

Date October 26, 2009

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 15, 2009, its members voted 8-0 in support of a motion to recommend **APPROVAL** of a request from ROK Investments, LC (owner) represented by Erazm Rokitnicki (officer) to rezone property located at 2134 East Grand Avenue, from "R1-60" One-Family Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, to allow conversion of legal non-conforming book bindery office use to an event/assembly hall.

The subject property is more specifically described as follows:

(except East 12.58 feet measured on South line and East 12.17 feet measured on North Line) Lot 11 and all Lots 12 thru 16, Block 22, Sunnyside Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk and Warren 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 November 9, 2009, at which time the City Council will hear both those who oppose and those who favor the proposal.
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.

FORM APPROVED:

MOVED by \_\_\_\_\_ to adopt.



Michael F. Kelley  
Assistant City Attorney

(ZON2009-00167)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
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.

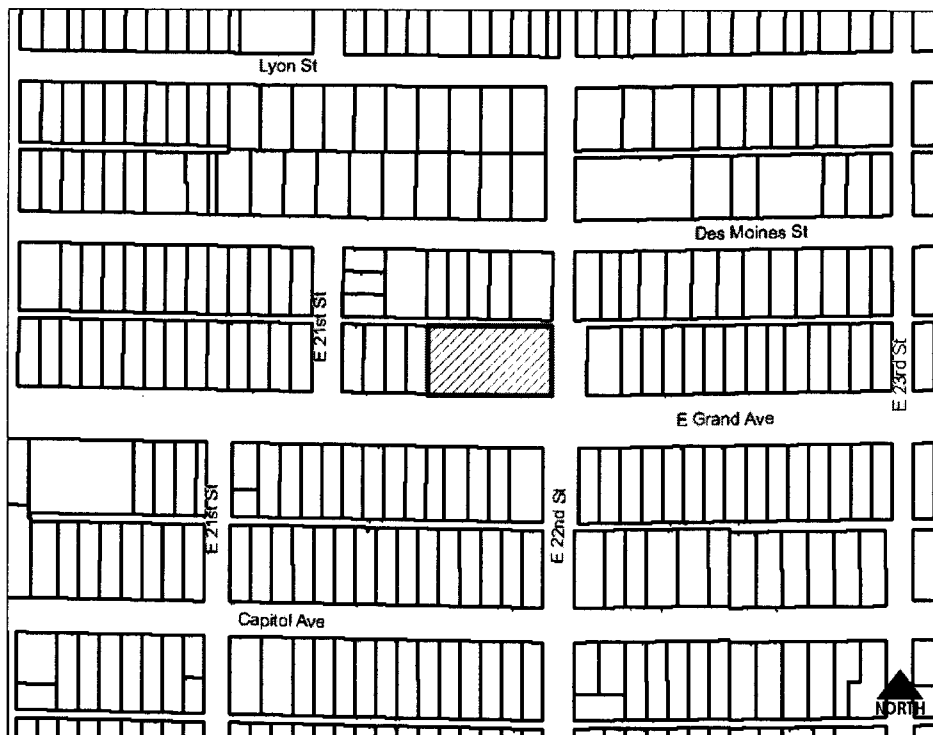
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

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

Request from ROK Investments, LC (owner) represented by Erazm Rokitnicki (officer) to rezone property located at 2134 East Grand Avenue.		File # <b>ZON2009-00167</b>		
<b>Description of Action</b>	Rezone property from "R1-60" One-Family Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, to allow conversion of legal non-conforming book bindery office use to an event/assembly hall.			
<b>2020 Community Character Plan</b>	Low-Density Residential			
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements			
<b>Current Zoning District</b>	"R1-60" One-Family Low Density Residential District			
<b>Proposed Zoning District</b>	Limited "NPC" Neighborhood Pedestrian Commercial District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	5	4		
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	8-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

