



**Date** September 12, 2022

**RESOLUTION HOLDING PUBLIC HEARING ON REQUEST FROM IOWA LABORERS' EDUCATION & TRAINING TRUST FUND (OWNER), REPRESENTED BY EDWARD ELY (OFFICER) FOR THE FOLLOWING REGARDING PROPERTY LOCATED AT 4580 HUBBELL AVENUE: TO RECEIVE AND FILE THE LARGE SCALE DEVELOPMENT PLAN, TO AMEND PLANDSM CREATING OUR TOMORROW PLAN TO REVISE THE FUTURE LAND USE CLASSIFICATION FROM INDUSTRIAL TO COMMUNITY MIXED-USE, TO AMEND THE BAKER "PUD" CONCEPTUAL PLAN TO REMOVE APPROXIMATELY 6.9 ACRES TO BE REZONED TO LIMITED "MX3" MIXED-USE DISTRICT, AND TO REZONE THE PROPERTY FROM BAKER "PUD" DISTRICT TO "MX3" MIXED-USE DISTRICT, TO ALLOW ASSEMBLY – PLACE OF WORSHIP AND ASSEMBLY AND ENTERTAINMENT (COMMERCIAL) USE**

**WHEREAS**, on August 4, 2022, the City Plan and Zoning Commission considered a request from Iowa Laborers' Education & Training Trust Fund (owner), represented by Edward Ely (officer) regarding the following for property located at 4580 Hubbell Avenue:

- A) Determination as to whether the requested amendment to the Baker "PUD" Conceptual Plan and rezoning are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Community Mixed-Use.
- C) Amend the Baker "PUD" Conceptual Plan to remove approximately 6.9 acres to be rezoned to Limited "MX3" Mixed-Use District.
- D) Rezone property from Baker "PUD" District to "MX3" Mixed-Use District, to allow Assembly - Place of Worship and Assembly and Entertainment (Commercial) use; and

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on August 4, 2022, its members voted 11-0 in support of a motion finding the following for Property located at 4580 Hubbell Avenue:

- A) The requested rezoning and amendment to the Baker "PUD" Conceptual Plan is not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates this area as Industrial.
- B) Approval of the request to amend the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Community Mixed-Use.
- C) Approval of the request to amend the Baker "PUD" Conceptual Plan to remove approximately 6.9 acres to be rezoned to Limited "MX3" Mixed-Use District subject to the following: the applicant shall submit an amended "PUD" Conceptual Plan that eliminates the area that is being rezoned to "MX3" Mixed-Use District, to the



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**Date** September 12, 2022

satisfaction of the City’s Planning & Urban Design Administrator.

D) Approval of the request to rezone property from Baker “PUD” District to “MX3” Mixed-Use District; and

**WHEREAS**, the Property is legally described as follows:

Parcel “2019-39” of the Plat of Survey dated March 12, 2019, recorded in Book 17269, Page 266 of the Office of the Polk County Recorder on March 25, 2019, as located in part of the Northeast Quarter of Section 21, Township 79 North, Range 23 West of the 5<sup>th</sup> P.M., City of Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing at the Southeast Corner of said Parcel “I” of the Plat of Survey recorded in Book 14417, Page 700 of the Office of the Polk County Recorder; thence South 55°26'34" West assumed bearing for this description along the Southeasterly Line of said Parcel “I”, a distance of 10.00 feet to the Point of Beginning; thence continuing South 55°26'34" West along the South Line of said Parcel “I”, a distance of 180.73 feet; thence North 34°33'25" West, a distance of 260.52 feet; thence North 82°28'36" West, a distance of 787.30 feet to a point on the North Line of said Parcel “I”; thence North 70°57'01" East along said North Line, a distance of 946.29 feet; thence South 89°50'34" East, a distance of 192.32 feet to a point on the East Line of said Parcel “I”; thence South 00°09'26" West along said East Line, a distance of 507.78 feet to a point on the North Right-of-Way Line of Frederick M. Hubbell Avenue; thence South 27°48'00" West along the North Right-of-Way Line of Frederick M. Hubbell Avenue, a distance of 17.72 feet to the Point of Beginning, containing 7.12 Acres, subject to all easements, restrictions and covenants of record.

