



Date February 22, 2021

RESOLUTION HOLDING HEARING ON REQUEST FROM HJT, INC., TO REZONE PROPERTY LOCATED AT 2101 DIXON STREET

WHEREAS, on February 8, 2021, by Roll Call No. 21-0188, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on January 21, 2021, its members voted 14-0 in support of a motion to recommend **APPROVAL** of a request from HJT, Inc., (owner), represented by Jack Houghton (officer), to rezone the real property locally known as 2101 Dixon Street (“Property”) from ‘I1’ Industrial District to Limited ‘I2’ Industrial District, to allow the property to be used additionally for the transfer of hazardous and flammable materials, which is defined as a “Fabrication and Production, Intensive” use, subject to the following conditions:

1. Any use of the property shall be limited to those uses permitted in the ‘I1’ Industrial District and Fabrication and Production, Intensive including the temporary transfer of hazardous materials as may be approved as part of a Conditional Use granted by the Zoning Board of Adjustment; and
2. Any use of the building for Fabrication and Production, Intensive including the temporary transfer of hazardous materials shall be limited to the south 170 feet of the existing building; and

WHEREAS, on February 8, 2021, by Roll Call No. 21-0188, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on February 22, 2021 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 rezoning; and

WHEREAS, in accordance with said notice, those interested in said proposed 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 2101 Dixon Street, legally described as:

LOTS 1 THROUGH 8 AND 18 THROUGH 24, BLOCK 22, T.E. BROWN'S OFFICIAL PLAT OF THE NORTHEAST ¼ (EXCEPT THE NORTHEAST 40 ACRES OF THE SAME), SECTION 36, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND PART OF VACATED DIXON COURT, AND PART OF VACATED EAST 18TH STREET, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 24; THENCE NORTH 00°02’30” EAST ALONG THE WEST LINE OF SAID LOT 24, A DISTANCE OF 34.28 FEET; THENCE NORTHWESTERLY ALONG A 324.00 FOOT RADIUS CURVE, CONCAVE SOUTHWEST WITH A CENTRAL ANGLE OF 26°43’43”, A CHORD DISTANCE OF 149.78 FEET; A CHORD BEARING OF NORTH 13°15’59” WEST FOR AN ARC DISTANCE OF 151.15 FEET; THENCE NORTH 00°02’30” EAST, 169.88 FEET; THENCE NORTH 89°54’08” EAST ALONG SAID NORTH LINE OF SAID LOT 18 EXTENDED, 149.80 FEET TO THE NORTHEAST CORNER

Date February 22, 2021


OF SAID LOT 18; THENCE NORTH 00°00'37" WEST ALONG THE WEST LINE OF LOT 8, A DISTANCE OF 50.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 8; THENCE NORTH 00°54'08" EAST ALONG THE WEST LINE OF SAID VACATED EAST 18TH STREET, 121.00 FEET; THENCE NORTH 89°52'11" EAST, 50.00 FEET TO THE EAST LINE OF SAID VACATED EAST 18TH STREET; THENCE SOUTH 00°03'41" EAST ALONG SAID EAST LINE 279.02 FEET TO THE PRESENT NORTH RIGHT-OF-WAY OF THOMPSON AVENUE; THENCE SOUTH 89°52'11" WEST ALONG THE NORTH RIGHT-OF-WAY LINE 25.00 FEET; THENCE SOUTH 89°54'08" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 256.28 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 108,044 SQUARE FEET OF 2.48 ACRES.

to Limited 'I2' Industrial District, subject to the conditions set forth above.

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 rezoning of the Property to Limited 'I2' Industrial Use District subject to the conditions set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to Limited 'I2' Industrial District subject to the condition that any permitted accessory outside storage occur outside of the front yard or street side yards of the site, 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: 
Judy K. Parks-Kruse
Assistant City Attorney

(ZON2020-00156)

