



.....
Date October 19, 2020

RESOLUTION HOLDING HEARING ON REQUEST FROM BROWN DOG REALTY, LLC TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 2110 WAKONDA VIEW DRIVE

WHEREAS, on October 5, 2020, by Roll Call No. 20-1561, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on September 17, 2020, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Brown Dog Realty, LLC (Owner), represented by David Kriens (officer), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 2110 Wakonda View Drive (“Property”) from Community Mixed Use to Industrial; and

WHEREAS, the City Plan and Zoning Commission had further advised that at a public hearing held on September 17, 2020, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Brown Dog Realty, LLC (Owner), represented by David Kriens (officer), to allow rezoning from “MX2” Mixed-Use District to “I1” Industrial District to allow the expansion of the existing plumbing and mechanical shop site improvements, subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX3” District, and a plumbing and mechanical shop use.
2. Outdoor storage of material and equipment is prohibited except as an accessory use to a plumbing and mechanical shop.
3. Any storage of material permitted by condition #2 shall be located directly south of the building in a 12-foot by 30-foot area with screen walls on three sides as identified on an approved Site Plan. Material in this area shall be stacked no higher than 6-feet above grade.
4. Any storage of equipment permitted by condition #2 shall be limited to trailers stored within the south 60 feet of the property

WHEREAS, pursuant to that communication, 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 October 19, 2020 at 5:00 P.M., by electronic means in accordance with the Governor’s and Mayor’s Proclamations and to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location; 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



Date October 19, 2020

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; and

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property locally known as 2110 Wakonda View Drive, legally described as:

THE EAST ½ HALF OF LOT 30 AND THE WEST 30 FEET OF LOT 31, WAKONDA KNOLLS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

from “MX2” Mixed Use District to “I1” Industrial District to allow for the expansion of the existing plumbing and mechanical shop site improvements, subject to the stated conditions.

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 or rezoning of the Property to I1 Industrial District are hereby overruled, and the hearing is closed.
2. The proposed amendment to the PlanDSM: Creating Our Tomorrow Plan for the property locally known as 2110 Wakonda View Drive to Industrial is hereby denied.
3. The proposed rezoning of the Property, as legally described above, to “I1” Industrial District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT.


 **Roll Call Number**

Agenda Item Number

49

Date October 19, 2020

FORM APPROVED:


Judy K. Parks-Kruse
Assistant City Attorney

(21-2020-4.19)
(ZON2020-00100)

| 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 October 19, 2020
 Agenda Item 49
 Roll Call # _____

September 29, 2020

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their September 17, 2020 meeting, the following action was taken regarding a request from Brown Dog Realty, LLC (owner) represented by David Kriens (officer) to rezone property at 2110 Wakonda View Drive from "MX2" Mixed Use District to Limited "I1" Industrial District, to allow expansion of an existing plumbing and mechanical shop site improvements.

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 | | | |
| Jann Freed | X | | | |
| Johnny Alcivar | X | | | |
| Lisa Howard | X | | | |
| Carolyn Jenison | X | | | |
| Greg Jones | X | | | |
| William Page | X | | | |
| Rocky Sposato | | | | X |
| Steve Wallace | X | | | |
| Greg Wattier | | | | X |
| Emily Webb | X | | | |

APPROVAL of Part A) the proposed rezoning to a Limited "I1" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use.", Part B) The original request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from Community Mixed Use to Industrial is moot as the proposed Limited "I1" District is in

conformance with the “Community Mixed Use” designation and Part C) **APPROVAL** of rezoning the subject property from “MX2” Mixed Use District to a Limited “I1” Industrial District subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX3” District, and a plumbing and mechanical shop use.
2. Outdoor storage of material and equipment is prohibited except as an accessory use to a plumbing and mechanical shop.
3. Any storage of material permitted by condition #2 shall be located directly south of the building in a 12-foot by 30-foot area with screen walls on three sides as identified on an approved Site Plan. Material in this area shall be stacked no higher than 6-feet above grade.
4. Any storage of equipment permitted by condition #2 shall be limited to trailers stored within the south 60 feet of the property.

