



Date December 20, 2021

**RESOLUTION HOLDING HEARING ON REQUEST FROM KNAPP HOMES LLC  
TO REZONE PROPERTY LOCATED AT 4402 DOUGLAS AVENUE**

**WHEREAS**, on December 6, 2021, by Roll Call No. 21-1821, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on November 18, 2021, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Knapp Homes, LLC (Owner), represented by John Knapp (officer) to rezone real property locally known as 4402 Douglas Avenue (“Property”) from ‘MX-1’ Mixed Use District to Limited ‘MX3’ Mixed Use District to allow development of a Restaurant with a drive-through use, subject to the following conditions:

1. That Permitted and Conditional Uses are limited to a restaurant with a drive-through component; and
2. That Permitted and Conditional Uses are limited to those in common with the ‘MX1’ Mixed Use District and as limited in the ‘MX1’ Mixed Use District; and

**WHEREAS**, on December 6, 2021, by Roll Call No. 21-1821, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on December 20, 2021 at 5:00 P.M., in the Council Chambers; and

**WHEREAS**, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said 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 4402 Douglas Avenue, legally described as:

**LOT 1, EXCEPT THE WEST 149.8 FEET AND THE NORTH 25 FEET OF LOT 2, EXCEPT THE WEST 149.8 FEET IN PHILPOTT ACRES, 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.**

from ‘MX-1’ Mixed Use District to Limited ‘MX3’ Mixed Use Neighborhood District, for the purpose set forth above.


Date December 20, 2021

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

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to ‘N3a’ Neighborhood District are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to Limited ‘MX3’ Mixed Use 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 APPROVE.

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Judy K. Parks-Kruse  
 Assistant City Attorney

(ZONG-2021-000039)

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

November 29, 2021

Communication from the City Plan and Zoning Commission advising that at their November 18, 2021 meeting, the following action was taken regarding a request from Knapp Homes, LLC (owner), represented by John Knapp (officer) to rezone property located at 4402 Douglas Avenue from "MX1" Mixed-Use District to "MX3" Mixed Use District, to allow development of a Restaurant with a drive through 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			
Chris Draper	X			
Jann Freed	X			
Todd Garner	X			
Johnny Alcivar				X
Lisa Howard				X
Carolyn Jenison				X
William Page				X
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

**APPROVAL** of Part A) The proposed rezoning to "MX3" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use" within a "Community Node."

Part B) The subject property be rezoned from "MX1" Mixed Use District to "MX3" Mixed Use District, subject to Permitted and Conditional Uses being limited to a restaurant with a drive-through component and those Permitted and Conditional Uses in common with the "MX1" Mixed Use District and as limited in the "MX1" Mixed Use District.

(ZONG-2021-000039)



## Written Responses

1 in Favor

0 in opposition

## **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the proposed rezoning to "MX3" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use" within a "Community Node."

Part B) Staff recommends the subject property be rezoned from "MX1" Mixed Use District to "MX3" Mixed Use District, subject to Permitted and Conditional Uses being limited to a restaurant with a drive-through component and those Permitted and Conditional Uses in common with the "MX1" Mixed Use District and as limited in the "MX1" Mixed Use District.

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is proposing to a new restaurant development with a drive through use. As a result, the building and site must be built in conformance with current design standards. The Planning and Design Ordinance does not allow drive-through facilities on properties zoned "MX1" District. Therefore, the applicant is requesting to rezone the property to the "MX3" District to allow a drive-through.
2. **Size of Site:** 24,890 square feet or 0.571 acres.
3. **Existing Zoning (site):** "MX1" Mixed Use District.
4. **Existing Land Use (site):** The site contains a vacant one-story commercial building, 855 square feet of gross floor area, with a fuel canopy.
5. **Adjacent Land Use and Zoning:**
  - North** – "MX1"; Uses are commercial in nature.
  - South** – "PUD" and MX1; Uses are vacant land and commercial in nature.
  - East** – "MX1"; Uses are commercial in nature.
  - West** – "MX1"; Uses are commercial in nature.
6. **General Neighborhood/Area Land Uses:** The subject property is located at the intersection of Douglas Avenue and Beaver Avenue, which contains a mix of commercial and place of worship uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Beavertdale Neighborhood. All recognized neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on October 29, 2021 and by mailing of the Final Agenda on November 8, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on November 8, 2021 (10 days prior to the public

hearing) to the Beaverdale Neighborhood Association and 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 Beaverdale Neighborhood Association notices were mailed to Marcus Coenen, P.O. Box 30175, Des Moines, IA, 50310.

**8. Relevant Zoning History:** N/A.

**9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use within a Community Node.

**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 as "Community Mixed Use" and located in a "Community Node" on the Future Land Use Map. Plan DSM describes these designations 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.

Community Node: Mid-sized centers providing a range of daily needs and specialized services within a larger neighborhood context. Consist of a mix of housing, retail, and offices serving a larger population and geographical area than a neighborhood node. May include a shopping district including a grocery and drug store. Residential development including medium and high densities may occur.