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

February 2, 2021

Date February 17, 2021
 Agenda Item 43
 Roll Call # _____

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their January 21, 2021 meeting, the following action was taken regarding a request from HJT, Inc. (owner) represented by Jack Houghton (officer) to rezone property located at 2101 Dixon Street from "I1" Industrial District to the "I2" District, to allow the property with an existing "Warehouse" use to request a Conditional Use for the premise to be used additionally for transfer of hazardous and flammable materials, which is defined as a "Fabrication and Production, Intensive" use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 14-0 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) that an "I2" Industrial District designation can be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial and Part B) **APPROVAL** of the requested rezoning to the "I2" Industrial District subject to the following Conditions:

1. Any use of the property shall be limited to those uses permitted in the "I1" Industrial District and Fabrication and Production, Intensive including the temporary transfer of hazardous materials as may be approved as part of a Conditional Use granted by the Zoning Board of Adjustment.
2. Any use of the building for Fabrication and Production, Intensive including the temporary transfer of hazardous materials shall be limited to the south 170 feet of the existing building. (ZON2020-00156)

Written Responses

1 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that an "I2" Industrial District designation can be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Staff recommends approval of the requested rezoning to the "I2" Industrial District subject to the following Conditions:

1. Any use of the property shall be limited to those uses permitted in the "I1" Industrial District and Fabrication and Production, Intensive including the temporary transfer of hazardous materials as may be approved as part of a Conditional Use granted by the Zoning Board of Adjustment.
2. Any use of the building for Fabrication and Production, Intensive including the temporary transfer of hazardous materials shall be limited to the south 170 feet of the existing building.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to repurpose existing industrial flex warehouse space within the southern tenant bays of the building for the transfer and distribution of hazardous and flammable materials.
2. **Size of Site:** 2.499 acres.
3. **Existing Zoning (site):** "I1" Industrial District.
4. **Existing Land Use (site):** 32,076-sqaure foot multi-tenant flex/warehouse building.
5. **Adjacent Land Use and Zoning:**

North – “I1”; Use is a multi-tenant warehouse/flex building.

South – “I1”; Use is a book bindery.

East – “I1”; Use is a warehouse.

West – “I1”; Use is office and warehouse building.

6. **General Neighborhood/Area Land Uses:** The subject property is in the Guthrie Avenue Area industrial complex on the east of Dixon Street, which is a main north/south route through the industrial complex.
7. **Applicable Recognized Neighborhood(s):** The subject property is not in a recognized neighborhood. All neighborhood associations were notified of the December 17, 2020 hearing by mailing of the Preliminary Agenda on November 30, 2020 and by mailing of the Final Agenda on December 11, 2020. All agendas 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.

Additionally, separate notifications of the hearing for this specific item were mailed November 25, 2020 (23 days prior to the December 17, 2020 hearing due to Thanksgiving postal holiday) and December 7, 2020 (10 days prior to the December 17, 2020 hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

8. **Relevant Zoning History:** The subject property was zoned to “I1” Industrial District from “M1” Light Industrial District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.
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 subject property is designated “Industrial”. Plan DSM describes this 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.

Applicable portions of PlanDSM Creating Our Tomorrow:

Goal 7

Maintain the existing industrial designated areas to provide appropriate locations for industrial use.

LU36: Develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.

LU37: Restrict expansion of existing or development of new non-industrial uses within industrially designated areas.

LU38: Capitalize on the City's locational strengths geographically and as a hub in the regional transportation network including, but not limited to, development of a transload facility and expansion of the Des Moines International Airport.

LU39: Eliminate and/or reduce offensive industrial odors.

Staff believes the proposed rezoning could be determined in conformance with these goals and objectives and be appropriate depending on the level of potential impact there is to the surrounding areas. The future land use designation would allow for the rezoning to the "I2" Industrial District.

The proposed use as generally described in the rezoning application would fall under the Fabrication and Production, Intensive classification, described in Chapter 134 Section 134-3.6.1.D as "Uses that **regularly use hazardous chemicals or procedures or produce hazardous byproducts**, including the following: manufacturing of acetylene, cement lime, gypsum or Plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, radioactive materials, and **above ground storage of flammable and combustible liquids in excess of 1,000 gallons**. This sub-category also includes petrochemical tank farms, gasification plants, foundries, chrome plating, smelting, electroplating, fiberglass manufacturing, animal slaughtering, oil refining, asphalt and concrete plants, flour mills, paper products manufacturing, and tanneries. Intensive industrial uses have high potential for external impacts on the surrounding area in terms of noise, vibration, odor, hours of operation, and traffic."

