

Date June 14, 2021

**RESOLUTION SETTING HEARING ON REQUEST FROM IPE1031 REV353, LLC
TO REZONE 505 SHERIDAN AVENUE**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 3, 2021, its members voted 10-0 in support of a motion to recommend **DENIAL** of a request from IPE1031 REV353, LLC (owner), represented by Blake Pagliai (officer), to rezone real property locally known as 505 Sheridan Avenue (“Property”) from I1 Industrial District to I2 Industrial District to allow the current operation of the Property, which is under enforcement action by the City’s Zoning Enforcement Officer, to be considered for conditional use approval by the Zoning Board of Adjustment for an outdoor storage yard for portable toilets as an Intensive Fabrication and Production use; and

WHEREAS, the Property is legally described as follows:

PARCEL “B” OF THE PLAT OF SURVEY FILED IN THE OFFICE OF THE RECORDER OF POLK COUNTY, IOWA ON MARCH 2, 1995, AND RECORDED IN BOOK 7160 PAGE 993, BEING A PART OF LOT 1 CARBON COAL COMPANY’S LAND, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held at the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at 5:00 p.m. on June 28, 2021, at which time the City Council will hear both those who oppose and those who favor the proposal.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposals in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

FORM APPROVED:

MOVED BY _____ TO ADOPT.

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

(ZON2021-00050)

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



June 8, 2021

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their June 3, 2021 meeting, the following action was taken regarding a request from IPE1031 REV353, LLC (owner) represented by Blake Pagliai (officer) for the following regarding the property located at 505 Sheridan Avenue.

- A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Rezone property from "I1" Industrial District to "I2" Industrial District, to allow the existing property to be considered for a Conditional Use from the Zoning Board of Adjustment for an outdoor storage yard for portable toilets interpreted as an Intensive Fabrication and Production use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 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 be found in conformance with the existing PlanDSM future land use designation of Industrial but not in conformance with PlanDSM Goal LU36 that states that the City should “develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.”.

Part B) **Denial** of rezoning the property to from “I1” Industrial District to “I2” Industrial District. (ZON2021-00050)

Written Responses

0 in Favor

2 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found in conformance with the existing PlanDSM future land use designation of Industrial but not in conformance with PlanDSM Goal LU36 that states that the City should “develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.”.

Part B) Staff recommends **denial** of rezoning the property to from “I1” Industrial District to “I2” Industrial District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is currently operating at the site and is under enforcement action. The proposed rezoning would allow them the ability to seek Conditional Use approval from the Zoning Board of Adjustment, which is necessary for the use to continue.

2. **Size of Site:** 1.22 acres.

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

4. **Existing Land Use (site):** Office and storage.

5. **Adjacent Land Use and Zoning:**

North – “I1”; Uses are commercial and light industrial in nature.

South – “P2”; Use is the North High School campus.

East – “I1”; Use is a vacant lot.

West – “I1”; Uses include a restaurant and warehousing.

6. **General Neighborhood/Area Land Uses:** The subject property is located in an area that contains a mix of commercial, industrial and institutional uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Highland Park Neighborhood and within 250 feet of the Oak Park Neighborhood. The

neighborhood associations were notified of the May 20, 2021 public hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 30, 2021 (20 days prior to the May 20, 2021 public hearing) and May 10, 2021 (10 days prior to the May 20, 2021 public hearing) to the neighborhood associations 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 June 3, 2021 meeting was mailed to all neighborhood associations on May 28, 2021.

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 Highland Park Neighborhood and Oak Park Neighborhood notices were both mailed to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313 at they have a shared contact person.

The applicant was required to conduct neighborhood outreach. They will be available to provide a summary of that during the public hearing.

8. Relevant Zoning History: N/A.

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. Zoning Enforcement History: The applicant was issued a Zoning Violation Notice on August 27, 2020 for operating a business that does not comply with the "I1" District regulations. Staff has received multiple complains regarding the operations during the enforcement process. Many of the complaints have focused on odors coming from the site. The Polk County Air Quality Division visited the site due to a complaint on February 22, 2001. They forwarded the concern to the City's Neighborhood Inspection Division, as they believe it fell outside of their purview since it was more of an odor issue than an air quality issue.

2. PlanDSM Creating Our Tomorrow: The existing Industrial designation is described as follows:

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.

Goal LU36 found on Page 17 of PlanDSM states that the City should "develop land use regulations for industrial uses that address potential impacts with adjoining non-

industrial land uses, particularly residential areas.” To implement this goal, the new Zoning Ordinance includes two industrial zoning districts. This recognizes the differences that light industrial and intense industrial uses have on surrounding areas. Section 134-3.6.2.C of the Zoning Ordinance also includes the following supplemental use regulations that apply to the proposed use:

1. No part of the use may be a residential use.
2. 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.
3. For intensive uses, 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 on to any adjoining property so as to create a nuisance.
4. For intensive uses, the use shall be operated in strict conformance with the written statement provided to the community development director.
5. For intensive uses, all outdoor storage areas shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks.
6. Outdoor storage of inoperable or unsafe vehicles in quantities constituting a junk or salvage yard is prohibited.

The “I2” District is not appropriate in this location given the limited size of the property and its proximity to less intensive uses. The applicant has been operating their business at this location and has not been able to comply with the applicable supplemental use regulations, as they have not prevented odor from their site from negatively impacting neighbors. The proposed rezoning does not comply with the intent of PlanDSM Goal LU36 that states that the City should “develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.” Therefore, Staff recommends denial of the requested rezoning.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Eric Cannon 2727 SW Snyder Blvd, representing Snyder and Associates, stated he wanted to be clear that this site will only store clean portable restrooms, no human waste will be stored on site. They are willing to comply with any conditions that will be required.

CHAIRPERSON OPENED THE PUBLIC HEARING

Harry Shoemaker stated based on what they’ve experienced during the last year, the proposed use statement seems disingenuous. About a year ago, an excavator came in to dig a hole for what seems to be a waste drop station as their place has been filled with sewage smells when the trucks are actively pumping waste. They are worried what else

could be placed on this property if the current owner pulls out given I2 zoning allows for external impacts such as noise, vibration, odor, hours of operation and increase traffic. The Church to the West does not have a mailbox and didn't receive notice for this proposal. Pastor Mark Reetz informed him they are also opposed as they do not want this type of business disrupting church activities.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Blake Pagliai 4300 N 14th Street, stated the underground tanks have been removed, no human waste will be stored on site. They will only store clean portable units on site.

Greg Wattier asked if this would be more of a conditional use from the Board of Adjustment rather than a rezoning?

Jason Van Essen stated it feels similar to a Board case because of the enforcement history. From a zoning regulation standpoint, the zoning enforcement officer determined the use requires I2 zoning and then would have to obtain conditional use approval from the Board of Adjustment after the rezoning. Staff believes the I2 zoning district does not make sense here.

Greg Wattier asked if the current zoning would allow them to store empty, clean units.

Jason Van Essen stated no, he would recommend continuing the item if the commission is inclined to resolve this with conditions and giving the zoning enforcement officer more time to explore the operations of the business.

COMMISSION ACTION:

Will Page made a motion for:

Part A) The proposed rezoning be found in conformance with the existing PlanDSM future land use designation of Industrial but not in conformance with PlanDSM Goal LU36 that states that the City should "develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas."

Part B) **Denial** of rezoning the property to from "I1" Industrial District to "I2" Industrial District.