**WHEREAS**, on August 22, 2022, by Roll Call No. 22-1328, it was duly resolved by the City Council that the request for approval of the proposals set forth above be set down for hearing on September 12, 2022, at 5:00 p.m., at the City 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 proposals; and





**Roll Call Number**

**Agenda Item Number**

69

**Date** September 12, 2022

**WHEREAS**, in accordance with said notice, those interested in said proposals, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

**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 said proposals are hereby overruled, and the hearing is closed.
2. The large-scale development plan is hereby received and filed.
3. The requested rezoning and amendment to the Baker “PUD” Conceptual Plan is hereby found not to be in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates this area as Industrial.
4. The proposed amendment to PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the Property from Industrial to Community Mixed-Use is hereby approved.
5. The proposed request to amend the Baker “PUD” Conceptual Plan to remove approximately 6.9 acres to be rezoned to Limited “MX3” Mixed-Use District, to the satisfaction of the City’s Planning & Urban Design Administrator, is hereby approved.
6. The proposed rezoning of the Property, as legally described above, from Baker “PUD” District to “MX3”, to allow assembly – place of worship and assembly and entertainment (commercial) use, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY \_\_\_\_\_ TO ADOPT.

SECOND BY \_\_\_\_\_.

FORM APPROVED:

/s/ Lisa A. Wieland

Lisa A. Wieland

Assistant City Attorney

(ZONG-2022-000066, 2022-000070, 2022-000062)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, LAURA BAUMGARTNER, Acting 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.

\_\_\_\_\_  
Acting City Clerk



Date September 12, 2022

Agenda Item 69

Roll Call # \_\_\_\_\_

August 16, 2022

Communication from the City Plan and Zoning Commission advising that at their August 4, 2022 meeting, the following action was taken regarding a request from Iowa Laborers' Education & Training Trust Fund (owner), represented by Edward Ely (officer) to rezone property located at 4580 Hubbell Avenue from Baker "PUD" District to "MX3" Mixed-Use District, to allow Assembly - Place of Worship and Assembly and Entertainment (Commercial) use.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 as follows

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dan Drendel	X			
Leah Rudolphi				X
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Chris Draper				X
Todd Garner	X			
Johnny Alcivar	X			
Justyn Lewis	X			
Carolyn Jenison				X
William Page	X			
Andrew Lorentzen	X			
Emily Webb	X			

**APPROVAL** of Part A) The requested rezoning and amendment to the Baker "PUD" Conceptual Plan is not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates this area as Industrial.

Part B) Approval of the request to amend the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Community Mixed-Use.

Part C) Approval of the request to amend the Baker "PUD" Conceptual Plan to remove approximately 6.9 acres to be rezoned to "MX3" Mixed-Use District subject to the following: the applicant shall submit an amended "PUD" Conceptual Plan that eliminates



the area that is being rezoned to “MX3” Mixed-Use District, to the satisfaction of the City’s Planning & Urban Design Administrator.

Part D) Approval of the request to rezone property from Baker “PUD” District to “MX3” Mixed-Use District.

### Written Responses

2 in Favor

1 in opposition

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

Part A) Staff recommends that the Commission find the requested rezoning and amendment to the Baker “PUD” Conceptual Plan not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates this area as Industrial.

Part B) Staff recommends approval of the request to amend the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Community Mixed-Use.

Part C) Staff recommends approval of the request to amend the Baker “PUD” Conceptual Plan to remove approximately 6.9 acres to be rezoned to “MX3” Mixed-Use District subject to the following: the applicant shall submit an amended “PUD” Conceptual Plan that eliminates the area that is being rezoned to “MX3” Mixed-Use District, to the satisfaction of the City’s Planning & Urban Design Administrator.

Part D) Staff recommends approval of the request to rezone property from Baker “PUD” District to “MX3” Mixed-Use District.