(21-2020-4.19) & (ZON2020-00100)

Written Responses

1 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to a Limited “I1” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use.”

Part B) The original request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from Community Mixed Use to Industrial is moot as the proposed Limited “I1” District is in conformance with the “Community Mixed Use” designation.

Part C) Staff recommends approval of rezoning the subject property from “MX2” Mixed Use District to a Limited “I1” Industrial District subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX3” District, and a plumbing and mechanical shop use.
2. Outdoor storage of material and equipment is prohibited except as an accessory use to a plumbing and mechanical shop.
3. Any storage of material permitted by condition #2 shall be located directly south of the building in a 12-foot by 30-foot area with screen walls on three sides as identified on an approved Site Plan. Material in this area shall be stacked no higher than 6-feet above grade.

4. Any storage of equipment permitted by condition #2 shall be limited to trailers stored within the south 60 feet of the property.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow the existing plumbing and mechanical shop business to do site improvements as the business is not a permitted use in the "MX2" District. The applicant is requesting "I1" District zoning to legitimize outdoor storage that has been occurring at the property. The outdoor storage component of the business does not have legal non-conforming rights and the applicant has been issued a violation notice. The property was zoned "C-2" District under the old zoning code, which did not allow outdoor storage. Additional zoning history information can be found in section I, subparagraph 8 of this report.
2. **Size of Site:** 106.5 feet by 214 feet (22,865 square feet or 0.525 acres).
3. **Existing Zoning (site):** "MX2" Mixed Use District
4. **Existing Land Use (site):** The site contains a plumbing and mechanical shop business.
5. **Adjacent Land Use and Zoning:**
 - North** – "MX3"; Use is a vacant convenience store.
 - South** – "MX2"; Use a bowling alley business.
 - East** – "MX2"; Uses are two restaurant businesses.
 - West** – "N3a"; Uses vacant lots owned in common with the bowling alley property to the south and one household dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located on the south side of Wakonda View Drive to the west of the intersection with Fleur Drive. The surrounding neighborhood consists of one household dwellings with commercial uses clustered along the Fleur Drive corridor.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Southwestern Hills Neighborhood. The neighborhood association was notified of the September 3, 2020 public hearing by mailing of the Preliminary Agenda on August 14, 2020 and by mailing of the Final Agenda on August 28, 2020. Additionally, separate notifications of the September 3, 2020 hearing for this specific item were mailed on August 14, 2020 (20 days prior to the 9/3 public hearing) and on August 24, 2020 (10 days prior to the 9/3 public hearing) to the Southwestern Hills Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the September 17, 2020 public hearing was mailed on September 11, 2020.

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 Southwestern Hills Neighborhood Association notices were mailed to George Davis, 3124 SW 29th Street, Des Moines, IA 50321.

- 8. Relevant Zoning History:** On March 11, 2019, the City Council amended the Future Land Use Map designation for the subject property from Low-Density Residential to Community Mixed Use and rezoned the property from “R1-80” District to a limited “C-2” District (Ordinance Number 15,755) subject to the following conditions:
- a. The Property shall not be used for any of the following prohibited uses: adult entertainment business; businesses selling liquor, wine, or beer; off-premises advertising signs; taverns and nightclubs; and vehicle display lots.
 - b. Replacement of the existing drive access as part of any site expansion shall require reduction of the width to a maximum of 36 feet in width with 10-20 foot radii.
 - c. Provision of a five-foot wide public sidewalk along Wakonda View Drive as part of any site expansion.
 - d. Compliance with all landscaping requirements as applicable to “C-2” Districts as part of any site expansion. In addition, a bufferyard using “C- 2” District standards shall be provided along the west side of any paved area as part of any site expansion;

Before this rezoning the applicant had submitted a site plan. The review process was not completed by the applicant and the site plan application expired.

On July 19, 2019, a zoning violation notice was sent to the applicant for illegal expansion of a gravel area and outdoor storage of material. The site was inspected again on May 13, 2020, and illegal storage was found to be occurring. The applicant was contacted. They were advised to attend a preapplication meeting as the new Chapter 134 and Chapter 135 of the City Code apply. They attended as pre-application meeting on July 21, 2020.

- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community 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 property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. Application Update:** During the September 3, 2020, Plan and Zoning Commission meeting the applicant discussed the limited nature of their outdoor storage needs and plans to screen materials. It was noted that the subject use is allowed in the “MX3”

District if all equipment and materials are stored within a building and that the properties to the north are zoned MX3.

The Commission expressed interest in allowing the business model described by the applicant, but was concerned that unconditional I1 zoning would allow a future owner to use the property for an industrial use that would be detrimental to the neighborhood. The Commission continued the item and requested that staff work with the applicant to develop a list of zoning conditions that would allow the operations as described, but would prohibit other industrial uses.

Staff provided the applicant with an emailed summary of our understanding of the applicant's outdoor storage needs. In response, the applicant had their consultant update their rezoning site sketch to generally show where storage would occur and how it would be screened. Staff recommends approval of the rezoning subject to the conditions listed in Section III of this report.

The only industrial use that the recommended zoning conditions would allow is a plumbing and mechanical shop with limited outdoor storage. All other permitted uses would be restricted to those uses that the "I1" District allows in common with the "MX3" District. Given this fact, staff believes that the proposed Limited "I1" District can be found in conformance the "Community Mixed Use" future land use map designation and that Plan DSM should not be amended.

2. PlanDSM Creating Our Tomorrow: Plan DSM describes the "Community Mixed Use" future land use map designation as follows:

Community Mixed Use: Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

Plan DSM describes the "Industrial" future land use map designation 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 is intended for general industrial uses, warehousing, and transportation terminals." Building types allowed in this district include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

The Zoning Ordinance states that "MX3 is 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." Building types allowed in this district include the Storefront, Commercial Cottage, Commercial Center, Civic Building and Principal-Use Parking Structure.

3. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance.
4. **Grading & Storm Water Management:** Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.
5. **Utilities:** All necessary utilities are located within the adjoining street rights-of-way.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Emily Webb made a motion for approval of Part A) the proposed rezoning to a Limited "I1" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use.", Part B) The original request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from Community Mixed Use to Industrial is moot as the proposed Limited "I1" District is in conformance with the "Community Mixed Use" designation and Part C) **APPROVAL** of rezoning the subject property from "MX2" Mixed Use District to a Limited "I1" Industrial District subject to the following conditions:

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4. Any storage of equipment permitted by condition #2 shall be limited to trailers stored within the south 60 feet of the property.