Motion passed: 10-0

Respectfully submitted,

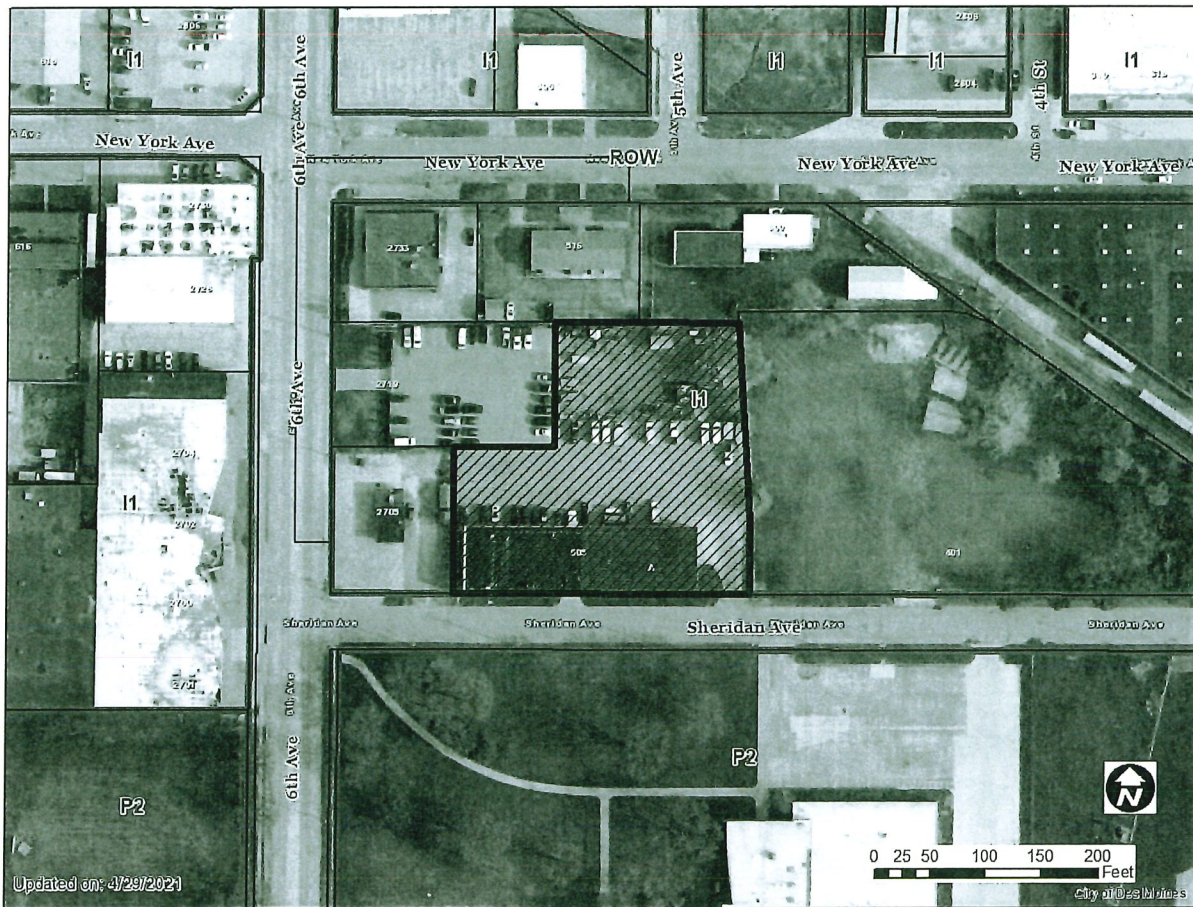
Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

Request from IPE1031 REV353, LLC (owner) represented by Blake Pagliai (officer) for property located at 505 Sheridan Avenue.				File # ZON2021-00050	
Description of Action	Rezone property from "I1" Industrial District to "I2" Industrial District, to allow the existing property to be considered for a Conditional Use from the Zoning Board of Adjustment for an outdoor storage yard for portable toilets interpreted as an Intensive Fabrication and Production 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)	0	2			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

IPE1031 REV353, LLC, 505 Sheridan Avenue

ZON2021-00050



1 inch = 107 feet

Item: ZON2021-00050

Date: 5-14-21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: _____

Name: _____

Address: _____

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

MAY 14 2021

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

Raw sewage transfer station next door to High School - 50' from Restaurant - 50 yards from 2 Restaurant - 1 1/2 block from Riverview 3 million project opposing 100%

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Item: ZON2021-00050 Date: 5-11-2021

Please mark one of the following

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

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 MAY 14 2021

Signature: John Dalbey / Joe Thomas
 Name: John Dalbey / Joe Thom
 Address: 2733 6th

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

- Food
- ① ~~Board~~ Zone
 - ② School Zone
 - ④ NEAR by Restaurants
 - ⑤ Parking lot
- ed without permits - NO to THANKS

Item: ZON2021-00050

Date: 5/17/2021

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

Signature:

Traci Klein Shoemaker

Name:

Traci Klein Shoemaker

Address:

500 New York Ave, 50313

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

Public nuisance, health concerns,
environmental concerns, property devaluation,
environmental justice implications

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NOTICE OF REZONING OPPOSITION AND INTENT TO PARTICIPATE

To: Plan and Zoning Commission, planning@dmgov.org

From: Harry and Traci Shoemaker, Representing 500 New York LLC, Notary Rotary, Inc. and Performance Insurance and Financial Services, LLC

Address: 500 New York Ave, Des Moines, IA 50313

Phone: 515-309-1351

Regarding: May 20th, 2021 Agenda
Request from IPE1031 REV 353, LLC for Rezoning 505 Sheridan Ave from I1 to I2
Item Number ZON2021-00050

Position: Opposed

Basis of Our Opposition

We are opposed to the rezoning of 505 Sheridan Ave from Industrial I1 to Industrial I2 for the following reasons:

- Public nuisance
- Health concerns
- Environmental concerns
- Property devaluation
- Environmental justice implications

Each of these points are further described below and represent our non-professional, lay-person opinions based on observations we have made as adjacent small business owners affected by the occupancy of 505 Sheridan Ave.

Throughout this document, we may refer to the mixture of biological excrement (feces and urine), chemicals, toilet paper, and anything else found in the lower storage area of a portable toilet as *sewage*, despite the fact that it is initially trucked rather than piped.

1. Public Nuisance

The current tenant of 505 Sheridan Ave, "A King's Throne" (AKT) appears to be in clear violation of Chapter 134 Supplemental Use Regulations, whether part of 3.6.1 or 3.6.2:

"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."

We further believe that the property owner, IPE1031 REV 353, LLC, is aware of the violation (as we contacted them in 2020) and that their request to rezone from I1 to I2 represents a "long-shot" to

remedy the violation and save the you-should-have-known-better lease to AKT. The current use conflict with I1 zoning seems both arrogant and egregious and, in no case, is I2 zoning appropriate for this property.

Our businesses are adjacent to 505 Sheridan, bordering the northeast edge, in a small building located at 500 New York Ave. On at least three separate occasions, the inside of our entire building has smelled like sewage for several hours. In addition, while AKT is actively pumping or cleaning, we can hear a loud and continuous hum from inside our building. Refer to the Exhibit 5 video. The smell is obviously a highly-offensive intrusion into our property, and the dull humming makes it difficult to concentrate on our work.

Based on our observations, AKT is operating a chemical toilet waste processing, transportation and transfer station. In addition to the visible outdoor storage of chemical toilets, tanker trucks, and chemical drums, it appears they routinely:

- a. Truck chemical toilets in on flat-bed trucks using the 6th Avenue corridor,
- b. Dump or flush sewage into an underground storage tank,
- c. Pump sewage from the underground tank into sewage tanker trucks, and
- d. Drive the tanker trucks off-site for disposal.

To be clear, we feel the operation of a sewage trucking, transportation, and processing terminal between our business and North High School is unsightly, both where it sits and on our roads, and the odors and outdoor pumping sounds constitute a public nuisance in violation of ordinance as described above.