ROK Investments LC - 2134 E Grand Avenue

ZON2009-00167



Date \_\_\_\_\_

Agenda Item 17

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

October 16, 2009

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 October 15, 2009, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing regarding a request from ROK Investments, LC (owner) represented by Erazm Rokitnicki (officer), for property located at 2134 East Grand Avenue the members voted 8-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Dann Flaherty	X			
Ted Irvine	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson				X
Kent Sovern	X			

**APPROVAL** of a motion, to find the requested rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 8-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Dann Flaherty	X			
Ted Irvine	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson				X
Kent Sovern	X			



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 the request to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node; and to approve the requested rezoning subject to the applicant agreeing to the condition that use of the land is prohibited from being used for: ZON2009-00167 & 21-2009-4.08

1. Off-premises advertising signs,
2. Taverns and night clubs,
3. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles; and
4. Pawn shops.

Written Responses

5 In Favor

4 In Opposition

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

Part A) Staff recommends that the requested rezoning be found not in conformance with the approved Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Mixed-Use and Density Residential.

Part C) Staff recommends approval of the requested rezoning subject to the applicant agreeing to the condition that use of the land is prohibited from being used for:

1. Off-premises advertising signs,
2. Taverns and night clubs,
3. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles; and
4. Pawn shops.

**STAFF REPORT**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is seeking to renovate approximately 5,900 square feet of the existing book bindery building into an assembly hall venue to be rented as a banquet hall for special events. The remaining 10,990 square feet of the building will be kept as office and warehouse storage for the existing book bindery use.
2. **Size of Site:** 31,127 square feet.
3. **Existing Zoning (site):** R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Book bindery warehouse and offices.

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

**North** – “R1-60”, Uses are single-family dwellings.

**South** – “R1-60”, Uses are single-family dwellings.

**East** – “R1-60”, Uses are single-family dwellings.

**West** – “R1-60”, Uses are single-family dwellings.

**6. General Neighborhood/Area Land Uses:** The subject property is located on the East Grand Avenue corridor within the predominantly residential Fairground Neighborhood. This area generally consists of single-family dwellings but has scattered commercial and industrial uses.

**7. Applicable Recognized Neighborhood(s):** Fairground Neighborhood.

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

**9. 2020 Community Character Land Use Plan Designation:** Low Density Residential.

**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:** The subject property contains mature trees in the northwest corner and in the front yard area along East Grand Avenue. Any site development for parking improvements that may remove mature trees will require mitigation plantings in accordance with the recently adopted Ordinance as part of the Site Plan.
- 2. Drainage/Grading:** Future development of the subject property will require a storm water management plan and a soil erosion protection and grading plan as part of the Site Plan review. Within the NPC Districts, the allowable storm water run-off rate is equal to that of a 5-year return frequency storm on the site considering existing development. Temporary storm water storage must be provided for the difference between the allowable run-off and the run-off from a 100-year frequency storm on the site after the proposed development takes place. Developers are advised to consider use of alternative or low impact design methods for storm water management.
- 3. Landscaping & Buffering:** Development of the property will require site landscaping and buffering for the adjoining properties. The “NPC” District Design Guidelines state that an emphasis of trees, shrubs and other plantings should be placed around the perimeter of any parking area and within large parking lots to create a more attractive area. The landscape plan should generally enhance the visual appearance of the building, parking area and any pedestrian areas.

The “NPC” District is not specifically addressed in the City’s Landscaping Standards. However, it is generally recommended that landscaping similar to “C-2” District standards be considered as a starting point with regard to parking lot areas. The NPC Design guidelines, as a reference in Sec. 82-214(b)(7) to off-street parking requirements in the Zoning Ordinance in Sec. 134-

1377(f)(2)(b)(1 & 2), would require a 10 foot setback from parking in a commercial district to "R" District Boundaries to north and a five foot setback from street right-of-way property lines on the south along East Grand Avenue.

- 4. Parking:** The proposed off-street parking improvements are subject to Site Plan review by the Plan and Zoning Commission under design guidelines within "NPC" Districts. The "NPC" District allows for the number of off-street parking spaces to be reduced to 60% of the normal requirement and gives credit for available on-street parking stalls on the street side adjoining the subject property.

