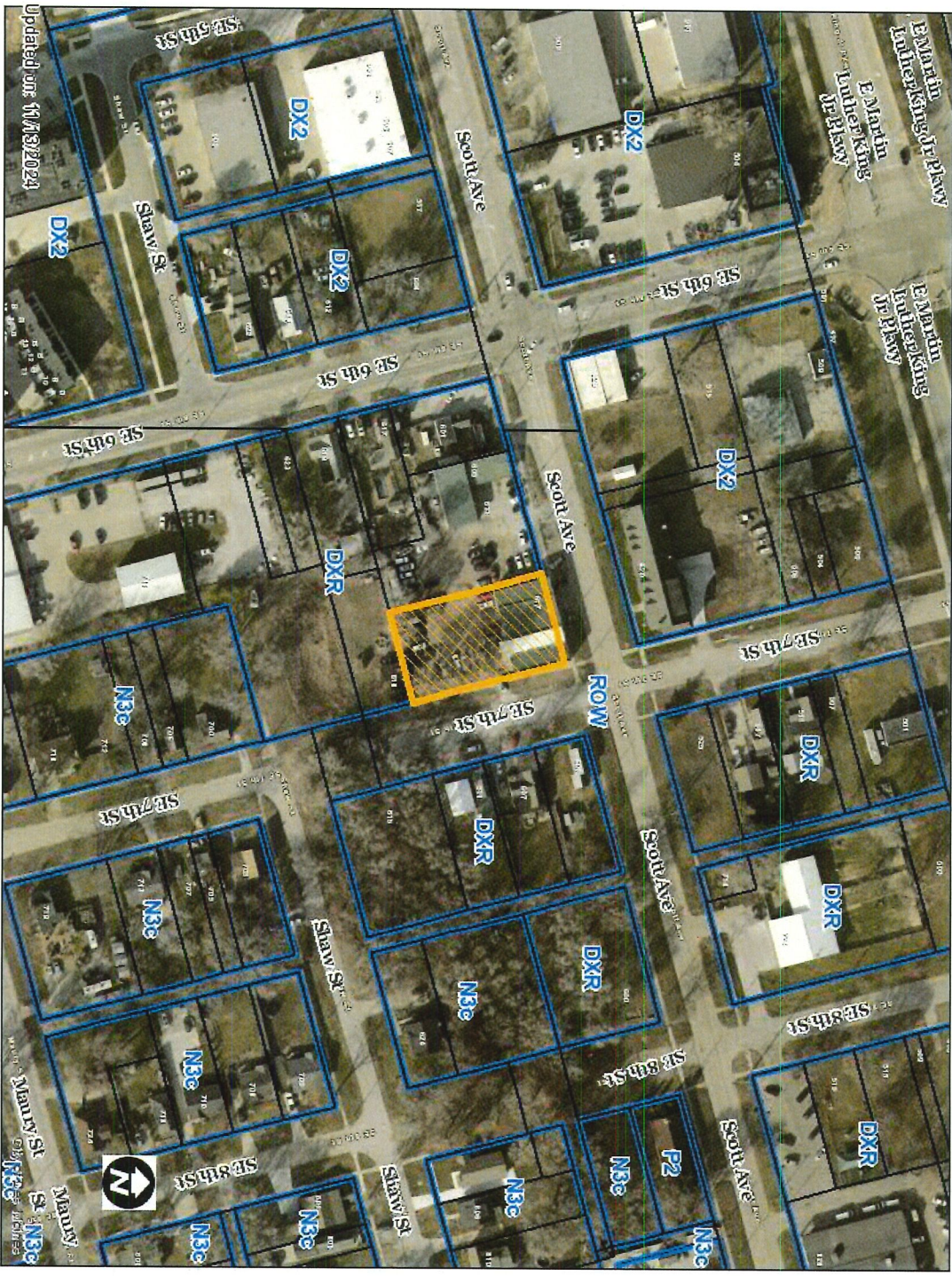
Jason Van Essen

Planning & Urban Design Administrator

JMV:mrw

Luis E Ochoa 617 Scott Avenue

ZONG-2024-000026













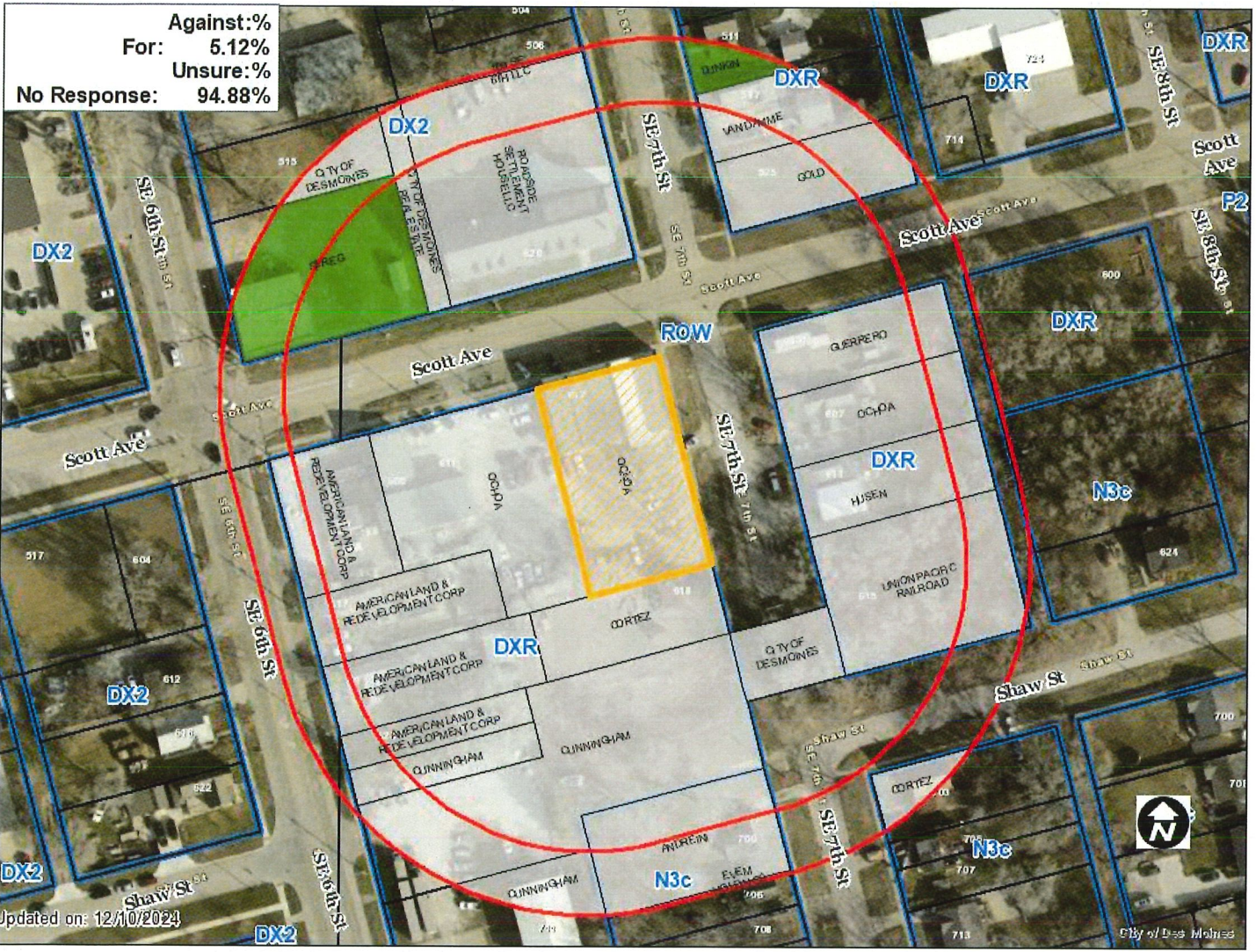
03/11/2024 10:14



08/01/2024 13:46

Luis E Ochoa 617 Scott Avenue

ZONG-2024-000026



Item: ZONG-2024-000026

Date: 12-2-2024

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

RECEIVED
 COM Staff Use Only
 DEC 10 2024

Titleholder Signature: James Robert Lee

Name/Business: _____

Impacted Address: 525 SE 6th St Des Moines, Ia 50309

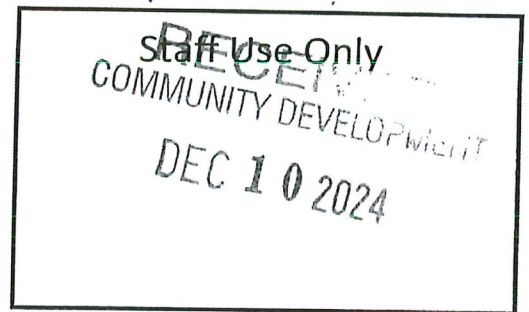
Comments: _____

Item: ZONG-2024-000026

Date: 11/30/24

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request



Titleholder Signature: Erin Funn

Name/Business: _____

Impacted Address: 511 SE 7th St. Des Moines, IA 50309

Comments: In favor, especially if it gets customers and Crow-Tow out of the street in the mornings, when taking my son to daycare or on our way home from work.