



Date December 7, 2020

RESOLUTION HOLDING HEARING ON REQUEST FROM MORGAN MAURER TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 2104 EAST 21ST STREET

WHEREAS, on November 23, 2020, by Roll Call No. 20-1867, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on November 5, 2020, its members voted 10-4 in support of a motion to recommend **APPROVAL** of a request from Morgan Maurer (owner) to amend the PlanDSM: Creating Our Tomorrow future land use designation for the real property locally known as 2104 East 21st Street (“Property”) from Industrial to Low Density Residential, to allow rezoning to N3a Neighborhood District and extension of the existing Household Living residential use with addition of a new accessory detached garage, replacing a recently-demolished detached garage that sustained storm damage with a larger accessory structure; and

WHEREAS, on November 23, 2020, by Roll Call No. 20-1867, the City Council further received the City Plan and Zoning Commission’s recommendation advising that at a public hearing held on November 5, 2020, its members voted 10-4 in support of a motion to recommend **APPROVAL** of a request from Morgan Maurer to rezone the Property from I1 Industrial District to N3a Neighborhood District for the above-stated purpose; and

WHEREAS, on November 23, 2020, by Roll Call No. 20-1867, 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 7, 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

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 2104 East 21st Street, legally described as:

LOT 129, DELAWARE PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

Date December 7, 2020

from I1 Industrial District to N3a Neighborhood District to allow extension of the existing Household Living residential use with addition of a new accessory detached garage, replacing a recently-demolished detached garage that sustained storm damage with a larger accessory structure.

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 N3a Neighborhood 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 2104 East 21st Street to Low Density Residential is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to N3a Neighborhood 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.

FORM APPROVED:

/s/Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

(21-2020-4.25)
 (ZON2020-00131)

| 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 7, 2020
 Agenda Item 41
 Roll Call # _____

November 17, 2020

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their November 5, 2020 meeting, the following action was taken regarding a request from Morgan Maurer (owner) to rezone property located at 2104 East 21st Street from "I1" Industrial District to "N3a" Neighborhood District to allow the existing Household Living use to be extended with addition of a new accessory detached garage use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-4 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 "N3a" Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Industrial to Low Density Residential and Part C) **APPROVAL** of rezoning the subject property from "I1" Industrial District to "N3a"

Neighborhood District so that the applicant can seek a use variance from the Zoning Board of Adjustment. (ZON2020-00131)

Written Responses

2 in Favor
0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to “N3a” Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Staff recommends denial of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Industrial to Low Density Residential.

Part C) Staff recommends denial of rezoning the subject property from “I1” Industrial District to “N3a” Neighborhood District so that the applicant can seek a use variance from the Zoning Board of Adjustment.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The subject property is zoned “I1” District, which does not allow residential uses. The existing one household residential use has legal non-conforming rights to exist, but cannot be expanded. The applicant recently demolished a detached garage that was damaged by a storm. The Zoning Ordinance would allow a new garage of the same size to be constructed in the previous location since the damage was caused by a storm. However, the applicant is proposing to construct a larger garage. For this to occur, the property must be rezoned to a district that allows one household residential uses.

2. **Size of Site:** 50 feet by 132 feet (6,600 square feet or 0.152 acres).

3. **Existing Zoning (site):** “I1” Industrial District.

4. **Existing Land Use (site):** The property contains a one household residential building.

5. Adjacent Land Use and Zoning:

North – “I1”; Uses are one household residential.

South – “I1”; Uses are one household residential.

East – “I1”; Use are one household residential.

West – “I1”; Use is an automotive repair shop.

6. **General Neighborhood/Area Land Uses:** The subject property is located within a band of residential uses, generally located between the Interstate 235 corridor to the east and industrial uses along Delaware Avenue to the west.

- 7. Applicable Recognized Neighborhood(s):** The subject property is in the Fairmont Park Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on October 16, 2020 and by mailing of the Final Agenda on October 30, 2020. Additionally, separate notifications of the hearing for this specific item were mailed October 16, 2020 (20 days prior to the hearing) and October 26, 2020 (10 days prior to the hearing) to the Fairmont Park Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Fairmont Park Neighborhood Association mailings were sent to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317.