Typically, the impacts of the Fabrication and Production, Intensive; Mining or Mineral Processing or Junk and Salvage Yard are managed through the Condition Use review by the Zoning Board of Adjustment, where specific conditions can be required with the approval to ensure mitigation of impacts on the surrounding area.

The Board would review the use using the following supplemental regulations:

- A. No part of the use may be a residential use, except for artisan uses.
- B. No odors, gases, noise, vibration, pollution of air, water or soil, or lighting shall be emitted onto any adjoining property so as to create a nuisance.
- C. The owner or occupant must provide the community development director with an acceptable written statement describing the use and the nature of any odors,

gases, noise, vibration, and other environmental impacts that may be generated by such use; and certifying that the use upon the property will be operated in a manner that does not permit any odors, gases, noise, vibration, pollution of air, water or soil, or lighting to be emitted onto any adjoining property so as to create a nuisance.

- D. The use shall be operated in strict conformance with the written statement provided to the community development director.

This is different than in other districts where the rezoning conditions may serve this purpose. The Zoning Enforcement Officer has asked for additional detail of the movement logistics, proposed specific materials and amounts that would be transferred, the containers and trucks that the material would be stored in, duration of the presence of these materials on the property at any given time, and measures taken to comply with Federal regulations for the transport of these materials. Following the continuation of the item at the December 17, 2020 hearing the applicant provided this information to the Zoning Enforcement Officer.

The proposed operation is described as a 10-day Transfer Facility. These facilities have oversight by the Iowa environmental protection agency and have routine inspections. Hazardous waste material would be transported by generators or manufacturers in approved DOT containers in accordance with EPA regulations to the facility. The materials would be collected and then transferred to an approved process facility. The material sheet provided by the applicant indicates the categories of materials would range from non-hazardous waste through Hazardous Classification 9. Out of the 90,000 pounds expected to be transferred weekly, the predominant amount (78.5 % or about 70,000 lbs. weekly) is non-hazardous. The most abundant hazardous material expected would be Hazardous Classification 3 Flammable Liquids at about 11,000 lbs. weekly. The facility would not be used to transfer Hazardous Materials Classified as 1 Explosives, 6.2 Bio-Infectious, or 7 Radioactive.

Typically, small box trucks transport to the facility, the materials would be transferred directly into a semi-trailer which is used to transfer materials to an approved processing facility. Occasionally a semi-truck would be used to transport from a generator. Each trailer leaving the facility would be replaced at the dock by an empty trailer. No trailer would sit at the facility beyond the maximum allowed 10-day period. The facility would be staffed by an operations manager and field chemists, all of which would be trained in required OSHA and DOT courses before being permitted to work at the generator sites or the transfer site. All transport containers and vehicles would be marked in accordance with DOT and USEPA requirements. The applicant provided the required contingency plan for Emergency Action, Follow-Up and Training Program.

Staff believes the proposed use can be adequately regulated through requirements of the Conditional Use process.

- 2. Planning and Design Ordinance:** Development of the change of use of the space in the building may trigger compliance with applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. For the proposed "I1" Neighborhood District, this would involve reviewing the building under Workshop/Warehouse or General Building provisions in that Chapter. This would be subject to a separate full review under the International Building Code. Any recommendation of the proposed

rezoning by the Commission should not be construed as support for the submitted concept for the proposed dwelling.

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:

Dory Briles made a motion for approval of Part A) that an "I2" Industrial District designation can be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial and Part B) **APPROVAL** of the requested rezoning to the "I2" Industrial District subject to the following Conditions:

1. Any use of the property shall be limited to those uses permitted in the "I1" Industrial District and Fabrication and Production, Intensive including the temporary transfer of hazardous materials as may be approved as part of a Conditional Use granted by the Zoning Board of Adjustment.
2. Any use of the building for Fabrication and Production, Intensive including the temporary transfer of hazardous materials shall be limited to the south 170 feet of the existing building.