To gain a slightly better understanding of what has been happening at 505 Sheridan Ave over the past year, please refer to the following photos:

Exhibit 1: Tanker trucks, toilets, underground concrete structures; ground view

Exhibit 2: Tanker trucks, toilets, underground concrete structures; aerial view

Exhibit 3: Trucks and toilets

Exhibit 4: Chemical drums



Exhibit 1

Exhibit 3

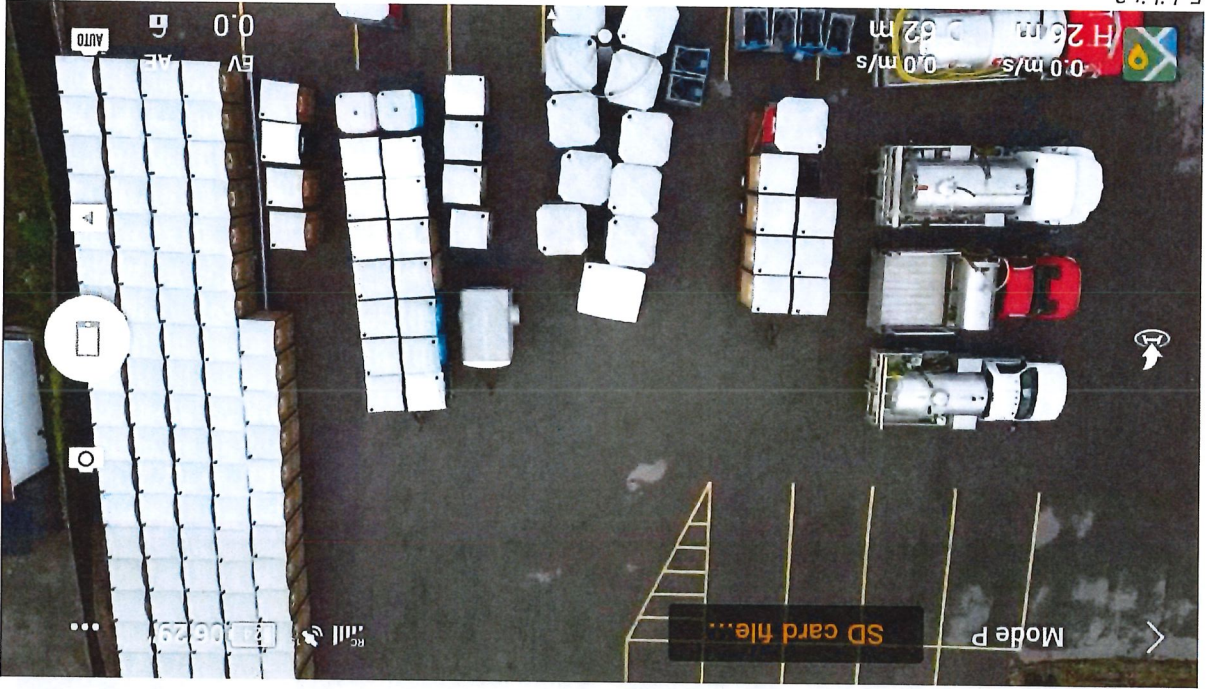


Exhibit 2

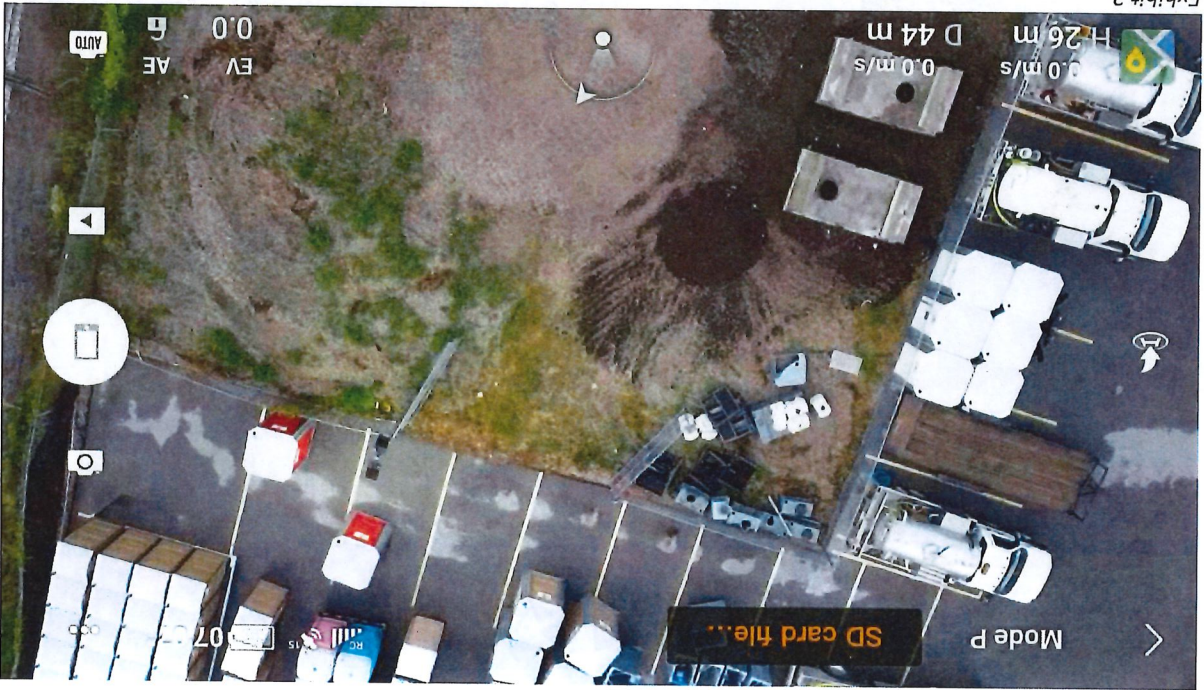




Exhibit 4

In addition to these photos, a video taken from our parking lot the evening of October 12, 2020, can be downloaded here:

https://www.notaryrotary.com/IMG_5402.MOV

https://www.notaryrotary.com/IMG_5402.mp4



Exhibit 5

As you can see from the video, when the waste handling equipment is operating, it creates a loud noise and discharge into the air. It's a lot like having a Des Moines mosquito control truck parked outside your house for an hour or so spraying chemicals. Except, when the wind is blowing in our direction, the discharge smells like sewage.

Changing from an I1 zone to an I2 zone could further embolden a public nuisance, whether this one or any other, to the detriment of neighbors and community.

2. Health Concerns

“If you can smell it, you may be eating it.”

The fact that we can smell sewage suggests that we may essentially be eating airborne human waste particulate. Everything from trace pharmaceuticals to the Covid-19 virus has been found in human waste, so we are concerned for our health, the health of our employees, and the health of our customers.