In this instance on-street parking is not allowed on the north side of East Grand Avenue to the south. There also appears to be limited opportunity for shared parking with any neighboring uses. The concept provided by the applicant indicates development of approximately 14 spaces west of the building and retention and improvement of 10 existing non-conforming head-in spaces on East 22<sup>nd</sup> Street that maneuver onto East 22<sup>nd</sup> Street.

The proposed banquet hall, office and warehouse uses would typically require a minimum total of 36 spaces. However, the 40% reduction would require only 22 spaces under "NPC" design guidelines. With 24 spaces to be provided the proposed site development satisfies the minimum off-street parking count.

- 5. 2020 Community Character Plan:** In order to find the requested rezoning in conformance with the comprehensive plan, the future land use designation must be amended from Low Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node. The 2020 Community Character Plan defines this designation as "Small-scale commercial serving primarily adjacent neighborhood. Cumulative building total of 25,000 to 50,000 square feet."

The area surrounding the subject property primarily consists of single-family residential dwellings with a small scattering of commercial and industrial uses. The proposed amendment to the land use designation is appropriate given the fact that the building was historically built for commercial purposes within the surrounding low-density residential setting.

The "NPC" District allows for both commercial and residential uses. Staff believes some commercial uses allowed in "NPC" would not be appropriate at this location. Therefore staff recommends that if the property is rezoned it should be on the condition that off-premises advertising signs, taverns and night clubs, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, and pawn shops be prohibited uses.

- It is important to note that an amendment to revise the property "NPC" District zoning will not bring the remaining existing book bindery warehousing use into conformance with the Zoning Ordinance. That use will remain subject to the non-conforming provisions of the code.

## **SUMMARY OF DISCUSSION**

Erik Lundy presented the staff report and recommendation.

JoAnne Corigliano asked if the proposed parking is adequate and would it infringe on neighboring properties.

Erik Lundy stated that if they were using the entire building for assembly use then parking would be an issue but with 24 spaces to be provided the proposed site development satisfies the minimum off-street parking count.

JoAnne Corigliano asked if there is historical significance to this building.

Erik Lundy stated there is no historical significance that the City has documented.

Brian Millard asked if they could continue to operate their book binding business if this is not approved.

Erik Lundy stated yes the use is ongoing.

Doug Saltsgaver 2413 Grand Avenue stated that they had a neighborhood meeting where they provided drawings to scale; the owners were present as well. He explained what they want to do with the parking and noted that the applicant is seeking to renovate part of the existing book bindery building into an assembly hall venue to rent as a banquet hall for special events and with remaining of the building to be kept as office and warehouse storage for the book bindery use.

Greg Jones asked if the parking connects to the alley.

Doug Saltsgaver stated parking only connects to Grand Avenue.

Renatta Bolen gave a brief history about the building. It had been a book binding company before they bought it. She also stated that they had rented out the building but the tenants trashed it, and were evicted. She thinks that this will be a community asset and thinks that if it is occupied it might prevent vandalism. They are going to talk to MidAmerican about getting lights in the alley and they are going to talk to the church about being able to use some of the church parking in their lot if necessary.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

*The following spoke in favor*

Paul Ohlerking 2109 E. Grand stated that he welcomes any positive changes that can happen with this building. The only caveat is if there is going to be after-hour activities that they deal with security issues by providing off duty police and they don't over park the area.

Eric Rokitnicki 1631 E. Aurora Avenue stated if their request is granted it will stop vandalism, dumping, and graffiti and look forward to improving the neighborhood.

Larry Overton 2914 E. Grand, Fairground Neighborhood Association board of director stated that they met with the owners and the owners assured the neighborhood that there will be police present at all parties. The neighborhood welcomes this business.

*The following spoke in opposition*

Ted Cozad 2127 Des Moines Street stated that he agreed that the business will improve the area. However, one of his concerns is adequate parking cannot be provided without interfering with the neighborhood. If some of the concerns on the petition could be solved and addressed then he and others on the petition would not be opposed.