Motion passed: 14-0

Respectfully submitted,



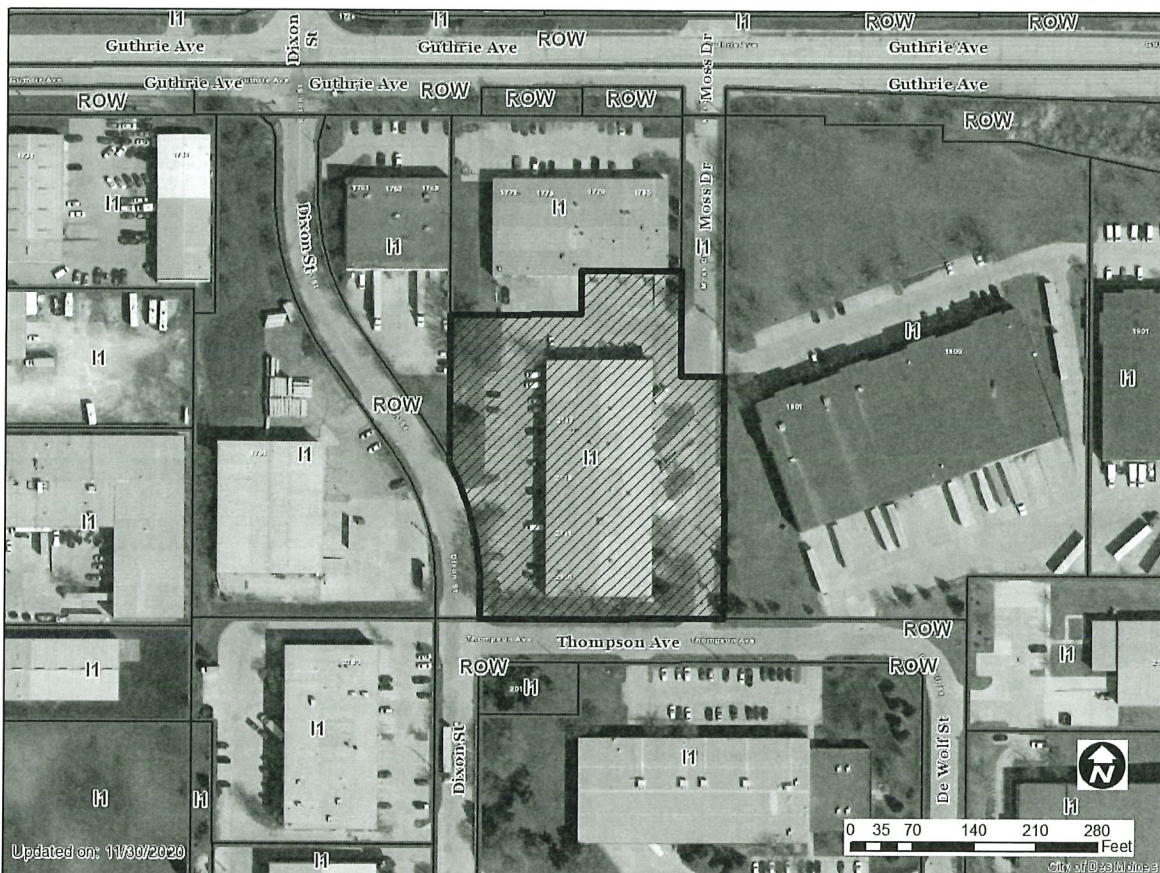
Michael Ludwig, AICP
Deputy Director of Development Services