<https://www.sciencedirect.com/science/article/pii/S0048969720339668>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7728433/>

<https://www.kff.org/news-summary/coronavirus-could-be-carried-in-feces-particles-spread-by-toilet-flushing-study-shows/>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7522648/>

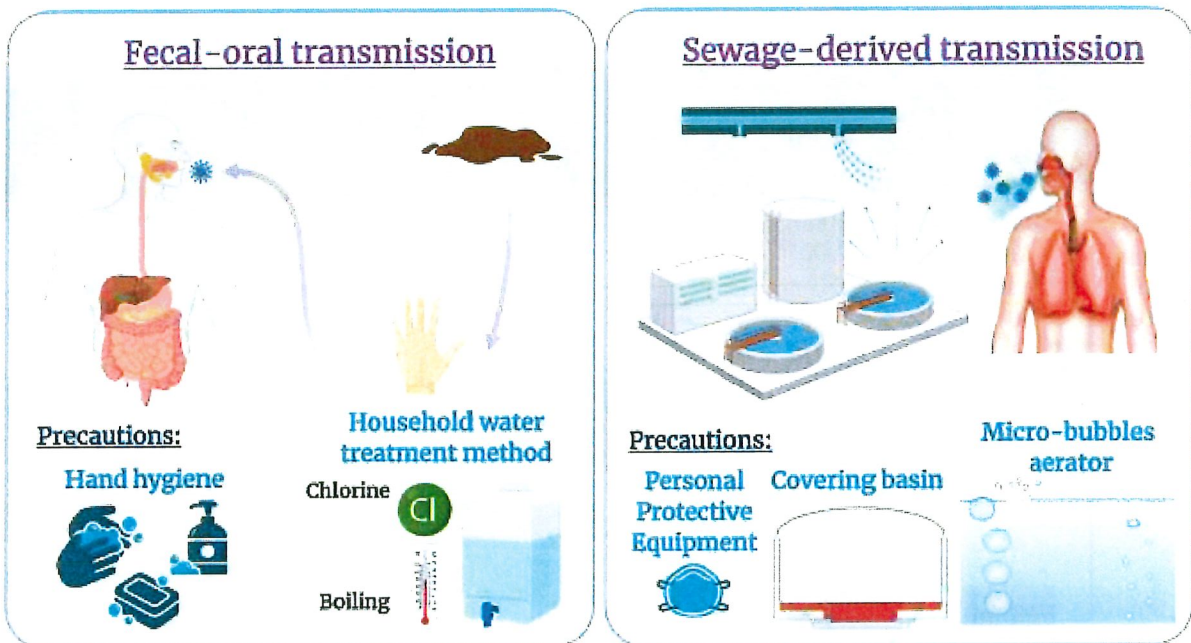


Exhibit 6

Source: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7522648/>

As the crow flies, we are approximately 100 feet from the discharge. Since we still do not fully understand Covid-19, we would rather not take our chances with potential airborne particulate.

3. Air and Ground Water Environmental Concerns

On a micro-scale, we are concerned about our comfort and safety – things that directly affect us as one of the properties to the north of 505 Sheridan Ave. On a macro-scale, we are concerned about our neighborhood and the community as a whole.

Based on our experience to-date – and this is somewhat of a *gut feeling* - it is unclear to us whether the city, county, and state (DNR and DOT) are aware of the extent of AKT's operation, which makes

us think something could be wrong beyond the impact on immediate neighbors. Based on the apparent underground storage, potential leakage and surface run-off, waste trucking, and air discharge – we are concerned about the possible environmental impact where our water supply and air quality are concerned.

Water

505 Sheridan Ave is not only immediately adjacent to North High School, a restaurant, and a church, but it is only a few city blocks from the Des Moines River and is an active participant in the Des Moines River Watershed. Further, and somewhat incredibly, according to the Iowa Geospatial Data web site (<https://geodata.iowa.gov>), the AKT chemical and sewage transfer station is approximately 1 mile due east of the Des Moines Water Works intake pipe for the Des Moines River. Refer to Exhibit 7, which depicts the sewage-to-intake-pipe proximity along with the trucking routes on which we have most frequently seen the waste tankers and flat beds.

The screenshot shows the Iowa Geospatial Data website interface. The main heading is "Public Water Supply Surface Water Intakes" with a sub-heading "Last updated 3 years ago | 105 Records". The map displays the Des Moines River area, highlighting the "Des Moines Water Works Intake Pipe" and the "AKT - Chemical Toilet and Human Waste Handling, Trucking and Transportation Terminal" located at 505 Sheridan Ave. A blue line indicates a "1 mile to Des Moines River Water Works Intake" distance. A legend below the map identifies "Sewage Tanker and Flat Bed Trucking Routes" with a dashed orange line. Below the map, there is a table with one record:

OBJECTID	MAPLABELNA	LEGGENTTYPE	PUBLICVIEW	LOCID	stfacid	progID	facName	op
155777	Des Moines WS-DES MOINES RIV...	8	0	20000123454	310338211	IA7727031	Des Moines Water Works	Activ

Exhibit 7

This particular location – the chemical sewage storage yard where the waste tankers and toilets are stored and processed – was flooded both in 1993 and 2008. Another event such as a levee break along the Des Moines River or the Des Moines River otherwise exceeding its 24 ft flood level by 8.5

feet could, according to the Iowa Flood Center, flood the property at 505 Sheridan Ave. Refer to Exhibit 8.

Is it possible to fully understand the environmental impact? Would such a flood complicate Des Moines' resiliency plans? Would I2 occupancy unnecessarily put our community at further risk in the face of more extreme weather patterns and greater flood potential?

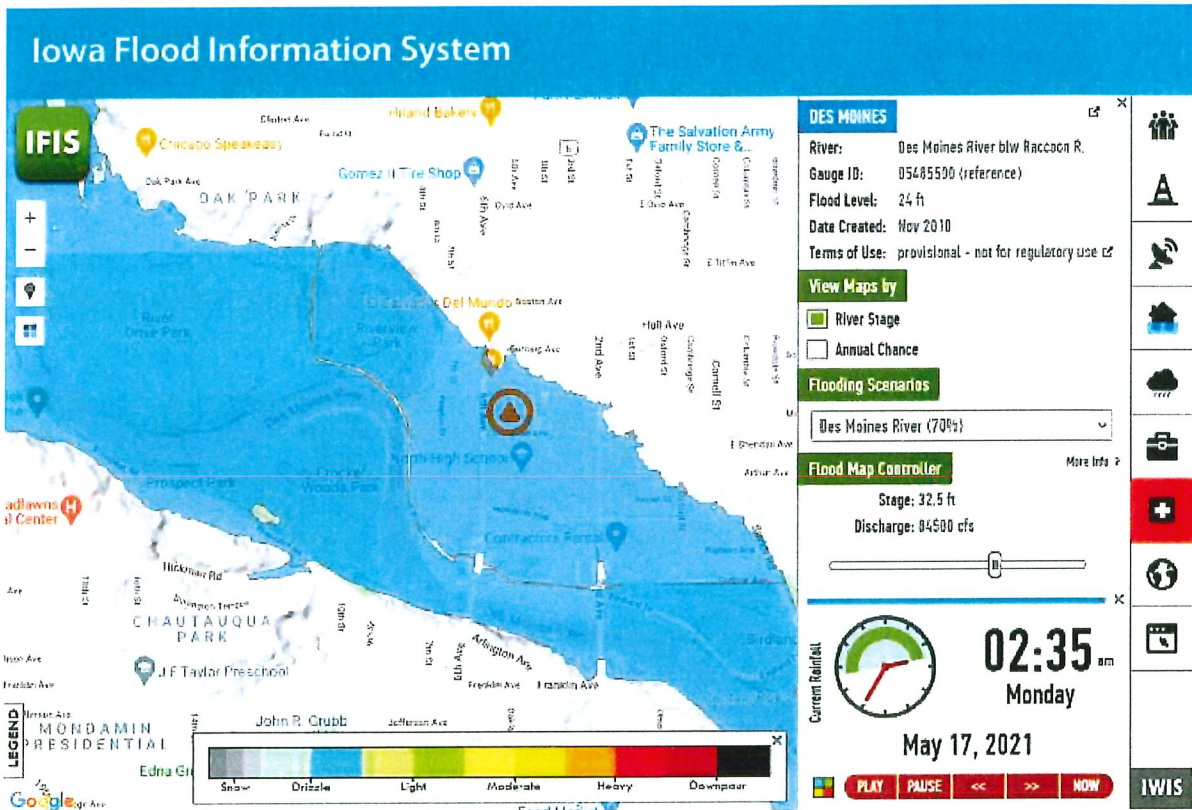


Exhibit 8

Air

Sewage clouds released from 505 Sheridan could travel in any direction for unknown distances. We know they're capable of saturating our property. Can they reach North High School's fresh air intakes? The North High Stadium? Birdland Park? Riverview Park? The closer this property comes to "anything goes," the greater the likelihood of air quality impact.