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

### **I. GENERAL INFORMATION**

- 1. Purpose of Request:** The proposed rezoning and amendment to the Baker “PUD” would allow a mixed-use project that would include a church. The project would include an outdoor ‘barn’ that could hold events such as weddings and quinceañeras, and an outdoor farmers market periodically held in the parking lot area.
- 2. Size of Site:** Approximately 6.9 acres.
- 3. Existing Zoning (site):** “PUD” Planned Unit Development.
- 4. Existing Land Use (site):** The subject property contains undeveloped vacant land and the Four Mile Creek conservation easement which runs along the southwestern boundary of the proposed rezoning area.

## 5. Adjacent Land Use and Zoning:

**North** – “N2a”, Uses are one-household dwellings and agricultural land.

**South** – “MX3”, Uses are State of Iowa right-of-way, one-household dwellings, and vacant land.

**East** – “MX3”, “N1a”, Uses are one-household dwellings.

**West** – “Baker PUD”, Uses are the Four Mile Creek conservation easement, three 2-story apartment buildings, and open space.

**6. General Neighborhood/Area Land Uses:** The subject property is located at the northwest corner of Hubbell Avenue and East 46<sup>th</sup> Street, south of East Broadway Avenue. There is a mix of uses along Hubbell Avenue with residential uses further out.

**7. Applicable Recognized Neighborhood(s):** The subject property is not located in a designated Neighborhood Association. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on July 15, 2022. Additionally, separate notifications of the hearing for this specific item were mailed on July 15, 2022 (20 days prior to the hearing) and July 25, 2022 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. Additionally, a Final Agenda for the hearing will be mailed to all recognized neighborhoods on July 29, 2022.

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.

The applicant will provide a summary of the neighborhood meeting at the public hearing.

**8. Relevant Zoning History:** The subject property was rezoned by the City Council from “A-1” District to “PUD” District on October 27, 1997.

The most recent amendment (7<sup>th</sup>) to the PUD Conceptual Plan was approved by the City Council on August 19, 2019 to allow development of 19.98 acres of agricultural land for a single-household residential subdivision at a density of 4.2 units per acre multiple-household residential dwellings and one-household semi-detached dwellings on the eastern portion of the property.

**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.



The application, accompanying evidence and “PUD” Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of the City Code and with recognized principles of civic design, land use planning, and landscape architecture. After the hearing, the Commission may vote to recommend either approval or disapproval of the amended “PUD” Conceptual Plan as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Land Use Plan Designation:** The applicant is requesting that the future land use designation for the property be amended from “Industrial” to “Community Mixed Use.” PlanDSM 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.*

*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.*

The subject property is currently zoned “PUD” Planned Unit Development.

The applicant is requesting to rezone a portion of the PUD to “MX3” Mixed-Use District to allow a variety of uses including a place of worship with associated outdoor event space and farmers’ market. The Zoning Ordinance describes the “MX3” District as “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.”

2. **“Baker PUD” Conceptual Plan:** If the rezoning to remove approximately 6.9 acres from the “Baker Creek PUD” Conceptual Plan is approved, the applicant must submit to the City a revised version of the “PUD” Conceptual Plan. It must be revised to eliminate the area that is being rezoned to “MX3” Mixed Use District.
3. **Utilities:** Any land subdivision will require a Minor Plat and extension of public utilities. A public sanitary sewer will be required to be extended to all new lots and to the extents of the subject property to the north (along the public street) as per the Subdivision Ordinance of the City Code. There is an existing City of Des Moines owned gravity 12 inch sanitary sewer running northeast/southwest parallel to this parcel’s southeast property line. This existing sanitary sewer must be protected during construction and maintenance access to this existing sanitary sewer must be provided to the City of Des Moines at all times.

4. **Site Plan Requirements:** Any future development upon the site must be in accordance with a Site Plan as reviewed and approved by the City's Permit & Development Center. A Site Plan has not been submitted for review at this time. The Site Plan will ensure that any development complies with all City requirements, including, but not limited to, stormwater management, landscaping, off-street parking, and building design guidelines.
5. **Traffic & Transportation:** A Transportation Impact Study was not required at this time. Future development of 'Outlot Z' and the remaining area in Lot #1 fronting East 46<sup>th</sup> Street may require a transportation study based on proposed future uses at the time of development.