Motion passed: 11-0

Respectfully submitted,



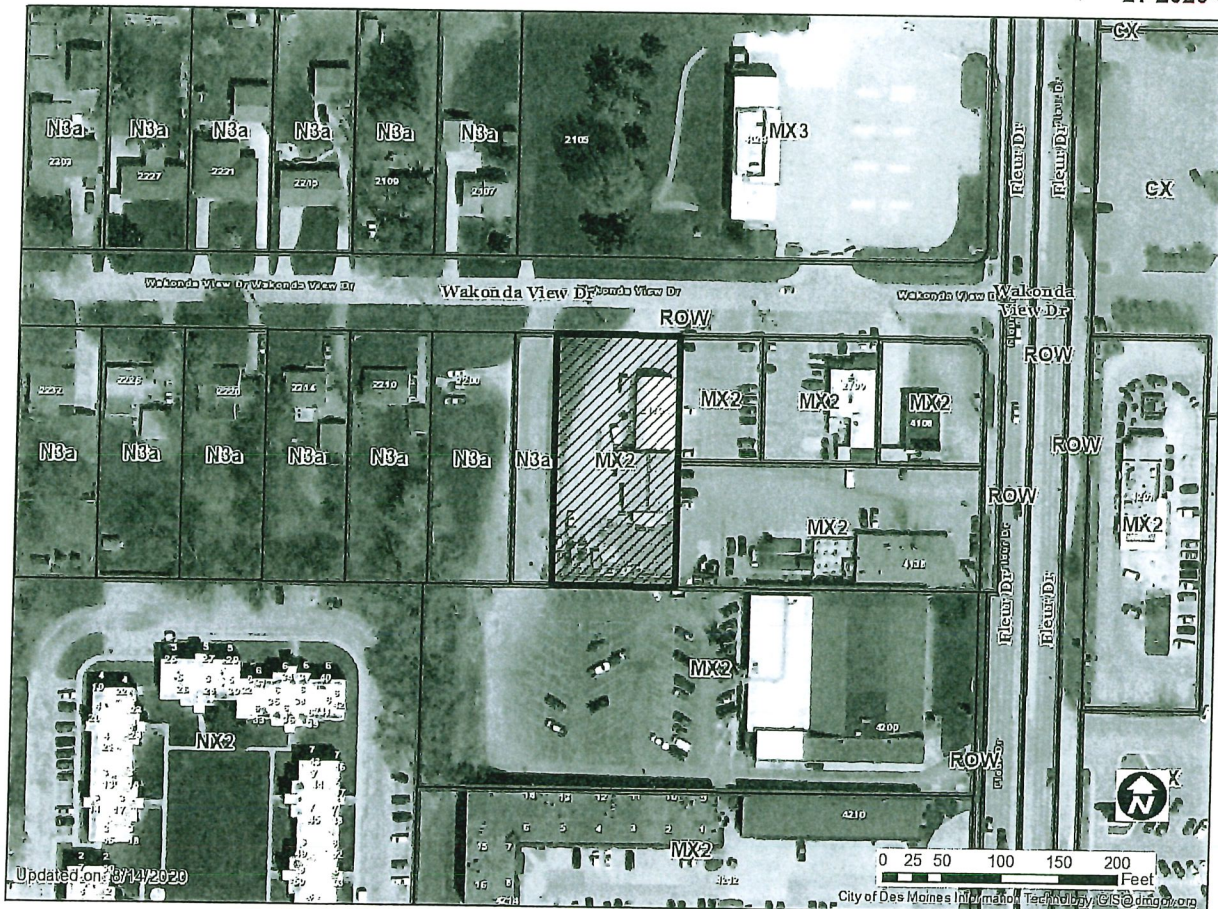
Michael Ludwig, AICP
Planning Administrator

MGL:tjh

| | | | | | |
|---|--|--------------|---------------------------------------|--------------|---|
| Request from Brown Dog Realty, LLC (owner) represented by David Kriens (officer) for property at 2110 Wakonda View Drive. | | | | File # | |
| | | | | 21-2020-4.19 | |
| Description of Action | Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Community Mixed Use to Industrial. | | | | |
| PlanDSM Future Land Use | Current: Community Mixed Use Proposed: Industrial | | | | |
| Mobilizing Tomorrow Transportation Plan | No planned improvements. | | | | |
| Current Zoning District | MX2" Mixed Use District | | | | |
| Proposed Zoning District | "I1" Industrial District | | | | |
| Consent Card Responses | In Favor | Not In Favor | Undetermined | % Opposition | |
| Outside Area (200 feet) | 0 | 0 | | | |
| Within Subject Property | | | | | |
| Plan and Zoning Commission Action | Approval | X | Required 6/7 Vote of the City Council | Yes | |
| | Denial | | | No | X |

