★Roll Call Number

Agenda Item Number
17

April 24, 2006
Date

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 6, 2006, its members voted 10-2 in support of a motion to recommend **APPROVAL** of a request from Triad Development, LLC (purchaser) represented by Mana Thongvanh (partner) to rezone property located at 4250 Grandview Avenue from the "A-1" Agricultural District classification it will automatically receive upon annexation, to a Limited "R1-60" One-Family Low-Density Residential District, subject to the following conditions:

1. Annexation to the City of Des Moines.

2. A tree survey of all trees over 6" in caliper shall be completed and a tree protection plan shall be submitted as part of any Preliminary Plat for the property.

3. No trees over 6" in caliper shall be removed on the subject property until a grading plan is approved as part of a Preliminary Plat.

4. Notification at the time of platting to all individuals notified of the zoning request.

Subject property is more specifically described as follows:

The Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4, and the East 0.5 acres of the Northwest 1/4 of the Northwest 1/4 of the Southeast 1/4 of Section 28 North, Range 79 North, Township 23 West of the 5th p.m., in Polk County, Iowa.

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

1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on May 8, 2006, at which time the City Council will hear both those who oppose and those who favor the proposal.

(*Continued*)

★ **Roll Call Number**

.....

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17

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Date .....

2. That the City Clerk is hereby authorized and directed to cause notice of said proposal 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.

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown
Assistant City Attorney

(ZON2006-00028)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

_____ Mayor

CERTIFICATE

I, DIANE RAUH, 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

April 24, 2006

17

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held April 6, 2006, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-2 as follows:

Commission Action:	Yes	Nays	Pass	Absent
David Cupp	X			
Shirley Daniels	X			
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Kaye Lozier				X
Brian Meyer		X		
Brian Millard				X
Brook Rosenberg	X			
Mike Simonson	X			
Kent Sovern		X		
Tim Urban	X			
Marc Wallace	X			

CITY OF DES MOINES

CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 –1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

APPROVAL of a request from Triad Development, LLC (purchaser) represented by Mana Thongvanh (partner) to amend the Des Moines 2020 Community Character Land Use Plan future land use designation to designate the subject property at 4250 Grandview Avenue as Low Density Residential. (21-2006-4.05)

By same motion and vote, members moved for **APPROVAL** of a request to rezone subject property from "A-1" Agricultural District to "R1-60" One-Family Low-Density Residential District, subject to the following conditions: (ZON2006-00028)

1. Annexation to the City of Des Moines.

2. A tree survey of all trees over 6" in caliper and a tree protection plan and shall be submitted as part of any Preliminary Plat for the property.

3. No trees over 6" in caliper shall be removed on the subject property until a grading plan is approved as part of a Preliminary Plat.

4. Notification at the time of platting to all individuals notified of the zoning request.

Written Responses
2 In Favor
6 In Opposition

This item would not require a 6/7 vote by City Council.

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Part A) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan to establish a future land use designation of Low Density Residential for the subject property.

Part B) Staff recommends that the proposed rezoning be in found in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Low-Density Residential.

Part C) Staff recommends approval of the requested rezoning from "A-1" Agricultural District to "R1-60" One-Family Low-Density Residential District subject to the following conditions:

1. Annexation to the City of Des Moines.

2. A tree survey of all trees over 6" in caliper and a tree protection plan and shall be submitted as part of any Preliminary Plat for the property.

3. No trees over 6" in caliper shall be removed on the subject property until a grading plan is approved as part of a Preliminary Plat.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The subject property will be zoned "A-1" Agricultural District upon annexation to the City. The City Council will be holding a public hearing on April 9, 2006 regarding the annexation. The proposed rezoning to "R1-60" One-Family Low-Density Residential District would allow the 10.5-acre site to be developed as single-family residential. Future development of the site may incorporate an existing 7'-wide strip adjoining the entire west side of that subject property that is already zoned "R1-60" District within the City's boundaries. The development of this site would be subject to future review and approval of a Preliminary Plat by the Plan and Zoning Commission.

2. **Size of Site:** Approximately 660' x 720' (10.5 acres).

3. **Existing Zoning (site):** "A-1" Agricultural District upon annexation. Prior to annexation the site is zoned "S" Suburban District in Polk County.

4. **Existing Land Use (site):** The subject property contains a single-family dwelling accessed from the current easterly terminus of Grandview Avenue. The bulk of the subject property contains wooded timber.

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

   North – "R1-60", Use is a single-family residential subdivision.

   South – "S" Suburban District (Polk County), Use is single-family residential development in unincorporated Polk County.