## **SUMMARY OF DISCUSSION**

Sreyoshi Chakraborty presented staff report and recommendation.

Johnny Alcivar asked if a site plan will be required if the rezoning is approved?

Sreyoshi Chakraborty stated once the rezoning is approved, they will be required to bring forward a site plan.

Johnny Alcivar asked if they will be required to meet all design standards within the MX3 District.

Sreyoshi Chakraborty stated yes, that is correct.

Robert Cramer, 1715 Figg Drive, Adel, IA stated their vision is to create a space that will allow them to hold events that will help pay for the building, provide a space for community outreach, and have the church. A privacy fence will be provided to keep the headlights from shining on the houses to the north and they are currently exploring options to resolve other issues raised during their neighborhood meeting.

Will Page asked if the questions raised by the neighbors have been addressed?

Robert Cramer stated the privacy fence will be provided. The biggest concern seemed to be safety from the creek which they will address. They will work with city staff regarding pedestrian and vehicle concerns and are willing to help find a solution to make the nearby bus stop safer.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Jeri Warden, 4585 East 46<sup>th</sup> Street stated she is opposed to this project due to increased traffic on East 46<sup>th</sup> Street and the increase of noise.

Robert Cramer stated they will comply with noise ordinances and anticipate most of the noise being inside the building.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**



Francis Boggus stated given the more intense uses that could take place with the current industrial zoning, he would move staff recommendation.

Justyn Lewis asked if primary access would come off East 46<sup>th</sup> Street.

Jason Van Essen stated Hubbell Avenue is a state highway so any access to it is controlled by the IDOT. It is anticipated that access will primarily come from East 46<sup>th</sup> Street.

Sreyoshi Chakraborty clarified the only access to this portion of the PUD would be off East 46<sup>th</sup> Street

**COMMISSION ACTION:**

Francis Boggus made a motion for:

Part A) The requested rezoning and amendment to the Baker "PUD" Conceptual Plan is not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates this area as Industrial.

Part B) Approval of the request to amend the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Community Mixed-Use.

Part C) Approval of the request to amend the Baker "PUD" Conceptual Plan to remove approximately 6.9 acres to be rezoned to "MX3" Mixed-Use District subject to the following: the applicant shall submit an amended "PUD" Conceptual Plan that eliminates the area that is being rezoned to "MX3" Mixed-Use District, to the satisfaction of the City's Planning & Urban Design Administrator.

Part D) Approval of the request to rezone property from Baker "PUD" District to "MX3" Mixed-Use District.