*Rebuttal*

Doug Saltsgaver noted that the parking spaces would not interfere with the neighborhood. They are asking to reestablish parking on the north side of Grand to improve parking. He also noted that this will not be an everyday occurrence and does not think that they are out of line with what they are trying to accomplish here.

Brian Millard asked Mr. Saltsgaver if he has seen the petition with the list of concerns.

Doug Saltsgaver stated he had not. (a copy was given to him) He went through the list and addressed the concern about the noise level and noted that this is a brick building which will shield the noise; a liquor license is required for such functions; Vandalism and littering, the owners will be out policing the area and if proper clean up is not done the leasee will lose their security deposit.

Brian Millard asked if there is something in writing about the security.

Doug Saltsgaver stated that in the lease agreement security be present at that event.

Jim Martin asked about the stormwater control.

Doug Saltsgaver stated that currently it drains down to Grand Avenue the same function since 1920.

Dann Flaherty stated that he expects down-directional lighting to prevent light pollution on neighboring properties. He also ask if the applicant investigated any financial benefit through the City, County or State funding.

Doug Saltsgaver stated not that he was aware of any City, County or State funding.

Erik Lundy stated while staff did not indicate shared parking arrangements as a zoning condition. It could be a zoning condition in addition to a requirement for security at events. He pointed out that NPC site planning guidelines provide a shared parking arrangement. Stormwater management will be reviewed with the site plan along with the lighting. The site plan will come to the Commission. If the business wants to permanently have a liquor use they will have to go to the Board of Adjustment for a conditional use.

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

JoAnne Corigliano stated that she is pleased that they want to redo the area and thinks that it is a plus.

### **COMMISSION ACTION**

Ted Irvine moved staff recommendation to find the proposed rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

Motion passed 8-0.

Ted Irvine moved to approve an amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low-Density Residential to Commercial: Pedestrian Oriented Neighborhood Node to approve requested rezoning subject to the applicant agreeing to the condition that use of the land is prohibited from being used for:

1. Off-premises advertising signs,
2. Taverns and night clubs,
3. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles; and
4. Pawn shops.



Motion passed 8-0.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Michael Ludwig". The signature is stylized and cursive.

Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

~~17~~  
17

Regarding proposal by ROK Investments (owner) represented by Erazm Rokitnicki (officer) and re-zoning of property at 2134 East Grand Ave. Des Moines.

The following property owners would like to express extreme opposition to the proposed re-zoning for above stated property. Property owners listed below would respectfully request that Des Moines City Council leaders vote No to the proposed re-zoning. As stated in the mailed letter dated Oct 5, 2009 the "...in the event of a written protest filed with the City Clerk duly signed by 20% or more of property owners within 200 feet of building"; we are informing the City Council that this is unfavorable to the following property owners and respectfully request that you take our opinions into consideration when considering the above proposal.

Main concerns including but not limited to the following reasons:

- 1) We are concerned about noise levels increasing with party room rental. This is a residential neighborhood and the building is within just a very few feet of many of the properties surrounding it.
- 2) We are concerned with the possibility persons engaging in alcohol and tobacco intake and the possibility of an undesirable example to the children in the neighborhood.
- 3) We are concerned with the possibility of vandalism and litter to the adjoining properties and the lack of accountability for damage to adjoining properties.
- 4) We are concerned with parking issues: It was proposed that the room would hold around 200 persons. Where will the cars be parking?

Thank you for your time and consideration with regards to the above,  
Neighborhood Property owners.

2009 OCT 13 PM 12:08  
 CITY CLERK  
 DES MOINES, IOWA  
 FILED

✓ Beverly A. Thomas  
owner: 2123 Des Moines St.

CARD ALSO } ✓ Marilyn Copad  
✓ Robert Copad  
owner: 2127 Des Moines St.

OUTSIDE 200' ✓ Shawn Kianison *Shawn Kianison*  
owner: 2130 Des Moines St.

