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**Date** August 24, 2015

**RESOLUTION SETTING HEARING ON REQUEST FROM ROBERT J. ELLIS AND REBECCA ORR TO APPROVE PUD CONCEPTUAL PLAN AND TO REZONE PROPERTY LOCATED AT 4111, 4117 AND 4121 MCKINLEY AVENUE**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on August 6, 2015, its members voted 10-0-1 in support of a motion to recommend **DENIAL** of a request from Robert J. Ellis and Rebecca Orr (owners) to rezone real property locally known as 4111, 4117 and 4121 McKinley Avenue ("Property") from "R1-80" One-Family Residential District to "PUD" Planned Unit Development District to allow development of the site with 12 dwelling units with 6 single-family semi-detached dwellings, and of a request for approval of a PUD Conceptual Plan related thereto; and

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

PARCEL C OF LOT 11, SERENDIPITY PLAT 4, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AS SHOWN ON PLAT OF SURVEY FILED MAY 15, 2000, RECORDED IN BOOK 8494, PAGE 685 OF THE POLK COUNTY RECORDER'S OFFICE, EXCEPT THAT PART DEEDED TO THE CITY OF DES MOINES IOWA BY COURT OFFICER DEED FILED IN BOOK 9338, PAGE 48 AND BY QUIT CLAIM DEED FILED IN BOOK 9338, PAGE 59 OF THE POLK COUNTY RECORDER'S OFFICE AND ALSO EXCEPT PARCEL D OF LOT 11, SERENDIPITY PLAT 4 AS REFLECTED IN A PLAT OF SURVEY FILED SEPT. 6, 2006 IN BOOK 11837, PAGE 885 OF THE POLK COUNTY RECORDER'S OFFICE.

SUBJECT TO ALL COVENANTS, RESTRICTIONS AND EASEMENTS OF RECORD.

AND

PARCEL B OF LOT 11, SERENDIPITY PLAT 4, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AS SHOWN ON PLAT OF SURVEY FILED MAY 15, 2000, RECORDED IN BOOK 8494, PAGE 685 OF THE POLK COUNTY RECORDER'S OFFICE, EXCEPT THAT PART DEEDED TO THE CITY OF DES MOINES IOWA BY COURT OFFICER DEED FILED IN BOOK 9338, PAGE 48 AND BY QUIT CLAIM DEED FILED IN BOOK 9338, PAGE 59 OF THE POLK COUNTY RECORDER'S OFFICE.

SUBJECT TO ALL COVENANTS, RESTRICTIONS AND EASEMENTS OF RECORD.

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PARCEL A OF LOT 11, SERENDIPITY PLAT 4, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AS SHOWN ON PLAT OF SURVEY FILED MAY 15, 2000, RECORDED IN BOOK 8494, PAGE 685 OF THE POLK COUNTY RECORDER'S OFFICE, EXCEPT THAT PART DEEDED TO THE CITY OF DES MOINES IOWA BY COURT OFFICER DEED FILED IN BOOK 9338, PAGE 48 AND BY QUIT CLAIM DEED FILED IN BOOK 9338, PAGE 59 OF THE POLK COUNTY RECORDER'S OFFICE.

SUBJECT TO ALL COVENANTS, RESTRICTIONS AND EASEMENTS OF RECORD.



Date August 24, 2015

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 and PUD Conceptual Plan are to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa, at 5:00 p.m. on September 14, 2015, at which time the City Council will hear both those who oppose and those who favor the proposals.
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.