Motion passed: 11-0

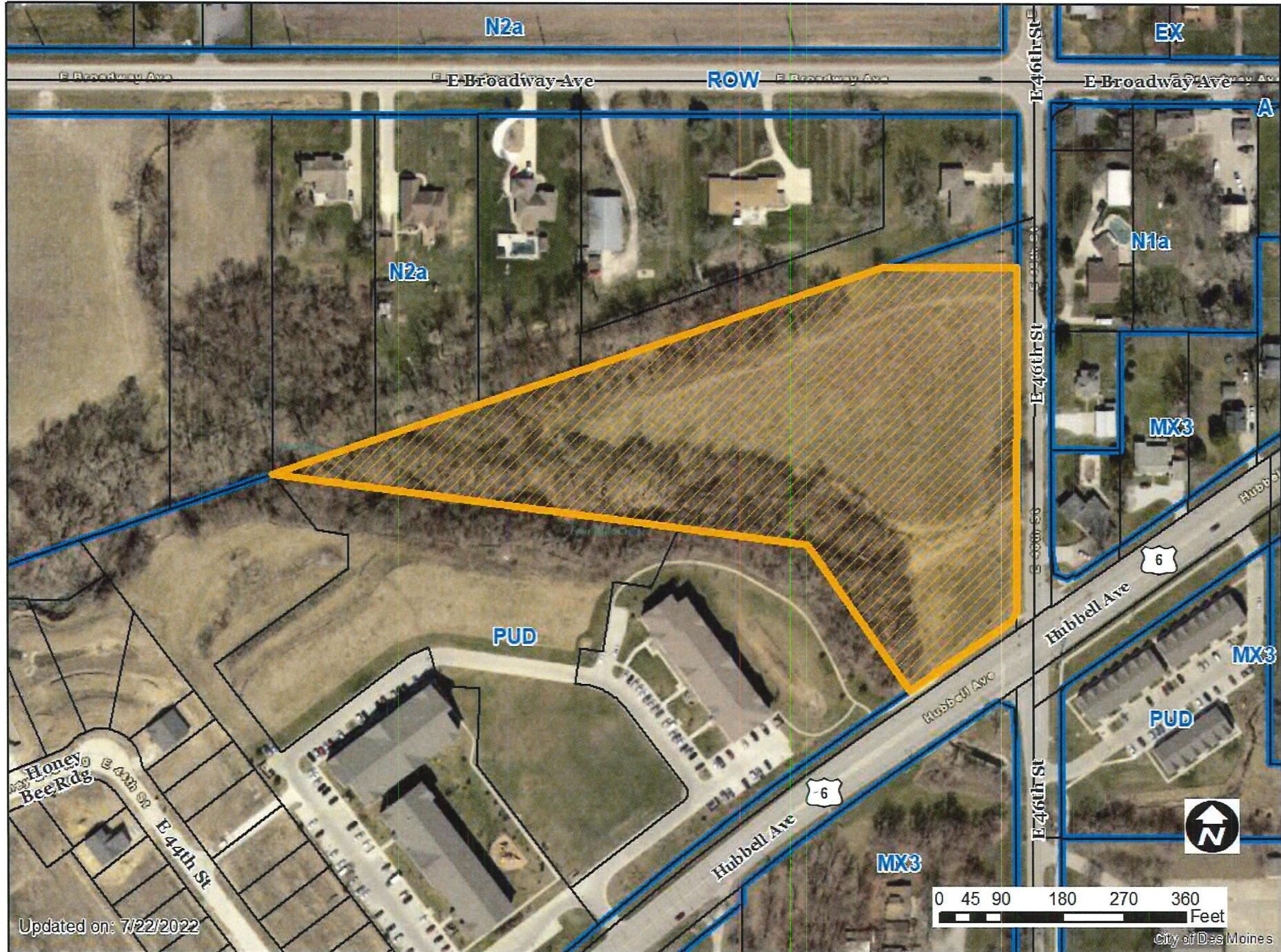
Respectfully submitted,



Jason Van Essen, AICP  
Planning & Urban Design Administrator

JMV:tjh





Updated on: 7/22/2022

City of Des Moines

1 inch = 186 feet













2205\_392

**4580 HUBBELL AVENUE**  
**SITE CONCEPT**

DES MOINES, IOWA



CIVIL DESIGN ADVANTAGE

4121 NW URBANDALE DRIVE  
 URBANDALE, IA 50322  
 PHONE: (515) 369-4400

ENGINEER:

TECH:

REVISIONS	DATE
REVISED NORTH BOUNDARY	07/25/2022
ADDED PARKING	07/19/2022
REVISED	07/01/2022
PREPARED	06/21/2022



Item: ZONG-2022-000062

Date: July 30, 2022 69

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: *Shirley A. Brown*

Name: SHIRLEY A. BROWN

Address: 4584 E. 46th, Des Moines 50317

Staff Use Only  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
AUG 04 2022

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item: ZONG-2022-000062

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

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: *Greg Baker*

Name: Greg Baker

Address: 4400 NE Hubbell Ave

Staff Use Only  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
AUG 01 2022

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Item: ZONG-2022-000062 Date: \_\_\_\_\_

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Jeris K. Warden

Name: JERIK. WARDEN

Address: 4585 E. 46th St.