The applicant is proposing to rezone the property from "MX1" District to the "MX3" District. The Zoning Ordinance states that "MX1 is intended for the mixed-use, neighborhood-scale nodes and corridors within the city, where daily uses are accessible by walking from surrounding neighborhoods." Building types allowed in this district include Storefront, Commercial Cottage, 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 Storefront, Commercial Cottage, General Building, Commercial Center, Civic Building and Principal Use Parking Structure.

The Douglas and Beaver Avenue intersection is generally zoned "MX1" District, with an adjoining PUD slated for future grocery retail in addition to an adjacent P2 property. Staff believes that the proposed use is appropriate for the character of the area but believes other uses that are allowed in "MX3" Districts but not in "MX1" Districts should be prohibited.

### **SUMMARY OF DISCUSSION**

Dory Briles 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 "MX3" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use" within a "Community Node."

Part B) The subject property be rezoned from "MX1" Mixed Use District to "MX3" Mixed Use District, subject to Permitted and Conditional Uses being limited to a restaurant with a drive-through component and those Permitted and Conditional Uses in common with the "MX1" Mixed Use District and as limited in the "MX1" Mixed Use District.

Motion passed: 10-0

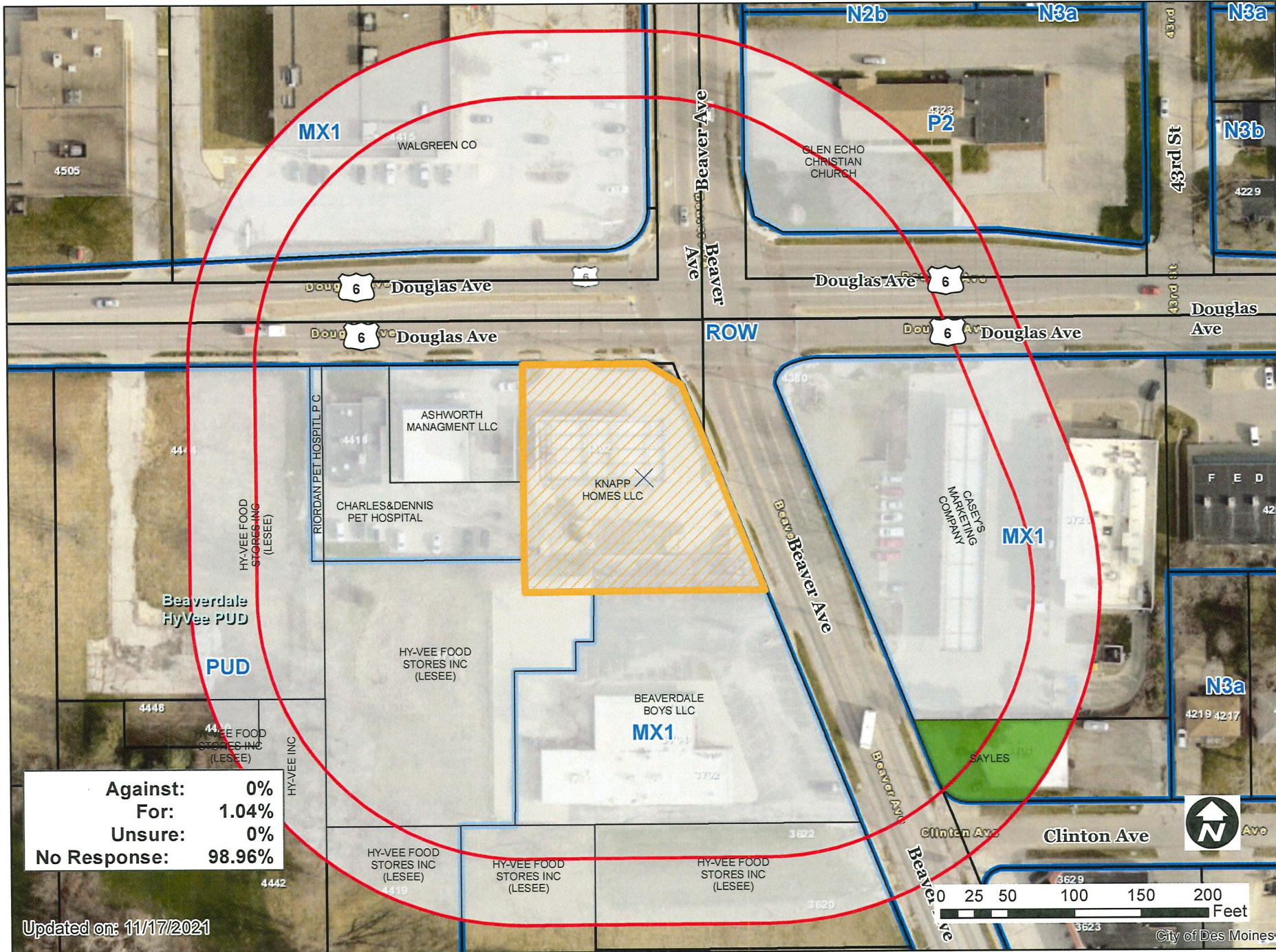
Respectfully submitted,

*Bert Drost*

Bert Drost, AICP  
Planning & Urban Design Deputy Administrator

BAD:tjh



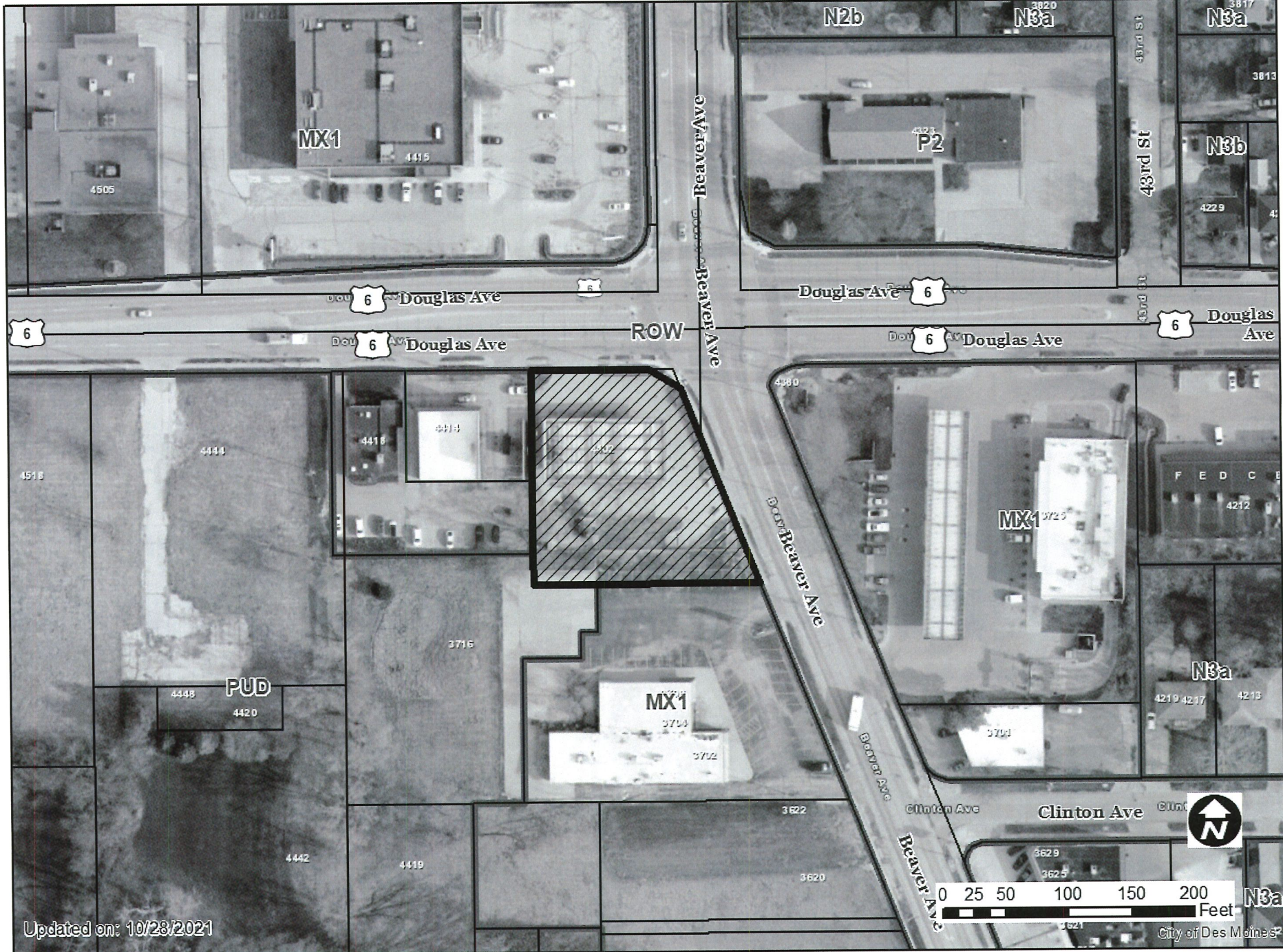


Against:	0%
For:	1.04%
Unsure:	0%
No Response:	98.96%

Updated on: 11/17/2021

1 inch = 95 feet





Updated on: 10/28/2021

1 inch = 101 feet



ZONG-2021-000039

Item: \_\_\_\_\_ Date: \_\_\_\_\_

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: \_\_\_\_\_

*John H. Sayles*

Name: \_\_\_\_\_

JOHN H. SAYLES

Address: \_\_\_\_\_

3701 BEAVER AVE

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

NOV 15 2021

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

progress!