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

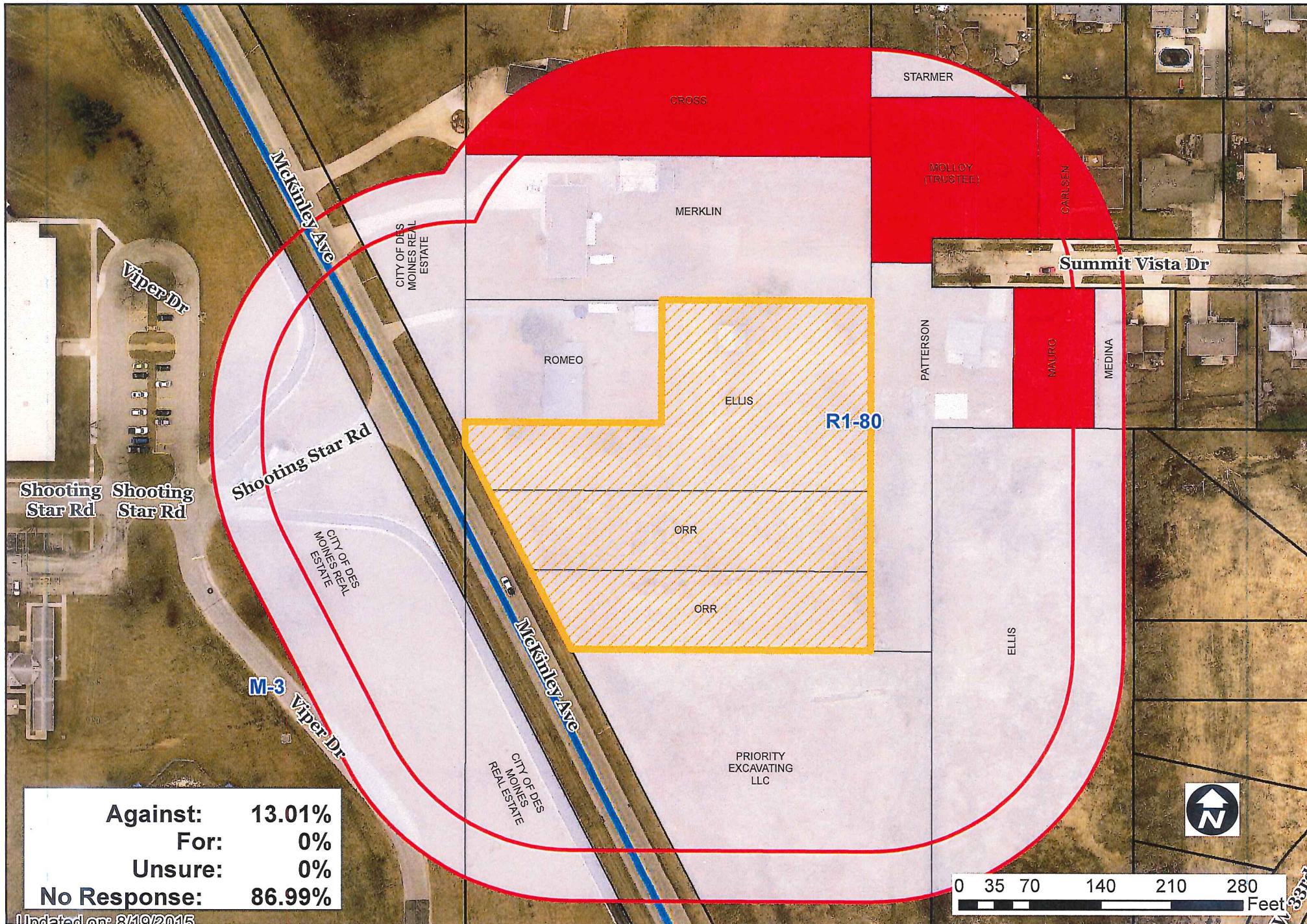
FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

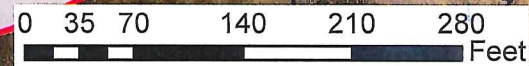
(ZON2015-00120)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, 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



Against:	13.01%
For:	0%
Unsure:	0%
No Response:	86.99%



Robert J. Ellis (owner) and Rebecca Orr (owner) for properties located at 4111, 4117, and 4121 McKinley Avenue.				File #	
				21-2015-4.12	
Description of Action	Denial of request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low-Density Residential to Low/Medium-Density Residential.				
2020 Community Character Plan	Current: Low-Density Residential. Proposed: Low/Medium Density Residential.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"R1-80" One-Family Residential District and "FSO" Freestanding Sign Overlay District.				
Proposed Zoning District	"PUD" Planned Unit Development and "FSO" Freestanding Sign Overlay District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area		4			
Outside Area					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	10-0-1		No	

Robert J. Ellis and Rebecca Orr, 4111, 4117 & 4121 McKinley Avenue

21-2015-4.12





August 18, 2015

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 August 6, 2015, the following action was taken regarding a request from Robert J. Ellis (owner) and Rebecca Orr (owner) to rezone properties located at 4111, 4117, and 4121 McKinley Avenue.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 1-10 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles		X		
JoAnne Corigliano		X		
Jacqueline Easley		X		
Tim Fitzgerald		X		
Jann Freed				X
John "Jack" Hilmes				X
Greg Jones		X		
Sasha Kamper		X		
Brian Millard		X		
William Page	X			
Jonathan Rosenbloom		X		
Mike Simonson		X		
CJ Stephens				X
Greg Wattier		X		

**APPROVAL** of a PUD Conceptual Plan for three (3) single-family semi-detached dwellings, (6 dwelling units), with a single private access drive from McKinley Avenue subject to original staff conditions. **MOTION FAILED** (21-2015-4.12 & ZON2015-00120)

By separate motion the members voted 10-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			

Jacqueline Easley	X		
Tim Fitzgerald	X		
Jann Freed			X
John "Jack" Hilmes			X
Greg Jones	X		
Sasha Kamper	X		
Brian Millard		X	
William Page	X		
Jonathan Rosenbloom	X		
Mike Simonson	X		
CJ Stephens			X
Greg Wattier	X		

**DENIAL** of the applicant's request of a PUD Conceptual Plan for six (6) single-family semi-detached dwellings, (12 dwelling units), with a single private access drive from McKinley Avenue. **MOTION PASSES**

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

Part A) Staff recommends that the Commission find the proposed rezoning is not in conformance with the existing Des Moines 2020 Community Character Plan.