Staff Use Only

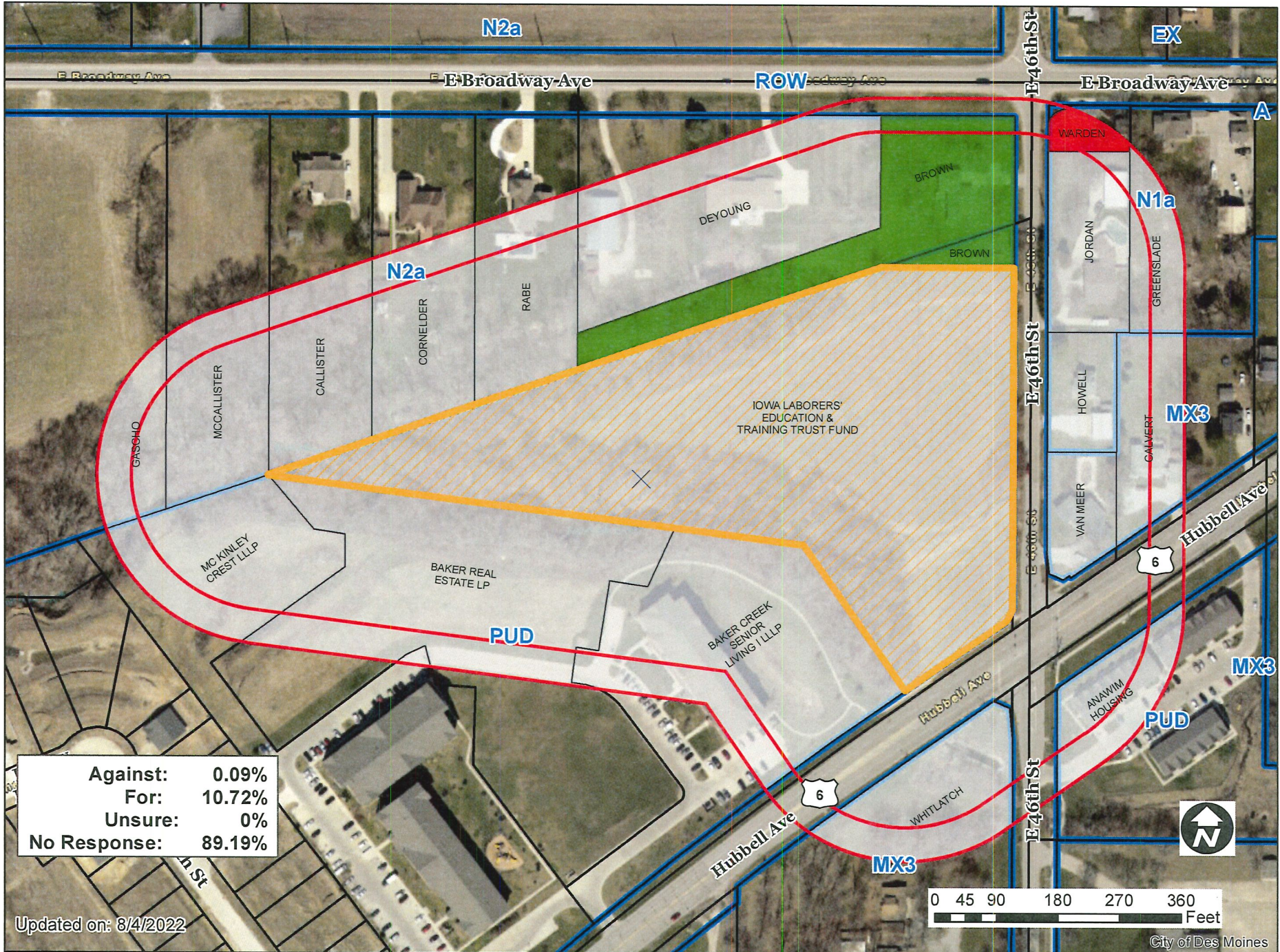
RECEIVED  
COMMUNITY DEVELOPMENT

AUG 01 2022

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

I don't want commercial Entertainment  
on my block. That will lead to a lot  
of noise at all hours, in our neighborhood.  
Not to mention all the extra traffic.