4. Property Devaluation

When AKT moved-in to 505 Sheridan Ave, we were sickened by the view of hundreds of chemical toilets out our back door. To that point, we were very happy with our north-side investment and

the improvements we'd made (asbestos remediation, drywall, paint, polished concrete floors, new roof, warehouse insulation, warehouse mechanicals).

Upon seeing the toilets towering over the fence line, our first thoughts were: "There goes our property value." After all, who wants chemical toilets and drums as such a visible neighborhood fixture, along with waste tankers trucking up-and-down their streets?

It has now come to our attention that the owner of 2733 6th Ave has protested his property value, a property very similar to ours and also adjacent to 505 Sheridan Ave. At the same time, property to the west of 505 Sheridan Ave. is listed (2701 Onthank Dr.), but has not been sold. They pay approximately \$40,000/yr. in taxes based on a \$1.38MM assessment. Will having a waste-handling facility operating across the street affect their property value?

5. Environmental Justice Implications

"The true measure of any society can be found in how it treats its most vulnerable members."
-Mahatma Gandhi

According to a 2020 assessment by the Iowa Department of Education, North High School is underperforming other schools in the state with an overall performance score of 47.25 out of 100 (<https://www.iaschoolperformance.gov/ECP/StateDistrictSchool/SchoolSummary?k=10972&y=2020>). North High performance is summarized as "Needs Improvement" and its students are among the least prepared for college in the state as measured by their ACT preparedness score of 9.35 out of 100.

In addition, the non-white enrollment accounts for 77% of students and a staggering 86% of students are categorized as having a low socio-economic status. In short, North High School is facing more challenges than any other secondary school in the greater metro. They need supported, not dumped on.

By allowing the current occupancy of 505 Sheridan Ave to continue, let alone a rezoning from Industrial I1 to I2, along with any future tenants that could potentially follow under such a zone, the City of Des Moines would be trouncing the entire concept of *environmental justice*.

The Environmental Protection Agency defines environmental justice as follows (<https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>):

"Environmental justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

Meaningful involvement means:

- People have an opportunity to participate in decisions about activities that may affect their environment and/or health;
- The public's contribution can influence the regulatory agency's decision;
- Community concerns will be considered in the decision making process; and
- Decision makers will seek out and facilitate the involvement of those potentially affected. "

If an I2 zone were permitted, it could allow for intensive industrial use of the property. Item D under Chapter 134, Section 3.6.1 describes the potential impact to neighbors like our business and North High School:

"Intensive industrial uses have high potential for external impacts on the surrounding area in terms of noise, vibration, odor, hours of operation, and traffic."

We have already witnessed this first-hand on several occasions, despite an apparent attempt to keep a low profile as evidenced by a windsock (which is appreciated); rows of chemical toilets surrounding the interior of the transportation, processing, and storage yard; and processing operations during off-hours (often evenings and weekends). If emboldened / allowed to continue in an approved capacity, we think things will ramp-up and North High will suffer, not to mention the license future businesses would have to impact learning at North.

From an environmental justice standpoint, the fundamental lack of fairness, here, would be evident through:

- a. Lack of input from North High School administrators, approximately 1,400 students, and all family members that attend outdoor events at North. They are immediately adjacent to 505 Sheridan Ave and should all be allowed to voice any concerns regarding the environment in which they teach, learn, socialize, and recreate.

To fully understand the potential impact on them, if not summarily denying the zoning change, we propose that a complete on-site evaluation/assessment of the storage and waste transfer facility be performed in order to answer the following questions:

- i. How toxic are the chemicals stored and processed on-site?
- ii. How many gallons or pounds of human waste and chemicals could potentially be poured, pumped, flushed, and discharged every day at maximum capacity?
- iii. What precautions are being taken to prevent accidental spills and seepage into the ground?
- iv. What does the washout / transfer / pumping process consist of?
- v. Have all necessary environmental permits and licenses been obtained?
- vi. How many times per day are the flat beds and tanker trucks entering and exiting off of Sheridan and 6th Avenue?
- vii. What percentage of toilets are cleaned on job/customer sites versus returning them to Sheridan for processing?
- viii. What types of environmental hazard, commercial auto, and liability insurance does AKT carry?
- ix. How many decibels do the pumps emit?

- b. The fact that North High School is the *only* school in Des Moines with industrially-zoned property on its borders (<https://maps.dsm.city/showmemycity/>), all of which are currently zoned Industrial I1. Unless we are mistaken, if an I2 zoning were allowed, it would be the first I2 property adjacent to a high school in the city.
- c. The obvious juxtaposition of student composition (primarily non-white with low socio-economic status) with a potentially high-impact property zone almost universally regarded as undesirable.

Please refer to the following exhibits, which depict the zoning maps surrounding each high school in Des Moines.