   East – "S" Suburban District (Polk County), Use is single-family residential development in unincorporated Polk County.

   West – "R1-60", Uses include a 7'-wide undeveloped strip adjoining the entire subject property and a single-family residential subdivision.

6. **General Neighborhood/Area Land Uses:** The subject property is surrounded by single-family residential uses. Single-family development within the City of Des Moines is located adjacent to the north and west and single-family development in unincorporated Polk County is located adjacent to the east and south.

7. **Applicable Recognized Neighborhood(s):** N/A.

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

9. **2020 Community Character Land Use Plan Designation:** A future land use designation has not been established for the subject property.

10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries 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 recommend that certain conditions be applied to the subject property if the property owner agrees in writing, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Natural Site Features:** Much of the subject property is covered in a dense wooded timber. Staff recommends that the proposed rezoning be conditional upon submittal of a tree survey of all trees over 6" in caliper and a tree protection plan as part of any Preliminary Plat submitted for review. In addition, no trees over 6" in caliper should be removed on the subject property until a grading plan is approved as part of a Preliminary Plat.

   Staff has advised the applicant of the possible existence of mines in the area, a condition common in the adjacent neighborhoods and in many other areas of the City. This possibility does not preclude development, but it is something that the developer should be aware of in the event that the individual future lots display soils characteristics that require special consideration. It is suggested that soil borings be conducted prior to building design. Footing inspections for each individual lot will specific reveal soils characteristics that must be addressed.

2. **Drainage/Grading:** Drainage and grading would be evaluated during the Preliminary Plat review process before the site can be graded or developed.

3. **Utilities:** Staff believes sufficient utilities exist to support the proposed development. The developer would be responsible for all costs associated with extending utilities to the site.

4. **Traffic/Street System:** The subject site is located at the easterly terminus of both Grandview Avenue and Morton Avenue. These streets were constructed with temporary hammerhead turnarounds and designed to be extended onto the subject property in the future. The City's Traffic and Transportation staff have determined that the existing Grandview and Morton Avenues, which extend 560' east from East 42nd Street, can handle the additional traffic generated by future development of the property as single-family residential. A traffic study would not be required.

5. **Access & Circulation:** The future layout of streets on the site would be determined during the Preliminary Plat review process. It is anticipated that the both Grandview and Morton Avenues will be extended across the site, with one north/south connection between the two streets.

6. **2020 Community Character Plan:** The proposed "R1-60" One-Family Low-Density Residential District is in conformance with the proposed Low-Density Residential future land use designation. Staff believes that the proposed zoning is appropriate, as future development

of the site would essentially function as an extension of the existing single-family residential development (zoned "R1-60") adjacent to the west. The streets in this adjoining development were constructed with temporary hammerhead turnarounds and designed to be extended onto the subject property in the future.

SUMMARY OF DISCUSSION

Mike Ludwig: Presented the staff report and recommendation. Noted there currently is no land use plan designation for the subject property.

Brian Pittman, Triad Development, 9106 NW 73rd Street, Johnston: Noted staff recommended there would have to be a north/south road n the western portion of the property; they are aware they will have to return for plat review.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following individuals spoke in opposition:

Chris Pose, 317 6th Avenue, Ste 300: Representing Carla Steele, 4249 Grandview Avenue, Caltriders at 4248 Morton and Jones at 4249 Morton. All of them have incorporated the 7' strip into their yards. It is fenced, they maintain it and take care of it. If the property is zoned and annexed into the City it would give full rights to the developer to utilize the strip for street purposes or incorporate it into other lots for development. The property owner of the 7' land is Mr. Holt. Currently there is no litigation pending and they are attempting to avoid that process. The applicant has to sign an acceptance of the rezoning to move forward. Mr. Pose asked that the 7' strip not be incorporated into the street or into the development of the property. The clients are current residents of the City of Des Moines. A neighborhood meeting was held last night (Wednesday) and the plan indicated the developers have been marketing the lots for several months with payment discounts. His concern was that there was nothing shown adjacent to his clients' properties. If a street ran through, they would become corner lots. It did not appear that giving up the 7' strip would be detrimental to the lot sizes of the new development.

Brook Rosenberg: Asked if the clients had always been aware of the 7' strip.