Against:	0.09%
For:	10.72%
Unsure:	0%
No Response:	89.19%

Updated on: 8/4/2022



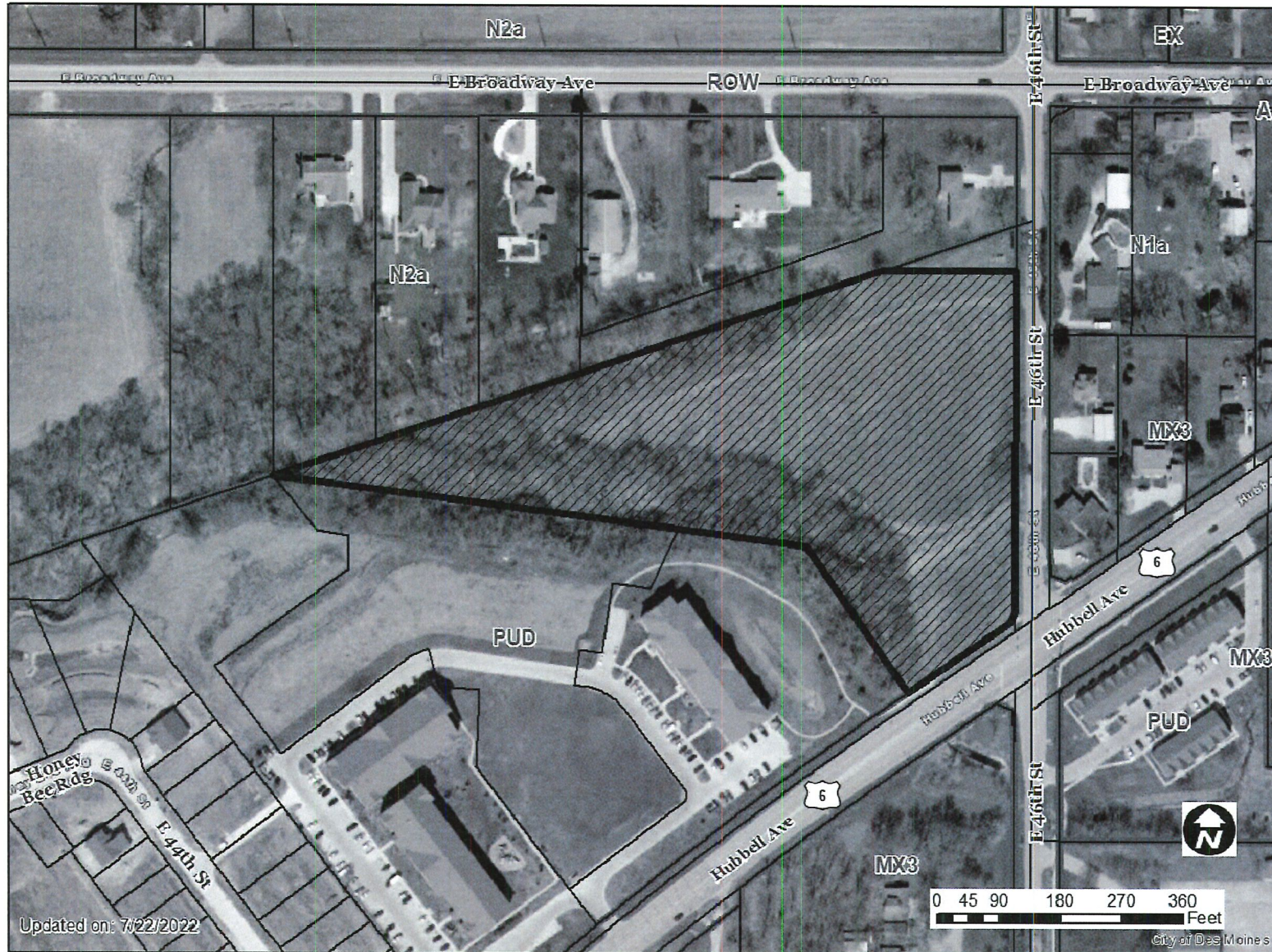
City of Des Moines

1 inch = 186 feet



Iowa Laborers' Education & Training Trust Fund, 4580 Hubbell Avenue

ZONG-2022-000062



Updated on: 7/22/2022

1 inch = 186 feet