✓ EVERETT CARPENTER OWNER 45 YEARS  
2105 Des Moines St.

NOT OWNER OF RECORD (BUT OWNER SENT CARD OPPOSED)  
LARRY LYNCH  
2131 Des Moines St. OWNER

✓ Andy Cator  
511 E. 21ST

✓ Alejandro Bohena

2204 E. Grand Ave. Des Moines, IA.

CARD ALSO

✓ Ethel L. Weaver

2129 E. Grand Ave.  
owner

Item 2009 00167 Date

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

(Circle One)

RECEIVED

OCT 14 2009

UNITY DEVELOP

Print Name Paul Ohleckins  
Signature [Signature]  
Address 2109 E Grand Av

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

Only if there is a mandated requirement for an off duty DMPD officer for an event out side of normal business hours (M-Fri 0800-1700) when any Alcohol is present.

NOT OWNER OF RECORD

Item 2009 00166 Date

10-07-09

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

(Circle One)

RECEIVED

OCT 14 2009

UNITY DEVELOP

Print Name George Carus  
Signature [Signature]  
Address 1603 Euclid

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

Item 2009 00168 R Date 10-9-09

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

RECEIVED (Circle One)

OCT 15 2009

UNITY DEVELOP

Print Name BKD, LC Harry F. Wertz Wgr.  
Signature [Signature]  
Address 6125 Crescent Chase Johnston, Va 50131

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

11

Item 2009 00167 Date 10-13-09

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

(Circle One) ~~RECEIVED~~ RECEIVED Print Name Kenneth Winebrenner

OCT 15 2009 Signature Kenneth Winebrenner

"UNITY DEVELOP" Address 2209 Des Moines Street

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

We are concerned about the type of meetings to be held here.  
Also we will NOT allow any parking in our private parking lot.  
Kenneth Winebrenner  
Phonics - Trusts

Item 2009 00167 Date 10/7/09

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

(Circle One) ~~RECEIVED~~ RECEIVED Print Name Leokadia Rokitski

OCT 14 2009 Signature Leokadia Rokitski

"UNITY DEVELOP" Address 2134 E Grand Ave

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

will increase beauty of neighborhood  
will create some jobs  
It'd be nice to see and therefore will attract gangs and other negative activities

SUBJECT PROPERTY

Item 2009 00167 Date 10-7-09

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

(Circle One) ~~RECEIVED~~ RECEIVED  
OCT 14 2009  
"UNITY DEVELOP"

Print Name Steven L Wolcott MS  
Signature Steven L Wolcott MS  
Address 2814 East Capitol Ave  
MS 404

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

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

Item 2009 00167 Date 10-8-09

I (am)  in favor of the request.

RECEIVED

OCT 14 2009

UNITY DEVELOPMENT

Print Name Ted e MacLagan Cozad  
Signature Ted e MacLagan Cozad  
Address 2127 Des Moines St

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

Not enough parking available  
Too close to residential homes to  
allow liquor  
Noise level and hours of operation  
not compatible with residential living  
Also on Petition

Item 2009 00167 Date 10-8-09

I (am)  in favor of the request.

(Circle One)

RECEIVED

OCT 14 2009

UNITY DEVELOPMENT

Print Name Ethel Lea Deever  
Signature Ethel Lea Deever  
Address 2119 E. Hand Lane

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

Parking and noise associated with  
too many other units maintained.  
Not optimistic about visionary  
plans!

Also on Petition

Date 10/9/09

Item 2009 00167

I (am)  in favor of the request.

RECEIVED

OCT 14 2009

UNITY DEVELOPMENT

Print Name Linda S Hesselton  
Signature Linda S Hesselton  
Address 2131 Des Moines St

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

Parking is a big concern. They only have parking for 25  
cars and we were told the buildings capacity would be  
200 people, (street parking is already a problem on  
our street). We are also concerned with the noise level  
and we want to be assured that police have to be on duty  
while the building is rented. Smoking not allowed in the  
building we want to be assured no activity will be allowed  
in the alley which is adjacent to our property.