Chris Pose: Noted they had not been aware and they understood the present owner bought the 7' strip for a small amount; at one time it was owned by Polk County. The 7' strip is a platted outlot that was dedicated to or provided to the Holts. His clients spoke at the neighborhood meeting with the developers and no answer was given. Also they are curious if the 7' piece was owned by the County, how it got into the City and was zoned. Clients believed the 7' strip was part of their yards and they were unaware of any survey. Mr. Holt has contracted to sell the 7' strip to the developers. Asked developers and they were unable to provide an answer at this time. The time they could ask the condition be applied is during the zoning. Asked that the Commission not let the 7' be allowed to be included in the zoning request and suggested the Commission could prohibit the developer from incorporating the 7' strip into their development. Not opposed to something that can be done in the future.

Larry Hulse: Expressed concern about doing a north/south street on the west property line because it would create a non-conforming lot.

CHAIRPERSON OPENED THE PUBLIC HEARING

Laura Barns, 4245 Grandview Avenue: Expressed concern for the traffic on the street and asked if another street could go into the development instead of Grandview or Morton.

Mike Simonson: Noted that adjoining properties are already developed and the streets were intended to be extended. Thought a north/south connection on the western portion of the property would be beneficial.

Karen Stone, 4246 Grandview: Also concerned about the traffic on the street as a result of Hoyt & Brubaker being at the end of Grandview. Also noted the trees have already been bulldozed out on the subject site.

Brian Pittman: Noted they pre-marketed the lots to get an idea of what the market would be.

Tim Urban: Asked about the trees being bulldozed.

Mike Ludwig: Noted that some trees on the front portion of the property appear to have been removed but a majority remained.

Bruce Heilman: Asked if they had sold any lots yet.

Brian Pittman: Noted they have interest, but they have not received any money yet. All proposals are conditional upon financing and layout of the lots. People who have expressed interest are aware it is not the final plat; there will be adjustments.

Mark Wallace: Asked about the concerns of the streets and not having a street or crossing.

Brian Pittman: If it were up to them they would not put a north/south street in.

Marc Wallace: Asked what his knowledge was of the 7' strip.

Brian Pittman: Noted they spoke to the seller who said he had purchased it on a tax sale and indicated there should be a workable solution; could not provide any definitive answers at this time.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Larry Hulse: Was uncertain what the conditions on the zoning could be with the 7' strip and the creation of a non-conforming lot.

Kent Sovern: Would like more information; uncomfortable the developer isn't completely prepared and suggested the developer and neighbors, if given some time could work out the problems. Did not have a motion, but did not believe he could support the rezoning.

Dann Flaherty: Noted it sounded like a motion.

Kent Sovern: Moved for continuation for two meetings.

Bruce Heilman: Would rather move ahead to allow the annexation and felt negotiation should occur during the platting.

Brian Meyer: Called the question.

Larry Hulse: Noted the subdivision would be seen by the Commission.

Dann Flaherty: Asked the applicant if a continuance was acceptable.

Brian Pittman: Opposed to a continuation because it will slow their process down. Understanding there may not be an approval, he would retract his opposition and accept a continuance to work out concerns with staff and neighbors.

Mike Ludwig: Noted the Commission makes a recommendation. If denial is recommended a 6/7 approval by the Council would be required to overturn the Commission's recommendation.

Bruce Heilman: Suggested the conversation has taken an unwarranted turn for the applicant since he's asking for a rezoning and he would rather they spend their time working on the plat to iron out the issues. The objection does not seem to be to the rezoning and annexing into the City.

Kent Sovern: Concurred with the comments that the rezoning and annexation were acceptable by the Commissioners, but his objection is that the homework has not been done; felt the applicant was unprepared and he was uneasy about how it will carry through with relationships with the neighbors as the plat is developed. Would like the extension to ensure the applicant has a commitment to work with the neighbors.

Brian Pittman: Did not feel any opposition from the neighbors; felt they had addressed concerns at the meeting held with them. Agreed they would have some homework to do.

Motion failed 4-8 (Greg Jones, Jeffrey Johannsen, Kaye Lozier, Bruce Heilman, David Cupp, Shirley Daniels, Tim Urban, and Marc Wallace were in opposition; Brian Meyer, Mike Simonson, Kent Sovern and Dann Flaherty were in favor).

Mike Simonson: Moved staff recommendation with the condition that when it gets to the platting phase, there be notification to the area residents.

Erik Lundy: Recommended the same list be used for notification as that used for the zoning.

Tim Urban: Expressed concern that someone has bulldozed the trees and asked that staff check into that claim. If the seller became aware of the restriction and hired someone to bulldoze the trees, he would be concerned with the behavior.

Motion to approve, as outlined by staff requiring notification as done for rezoning.