- 8. Relevant Zoning History:** None.

- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial.

- 10. Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. PlanDSM Creating Our Tomorrow:** The applicant is requesting that the future land use designation for the property be amended from “Industrial” to “Low Density Residential.” Plan DSM describes these designations as follows:

Industrial: Accommodates industrial development and limited supporting commercial uses. Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated.

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

The subject property is currently zoned “I1” District. The Zoning Ordinance describes this district as “intended for general industrial uses, warehousing, and transportation terminals.” Building types allowed in this district by Chapter 135 include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

The applicant is proposing to rezone the subject property to the “N3a” District. The Zoning Ordinance describes this district as “intended to preserve the scale and character of residential neighborhoods developed predominantly during the 1950s, 1960s and 1970s, typically in the ranch or split-level style pursuant to House B building

type in section 135-2.14 of this code. House Type B is the only building type allowed in this district by Chapter 135.

The existing one household residential use has legal non-conforming rights to exist, but cannot be expanded. The applicant recently demolished a 14-foot by 24-foot detached garage that was damaged by a storm. The Zoning Ordinance would allow a new garage of the same size to be construct in the previous location since the damage was caused by a storm. However, the applicant is proposing to construct a 24-foot by 30-foot detached garage. For this to occur, the property must be rezoned to a district that allows one household residential uses.

The site is in a narrow grouping of one household dwellings that are located between the Interstate 235 to the east and industrial uses to the west. PlanDSM envisions this area transition to industrial uses over an extended period due to the magnitude of the industrial area and rail corridor to the west and the proximity of the freeway. Circumstances have not changed since PlanDSM was adopted in 2016. The applicant may construct a 14-foot by 24-foot garage in the same location as the previous garage. If the rezoning is denied, the applicant also has the ability to seek a Use Variance from the Zoning Board of Adjustment to allow a larger garage to be constructed.

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

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Will Page asked if any residential use in this I1 district can have a garage?

Jason Van Essen stated for any property zoned I1 with a residential use, they cannot be issued a permit for a new garage. There is provision in the zoning ordinance that allows you to build back to the previous footprint after some type of natural disaster occurs.

Will Page asked if the proposed 30 feet in width would get you a 2-car garage?

Jason Van Essen stated yes, 24x24 is usually the base dimensions for a 2-car garage.

Wil Page stated anyone within this neighborhood is going to have the same problems the Maurer's currently do because of the I1 zoning in this area.

Mike Ludwig stated the land use designations were discussed as part of the Plan DSM hearings. This area was specifically discussed during the public hearing. One of the original directives for PlanDSM was to try an eliminate conflicts between residential and growing industrial areas. Prior to Plan DSM, there was a lot of discussion around rail traffic that was increasing on the rail to the West of this house. Staff recommended Industrial land use designation in this are due to the growing industrial to the West and it being bounded by interstate 235 to the East. The Fairmont Park Neighborhood Association did recommend everything from Hull Avenue, South to Easton be changed back to residential but the Planning and Zoning Commission along with City Council approved the designation of this area as industrial. City Staff has had preliminary discussions about

providing additional flexibility for residential uses that are non-conforming in an industrial district but the City cannot process a code change quicker than the applicant could seek rezoning and if denied seek a use variance from the Zoning Board of Adjustment.

Morgan Maurer 2104 East 21st Street stated she wanted to clarify the width of the garage is 24 feet wide and 30 feet deep. All she is trying to do is make upgrades to her house, future plans for Industrial in the area have really affected her and surrounding neighbors.

CHAIRPERSON OPENED THE PUBLIC HEARING

Jeff Witte 2501 Morton Avenue stated when Plan DSM was being discussed there were 3 different areas that were approved by Council to remain zoned Industrial. He asks the commission to approve this request and set a precedent for the rest of the neighborhood.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Jones stated he was involved in the Comprehensive Plan Years ago and does remember discussing this area specifically as described by staff. He is sympathetic with the property owner and if there is a way for them to seek a use variance through the Zoning Board of Adjustment, he believes the City shouldn't change the zoning on one property unless the zoning is changed for the whole neighborhood.