MGL:tjh

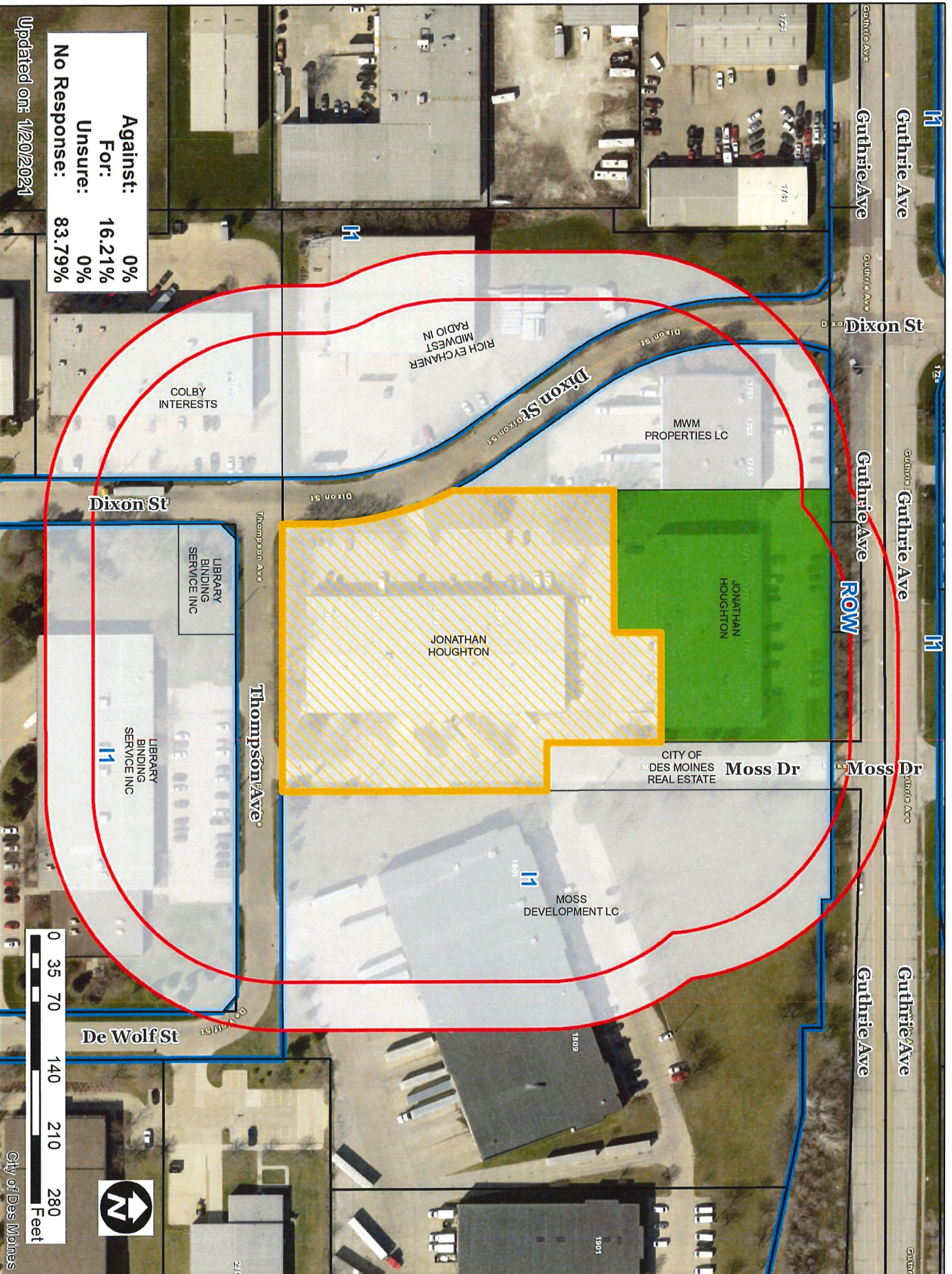
Request from HJT, Inc. (owner) represented by Jack Houghton (officer) for the property at 2101 Dixon Street.			File #		
			ZON2020-00156		
Description of Action	Rezone property from "I1" Industrial District to the "I2" District, to allow the property with an existing "Warehouse" use to request a Conditional Use for the premise to be used additionally for transfer of hazardous and flammable materials, which is defined as a "Fabrication and Production, Intensive" use.				
PlanDSM Future Land Use	Current: Industrial. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"I1" Industrial District.				
Proposed Zoning District	"I2" 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

HJT, Inc., 2101 Dixon Street

ZON2020-00156



1 inch = 133 feet



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

Updated on: 1/20/2021



City of Des Moines

1 inch = 133 feet

43

Item: ZON2020-00156

Date: 12-10-2020

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Signature: Jack Houghton

Name: Jack Houghton

Address: 12814 Cardinal Lane
Cardinal

Staff Use Only

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

good use of property, great
it will add value to the
Area.