Motion passed 10-2 (Brian Meyer & Kent Sovern were opposed)

Respectfully submitted,

Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

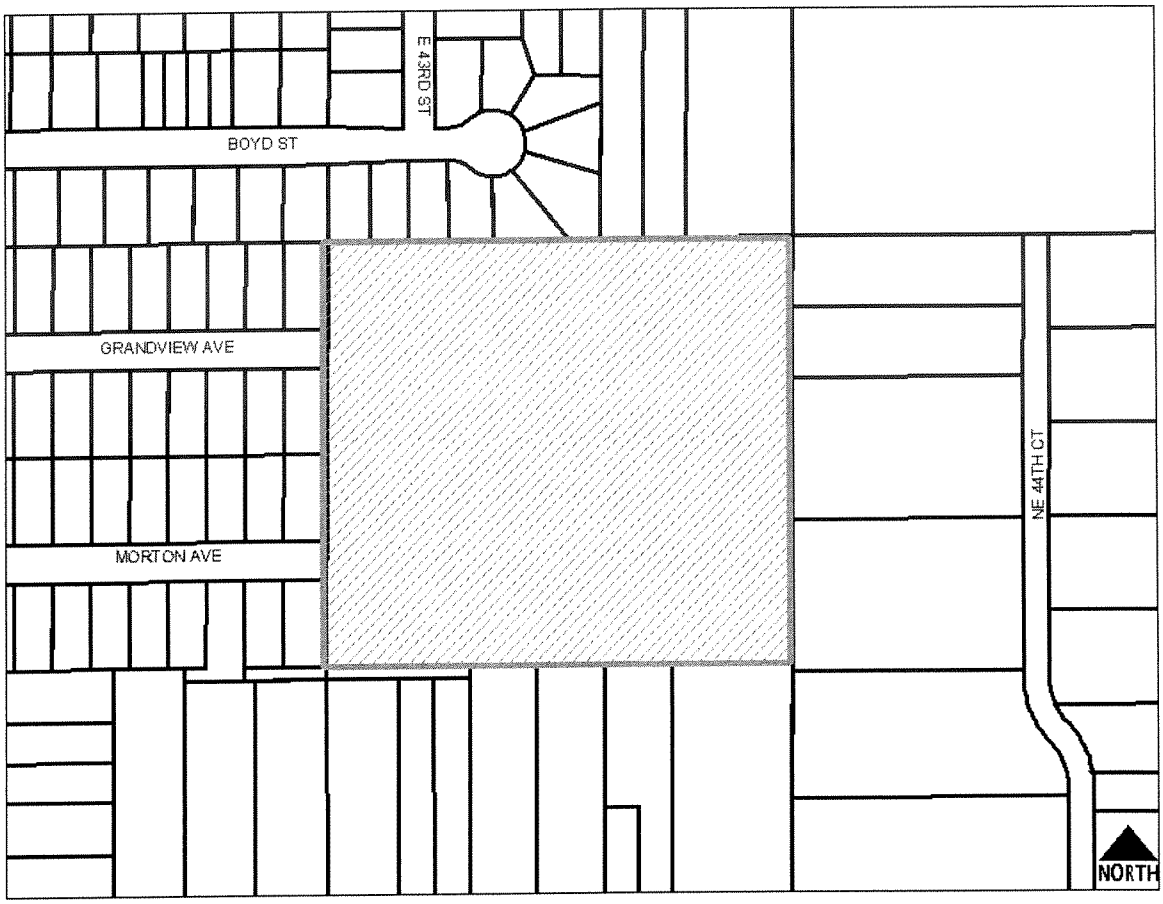
Request from Triad Development, LLC (purchaser) represented by Mana Thongvanh (partner) to rezone property located at 4250 Grandview Avenue upon annexation to the City of Des Moines. The subject property is owned by Frank and Christine Holt.	File # ZON2006-00028

Description of Action	Rezone property from "A-1" Agricultural District to "R1-60" One-Family Low-Density Residential District to allow for a single-family residential development.
2020 Community Character Plan	N/A
Horizon 2025 Transportation Plan	No Planned Improvements
Current Zoning District	"A-1" Agricultural District
Proposed Zoning District	"R1-60" One-Family Low-Density Residential District

Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	4	6	1	<20%

Plan and Zoning Commission Action			**Required 6/7 Vote of the City Council**		
	Approval	**10-2**		Yes	
	Denial			**No**	**X**

Traid Development, LLC - 4250 Grandview Avenue ZON2006-00028



Item ZON 2006 00028 Date 3-31-06

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

(Circle One)

RECEIVED
APR 03 2006
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name JOHN W. PLUMMER JR.