Brown Dog Realty, LLC, 2110 Wakonda View Drive

21-2020-4.19

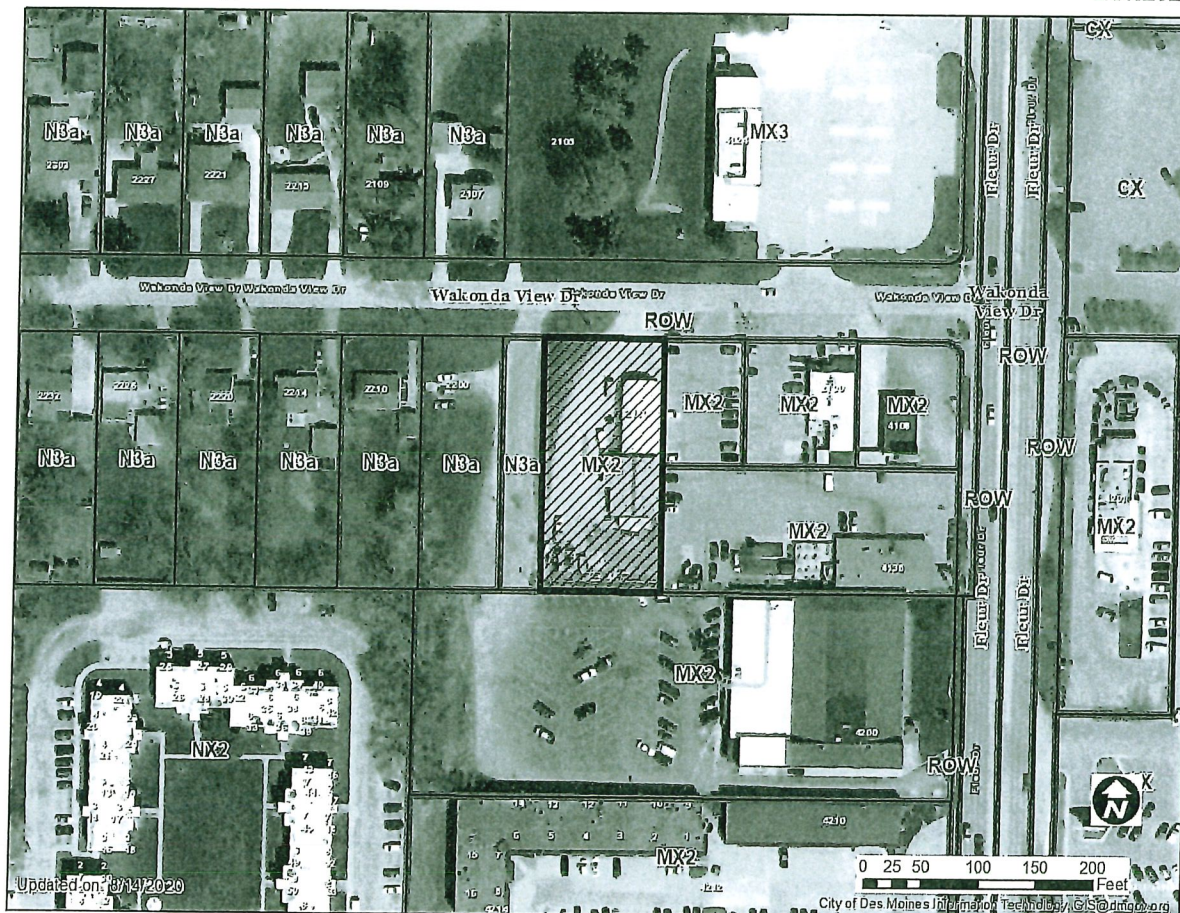


1 inch = 103 feet

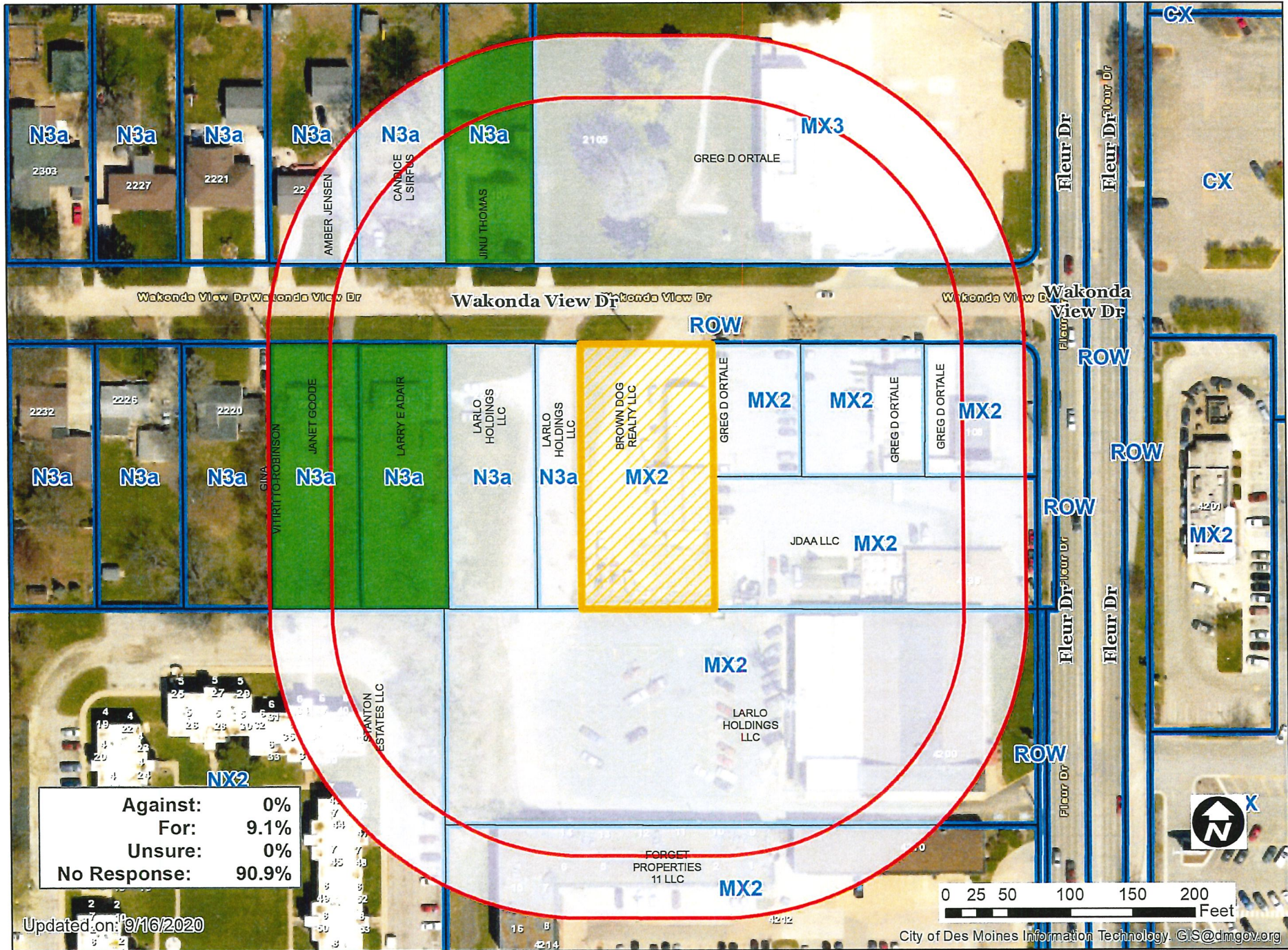
| | | | | | |
|--|--|--------------|--|----------------------|---|
| Request from Brown Dog Realty, LLC (owner) represented by David Kriens (officer) for property at 2110 Wakonda View Drive. | | | | File # | |
| | | | | ZON2020-00100 | |
| Description of Action | Rezone property from "MX2" Mixed Use District to "I1" Industrial District, to allow expansion of an existing plumbing and mechanical shop site improvements. | | | | |
| PlanDSM Future Land Use | Current: MX2" Mixed Use District Proposed: "I1" Industrial District | | | | |
| Mobilizing Tomorrow Transportation Plan | No planned improvements. | | | | |
| Current Zoning District | MX2" Mixed Use District | | | | |
| Proposed Zoning District | "I1" Industrial District | | | | |
| Consent Card Responses | In Favor | Not In Favor | Undetermined | % Opposition | |
| Outside Area (200 feet) | 1 | 0 | | | |
| Within Subject Property | | | | | |
| Plan and Zoning Commission Action | Approval | X | Required 6/7 Vote of the City Council | Yes | |
| | Denial | | | No | X |

Brown Dog Realty, LLC, 2110 Wakonda View Drive

ZON2020-00100



1 inch = 103 feet



49

ZON2020-00100

Item: _____ Date: 5-24-20

I (am) (am not) in favor of the request:

(Circle One)

Print Name: George Davis

RECEIVED
COMMUNITY DEVELOPMENT
SEP 11 2020

Signature: [Handwritten Signature]

Address: 3124 SW 29th

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

Southwest Hill Association
has no problem with this project