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East High School

815 E 13th St, Des Moines, IA 50316

Adjacent Industrial I1: 0

Adjacent Industrial I2: 0

Map of Des Moines City Zoning Surrounding East High School

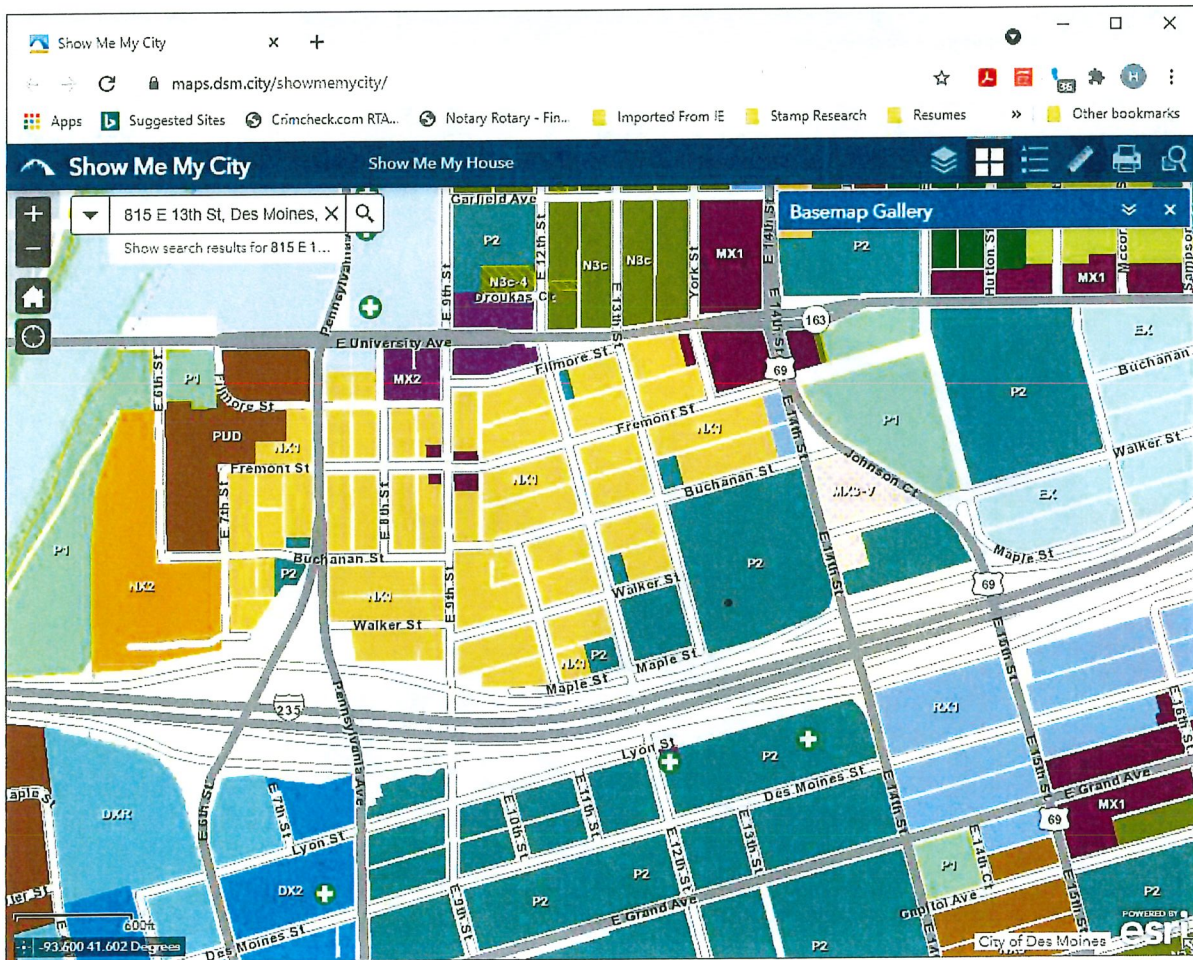


Exhibit 9

Lincoln High School

2600 SW 9th St, Des Moines, IA 50315

Adjacent Industrial I1: 0

Adjacent Industrial I2: 0

Map of Des Moines City Zoning Surrounding Lincoln High School

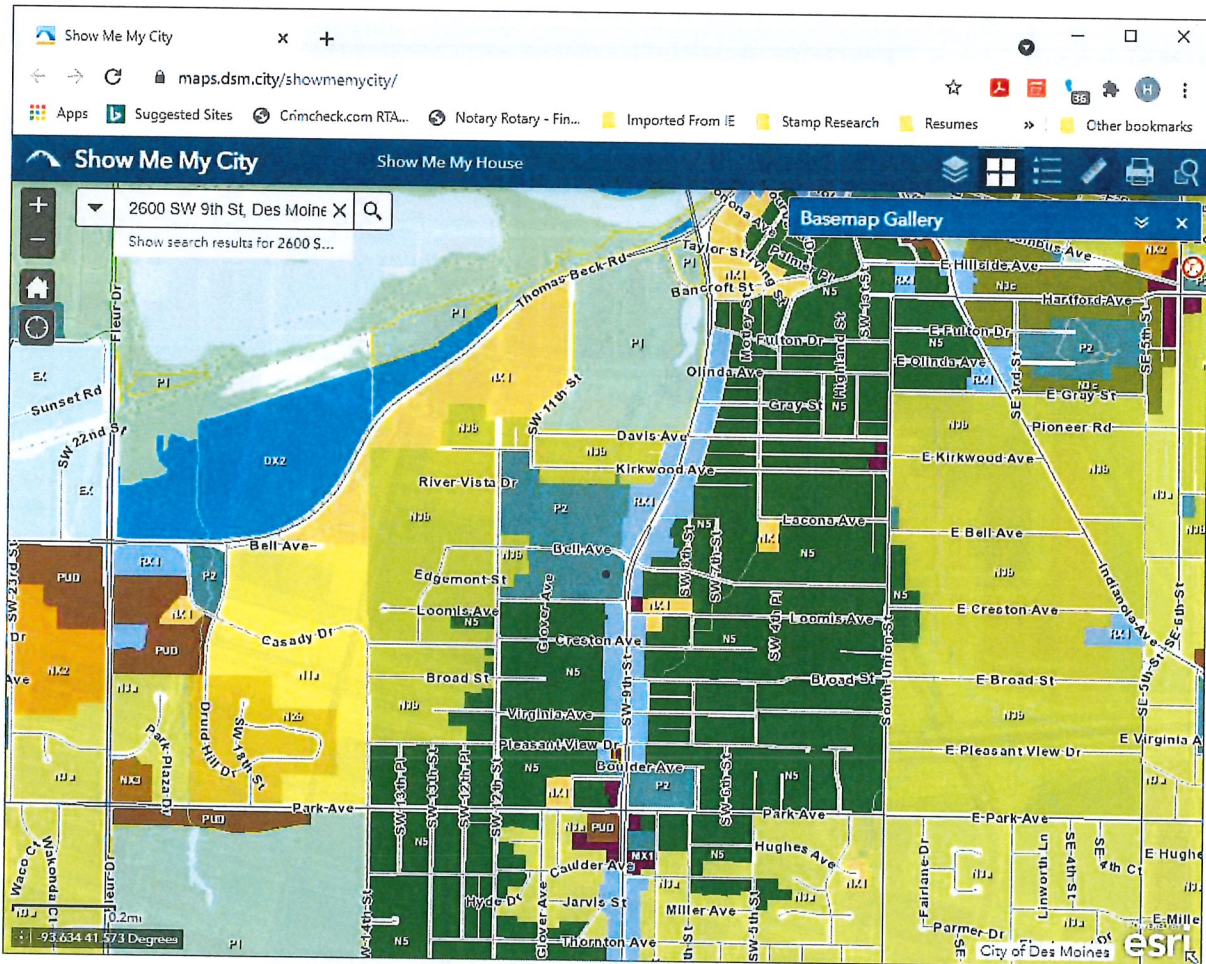


Exhibit 10

Hoover High School

4800 NW Aurora Ave., Des Moines, IA 50310

Adjacent Industrial I1: 0

Adjacent Industrial I2: 0

Map of Des Moines City Zoning Surrounding Hoover High School

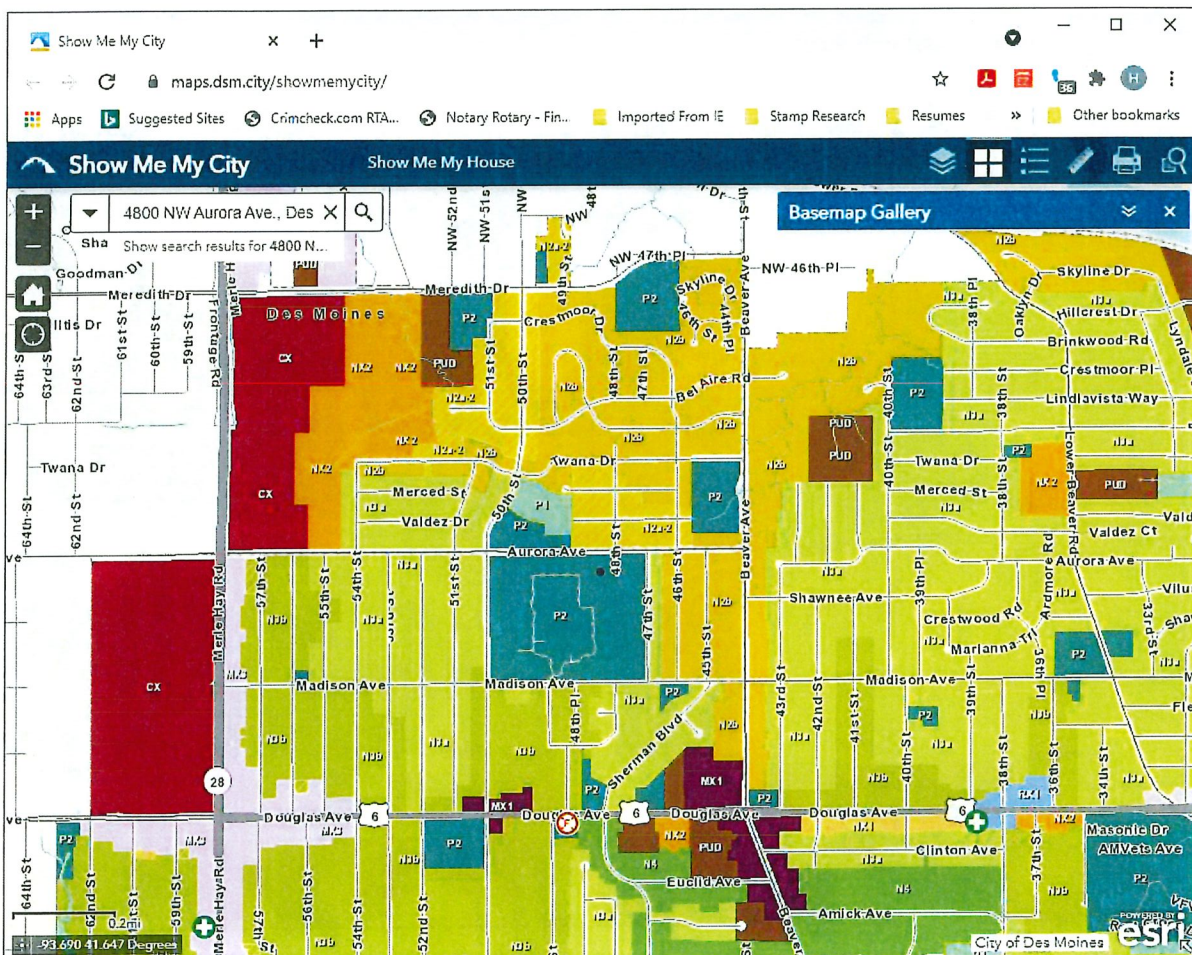


Exhibit 11

Roosevelt High School

4419 Center St, Des Moines, IA 50312

Adjacent Industrial I1: 0

Adjacent Industrial I2: 0

Map of Des Moines City Zoning Surrounding Roosevelt High School

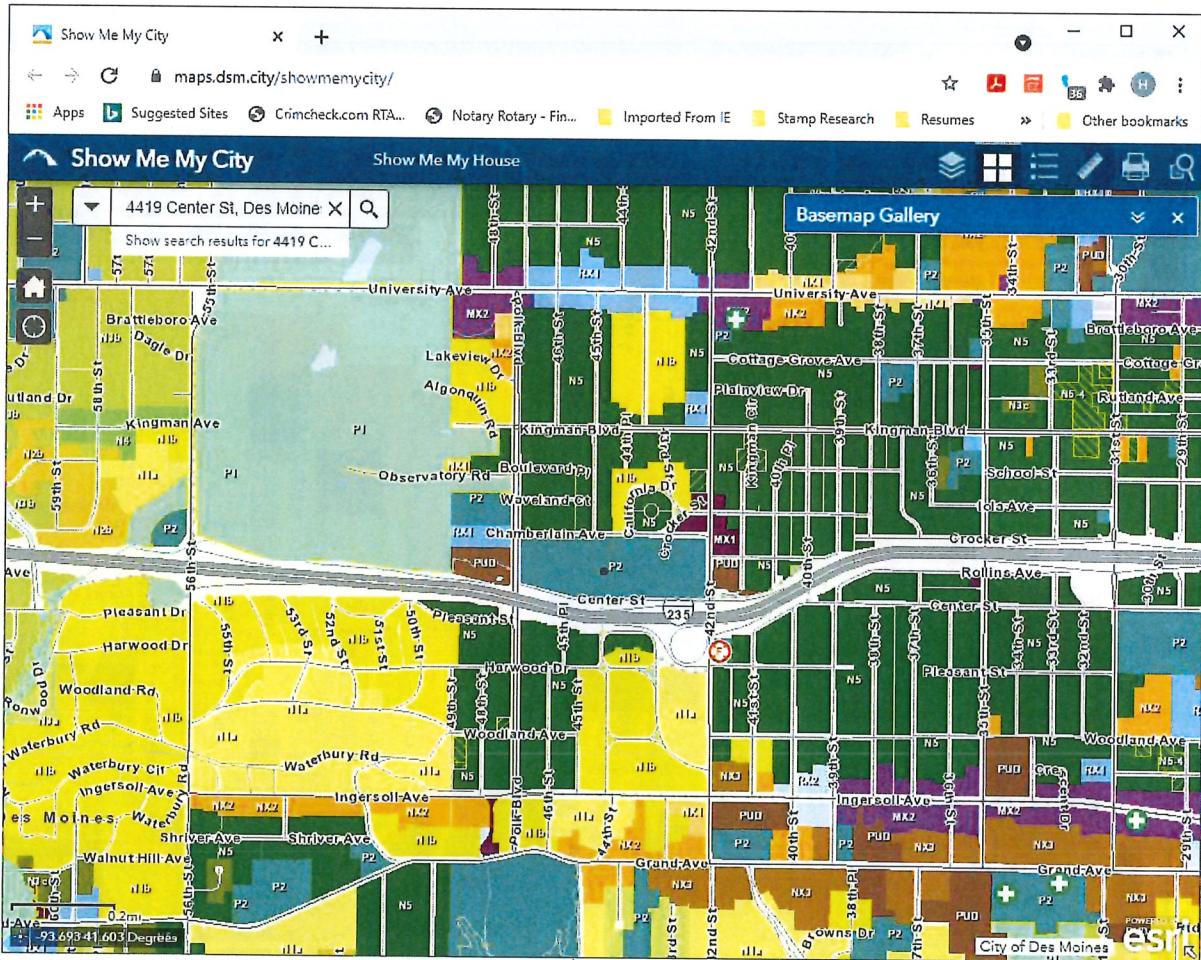


Exhibit 12

33

North High School

501 Holcomb Ave, Des Moines, IA 50313

Adjacent Industrial I1: Approximately 10

Adjacent Industrial I2: 0

Map of Des Moines City Zoning Surrounding North High School

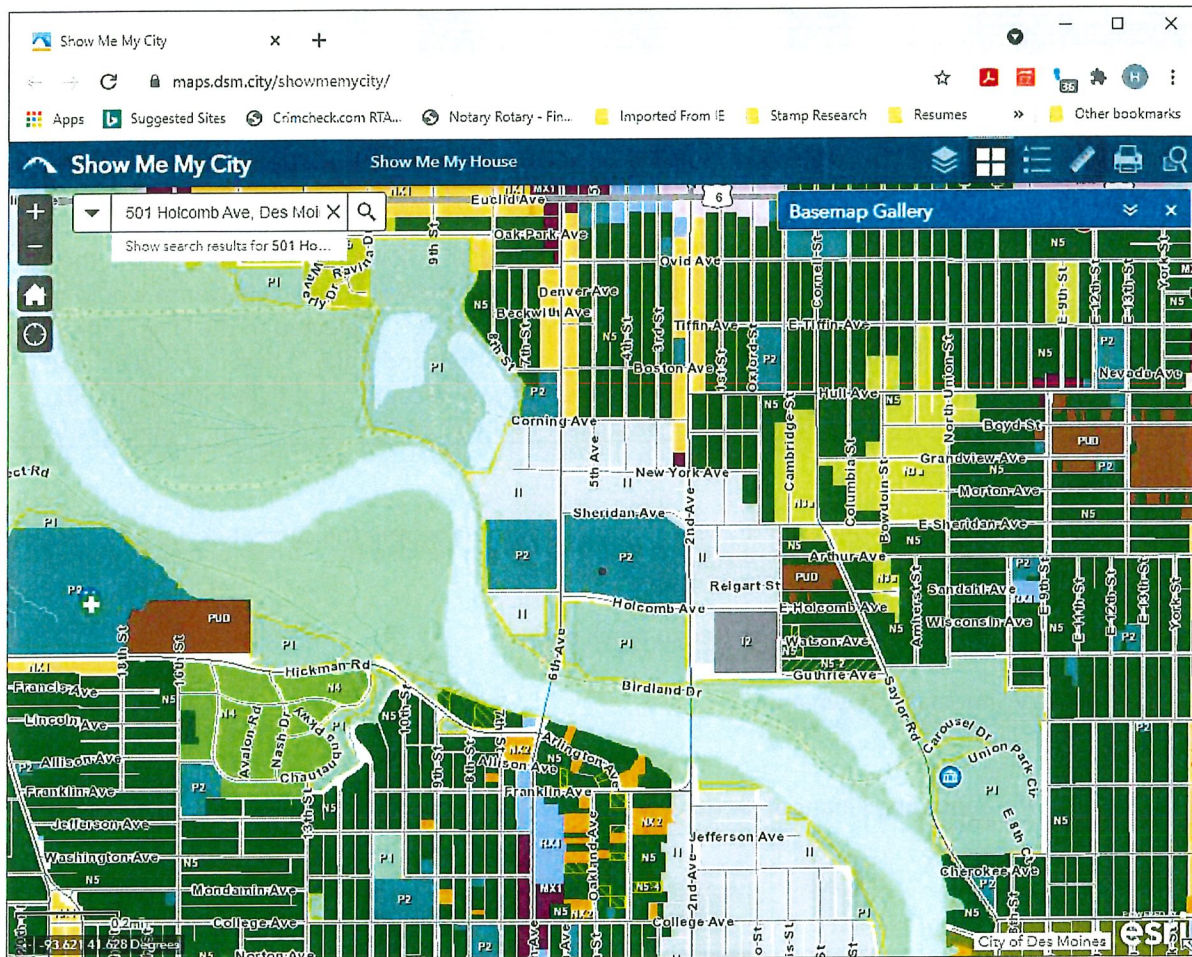