Signature John W. Plummer Jr.

Address 4380-E-SHERIDAN

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

Item ZON 2006 00028 Date 3-30-06

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

(Circle One)

RECEIVED
APR 03 2006
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Michael Clark

Signature Michael A Clark

Address 4239 / 4237 Boyd

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

I would much rather see Single Family or R-2 Than Apartments

17

Item ZON 2006 00028 Date 4/6/06

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

(Circle One)

RECEIVED
APR 07 2006
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Matt Bosma

Signature [signature]

Address 4313 Hull Ave.

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

More new houses in the area is just fine with me.

RECEIVED AFTER PZ meeting

Item ZON 2006 00028 Date 3/30/06

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

(Circle One)

RECEIVED
APR 07 2006
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Max Scott

Signature [signature]

Address 4243 Boyd

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

RECEIVED AFTER PZ meeting

17

Item ZON2006 00023 Date 3-29-06

I (am) (am not) in favor of the request.
(Circle One)

SUBJECT PROPERTY

RECEIVED
APR 03 2006
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Frank Holt

Signature Frank Holt

Address 2675 Hull Ave.
Des Moines, IA 50317

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

The proposed development will improve the neighborhood, add tax dollars to the city, and add to the safety of the neighborhood. In the past, this wooded area used to be a haven for kids to "play" in, unsupervised by their parents, resulting in hiding stolen goods, setting bonfires, etc.

17

Item ZON 2006 00028 Date 4-4-06

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

(Circle One)

RECEIVED
APR 06 2006
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Danny Gathercole

Signature Danny Gathercole

Address 3010 NE 44th CT

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

The original request for a zoning change to the current status was granted under the condition that the 10 acres Not be divided or parceled up.

Item ZON 2006 00028 Date 03/31/06

DES MOINES IA 503

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

(Circle One)

31 MAR 2006 PM 1 L

RECEIVED
APR 04 2006
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name MARCIA R. BARR

Signature Marcia R Barr

Address 2980 N.E. 44 Ct DSM IA 50317-402

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

My choice would be for no houses built there.

If it's inevitable, single-family homes are preferred.

17

Item ZON 2006 00028 Date 4/5/06

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

(Circle One)

RECEIVED
APR 06 2006
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name JEFF & JANIE JONES

Signature Jeff Jones

Address 4249 MORTON AVE.

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

We request that the 7 feet of outlot property be deeded to us as a condition to the approval of the zoning request. We have taken car of this property, paying a tree service to trim the bushes on the other side of the fence. At our neighbors meeting on Wednesday evening, the developers indicated they wanted to work with the neighbors but could not commit that we would be able to keep the 7 foot strip of land. We would agree to their plan if they agree to convey the 7 foot strip of land to us so that our yard remains the same as it has for many years.

Item ZON 2006 00028 Date 4/5/06

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

(Circle One)

RECEIVED
APR 06 2006
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Carla Steele

Signature Carla Steele

Address 4249 Grandview Ave

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

The developer is proposing to include in their development property which I have maintained for many years, including expenses for disposing of branches from the bushes and mowing. There is a plan to have a street on property which has been included as a part of my side yard for the entire time I have lived here. The developers would not commit to giving me the 7 feet of property I have maintained, but they indicated they would work with the property owners. I would like them conveying to me the 7 feet of property to be one of the conditions to approval of the zoning they are requesting. This development is going to change the entire atmosphere of the neighborhood, going from a dead-end private street, which will cause me considerable expense to fence the east edge of my poperty.

Item ZON 2006 00028 Date 4/6/06 17

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

(Circle One)

RECEIVED

APR 06 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name ANH QUI CALTRIDER

Signature [signature] X

Address 4248 MORTON AVE DES MOINES IA 5031

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

We object to having a street put on property which we have maintained since we have owned the property. We would like to have the 11-foot outlot property conveyed to us as a condition to approval of the Zoning.

Item ZON 2006 00028 Date 3-29-06

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

(Circle One)

RECEIVED

APR 03 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Jacob Spooner

Signature Jacob Spoo

Address 4242 Morton Ave

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

The reason I bought my house was for the dead End Street and its quiet. You develop it it will create more traffic and comotion and that's not what I want.

17

Item ZON2006 00028 Date 4/3/6

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

(Circle One) ~~in favor~~ neither

Print Name Tim Wightman

Signature

Address 4312 Boyd St

Phone 577-7341

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

I wonder how the runoff will be handled. Water runs along the east side of my property into the area that is being re-zoned. The water is not controlled & in periods of heavy rain nearly floods my yard