Rocky Sposato stated he supports the rezoning as they have a chance to set a precedent in this area. City staff should take another look at this area so homeowners are able to invest in their houses.

Will Page stated to send this homeowner to the Zoning Board of Adjustment not knowing what they will do would be a disservice to them. He believes relief should be granted so the homeowner is able improve their property.

Greg Jones made a motion for approval of Part A) the proposed rezoning to "N3a" Neighborhood Mix Use District be found **not** in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial, Part B) **DENIAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Industrial to Low Density Residential and Part C) **DENIAL** of rezoning the subject property from "I1" Industrial District to "N3a" Neighborhood District so that the applicant can seek a use variance from the Zoning Board of Adjustment.

Motion Failed: 4-10 (Steve Wallace, Francis Boggus, Rocky Sposato, Will Page, Johnny Alcivar, Emily Webb, Dory Briles, Jann Freed, Kayla Berkson and Lisa Howard voted in opposition).

COMMISSION ACTION:

Will Page made a motion for approval of Part A) the proposed rezoning to "N3a" Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Industrial to Low Density Residential and Part C) **APPROVAL** of rezoning the subject

property from "I1" Industrial District to "N3a" Neighborhood District so that the applicant can seek a use variance from the Zoning Board of Adjustment.

Motion passed: 10-4

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh

| | | | | | |
|--|--|--------------|---------------------------------------|--------------|---|
| Morgan Maurer (owner) for property at 2104 East 21st Street. | | | | File # | |
| | | | | 21-2020-4.25 | |
| Description of Action | Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Low Density Residential. | | | | |
| PlanDSM Future Land Use | Current: Industrial. Proposed: Low Density Residential. | | | | |
| Mobilizing Tomorrow Transportation Plan | No planned improvements. | | | | |
| Current Zoning District | "I1" Industrial District. | | | | |
| Proposed Zoning District | "N3a" Neighborhood 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 |

Morgan Maurer, 2104 East 21st Street

21-2020-4.25



1 inch = 75 feet

| | | | | |
|--|--|---------------|---------------------------------------|--------------|
| Morgan Maurer (owner) for property at 2104 East 21st Street. | | File # | | |
| | | ZON2020-00131 | | |
| Description of Action | Rezone property from "I1" Industrial District to "N3a" Neighborhood District to allow the existing Household Living use to be extended with addition of a new accessory detached garage use. | | | |
| PlanDSM Future Land Use | Current: Industrial. Proposed: Low Density Residential. | | | |
| Mobilizing Tomorrow Transportation Plan | No planned improvements. | | | |
| Current Zoning District | "I1" Industrial District. | | | |
| Proposed Zoning District | "N3a" Neighborhood District. | | | |
| Consent Card Responses | In Favor | Not In Favor | Undetermined | % Opposition |
| Outside Area (200 feet) | 2 | 0 | | |
| Within Subject Property | | | | |
| Plan and Zoning Commission Action | Approval | X | Required 6/7 Vote of the City Council | Yes |
| | Denial | | | No |

Morgan Maurer, 2104 East 21st Street

ZON2020-00131



1 inch = 75 feet

ZON2020-000131

Item:

Date: 10-28-2020

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

41

(Circle One)

Print Name: Tom DAVIS

RECEIVED
COMMUNITY DEVELOPMENT

Signature:

NOV 04 2020

Address: 2107 Delaware Ave

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

Its up to you!