Exhibit 13

The following table summarizes the racial and socio-economic composition of each of our Des Moines high schools, their college preparedness level as measured by standardized testing, and their proximity to industrially-zoned property:

School	Non-white Enrollment %	Low Socio-Economic Status %	College Preparedness Score	Number of Adjacent I1 Industrial Sites	Number of Adjacent I2 Industrial Sites
East High School	69.0%	80.0%	9.14	0	0
Lincoln High School	54.7%	75.4%	14.29	0	0
Hoover High School	76.0%	78.8%	15.34	0	0
Roosevelt High School	51.7%	44.9%	37.98	0	0
North High School	77.0%	86.0%	9.35	~10	0


Exhibit 14

It is clear that rezoning 505 Sheridan from Industrial I1 to Industrial I2 would be a major step in the wrong direction from an environmental justice perspective. We believe such an allowance would be so flagrant (greatest minority concentration with the lowest income gets subjected to the “high potential for external impacts...of noise, vibration, odor, hours of operation, and traffic”) that it would almost certainly paint Des Moines in a negative light on a larger stage and could potentially invite civil suits. This group of kids matter and they should not be subject to the increased potential for unnecessary and undeserved distractions!


In short, we are completely opposed to the rezoning and further believe the current occupancy should be formally reviewed and addressed immediately.

If you have questions for us, please feel free to reach out.

Traci and Harry Shoemaker, Owners
 500 New York, LLC
 Notary Rotary, Inc.
 Performance Insurance and Financial Services, LLC




NO POSTAGE
 NECESSARY
 IF MAILED
 IN THE
 UNITED STATES



BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO 7089 DES MOINES IA
POSTAGE WILL BE PAID BY ADDRESSEE

ATTN PLANNING URBAN DESIGN
 DES MOINES DEVELOPMENT SERVICES
 602 ROBERT D RAY DRIVE
 DES MOINES IA 50309-9603



Item: ZON2021-00050 Date: 5/17/2021

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Traci Klein Shoemaker

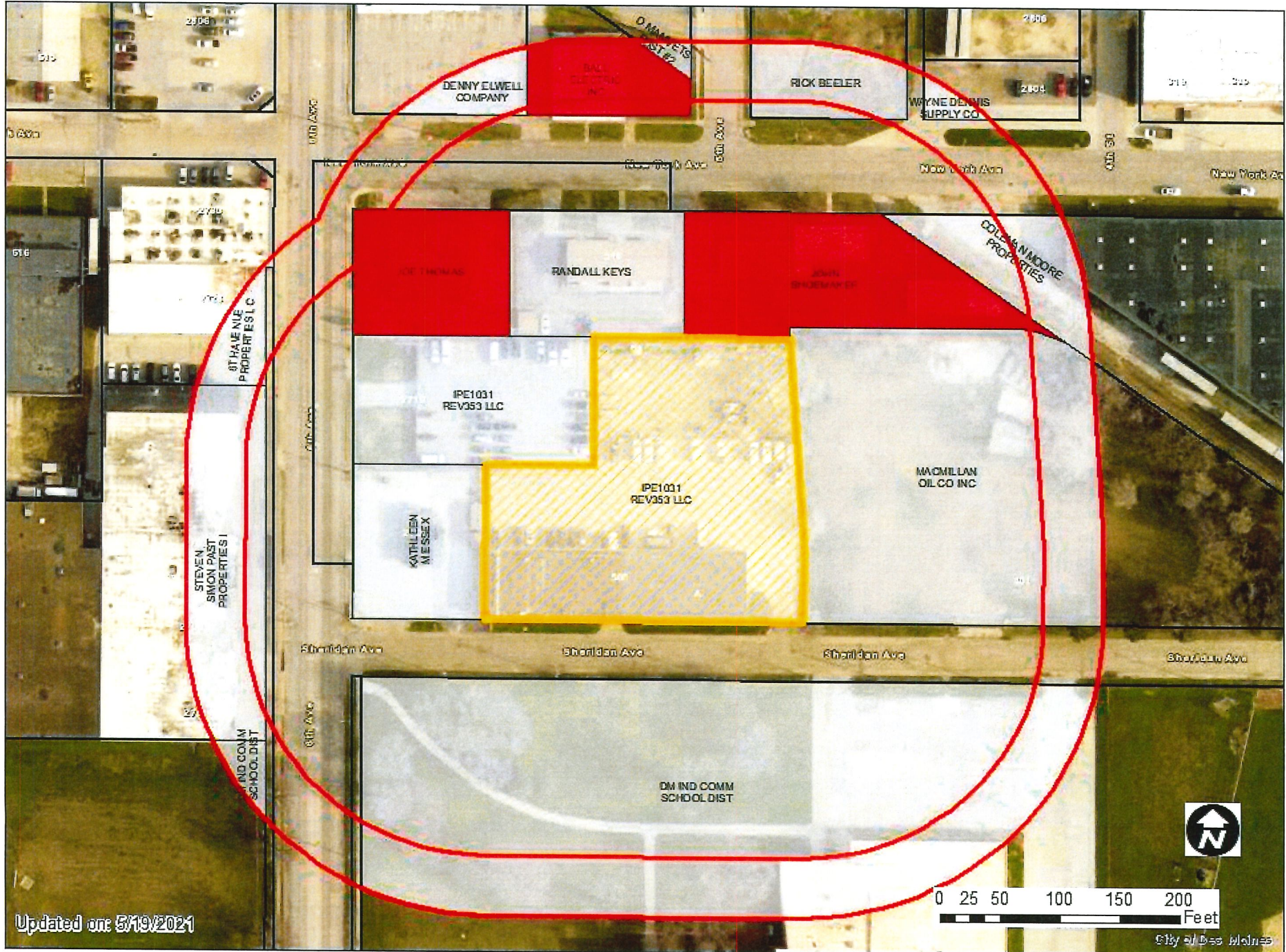
Name: Traci Klein Shoemaker

Address: 500 New York Ave, 50313

Staff Use Only

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

Public nuisance, health concerns,
environmental concerns, property devaluation,
environmental justice implications



Updated on: 5/19/2021

City of Des Moines

1 inch = 107 feet