ZON2020-000131

Item:

Date: 10/30/2020

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

(Circle One)

Print Name: FRNA, JEFF WITTE

RECEIVED
COMMUNITY DEVELOPMENT

Signature:

NOV 04 2020

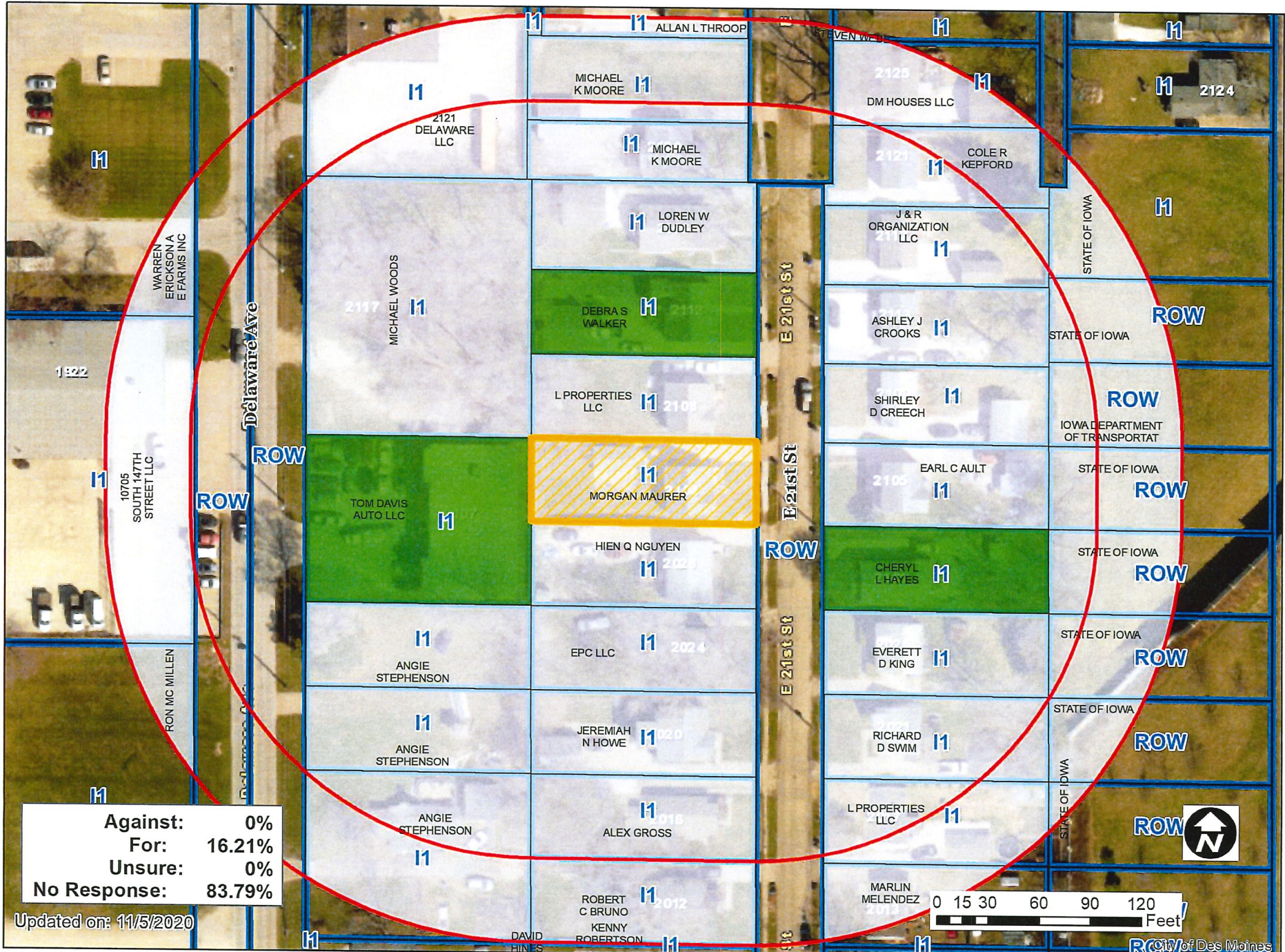
Address: 2501 Moulton Ave DSM

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

Farmout Park is in Favou of this zoning request.

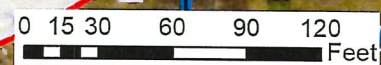
Thank You

Jeff Witte



| | |
|--------------|--------|
| Against: | 0% |
| For: | 16.21% |
| Unsure: | 0% |
| No Response: | 83.79% |

Updated on: 11/5/2020



City of Des Moines

1 inch = 75 feet