B) Staff recommends approval of the request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low-Density Residential to Low/Medium-Density Residential.

C) Staff recommends approval of the request to rezone property from "R1-80" One-Family Residential District to "PUD" Planned Unit Development District.

D) Staff recommends approval of the "McKinley Townhomes" PUD Conceptual Plan subject to the following conditions:

1. Provision of a note to state that a minimum 3 foot tall brick or stone wainscot shall be provided on all façades of each ground level and all exposed portions of any lower level shall be clad with this same material. The balance of each façade shall be clad with cementitious horizontal overlap or shake pattern siding painted an earth tone that complements the masonry material.
2. Provision of a note to state that all dwellings shall have architectural profile shingles.
3. Provision of a note to state that each dwelling unit shall contain a minimum of 1,100 square feet of finished living area on the main level, with a minimum two-car attached garage.
4. Provision of a note to state that any overhead garage door shall have a row of decorative windows.
5. Provision of a note to state that each dwelling unit shall have a full basement foundation.

6. Provision of a note to state that any structure shall be setback at least 30 feet from the from the front property line along McKinley Avenue.
7. The placement of the structures shall be staggered in order to provide variation in the facades of the structures.
8. The layout of the PUD Conceptual Plan shall be revised so that all dwelling units front a single private access drive on the site.
9. Provision of a note to state that any off-street parking shall be landscaped in accordance with the landscape standards applicable to the "R-3" District.
10. The PUD Conceptual Plan shall show conceptual plantings, including street trees and foundation plantings.
11. Provision of a note to state that any development will comply with the City's Tree Preservation & Mitigation Ordinance.
12. The PUD Conceptual Plan shall reflect the existing stormwater sewer and flowage easement (per Book 8566, Page 680).
13. Provision of a note to state that a stormwater runoff control plan per City Code Section 106-136 is required.
14. Provision of a note to state that a geotechnical soil study shall be required before any Development Plan can be reviewed and approved.
15. Provision of a note to state that the developer is responsible for negotiating access and all costs associated with constructing the necessary sanitary sewer connections.
16. Provision of a note to state that the developer is responsible for all costs associated with constructing the necessary water service connections.
17. Provision of a note to state that any freestanding sign shall not exceed 24 square feet in area and shall be a monument style sign as defined in Section 134-3 of the City Code in compliance with the "FSO" Freestanding Signs Overlay District requirements.
18. Provision of a note to state that any fencing shall be in accordance with the standards applicable to the "R-3" District.
19. Provision of a note to state that any site lighting shall be pedestrian in scale and shall be a black archetype fixture.

#### Written Responses

0 In Favor

4 In Opposition

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The rezoning and proposed PUD Conceptual Plan would allow for development of the site with 12 dwelling units with six (6) single-family semi-detached dwellings. The proposed twelve (12) dwelling units on 2.42 acres represents a density of 4.96 dwelling units per acre.
2. **Size of Site:** 105,258 square feet or 2.42 acres.
3. **Existing Zoning (site):** "R1-80" One-Family Residential District.
4. **Existing Land Use (site):** The site is currently undeveloped.

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

**North** – "R1-80", Use is single-family residential.

**South** – "R1-80", Use is an undeveloped parcel.

**East** – "R1-80", Uses are single-family residential and an undeveloped parcel.

**West** – "M-3", Use is the Des Moines International Airport.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the northeast side of McKinley Avenue across from the Des Moines International Airport. The surrounding residential area is comprised predominately of single-family dwellings.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Southwestern Hills Neighborhood. The neighborhood was notified of the Commission meeting by mailing of the Preliminary Agendas on June 29, 2015 and July 17, 2015. A Final Agenda was mailed to the neighborhood association on July 10, 2015. Additionally, separate notifications of the hearing were mailed on June 26, 2015 (20 days prior to the July 16, 2015 hearing) and on July 6, 2015 (10 days prior to the July 16, 2015 hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each condominium owner within the property and every owner of property or condominium within 250 feet of the subject property.

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 Southwestern Hills Neighborhood Association notices were mailed to George Davis, 3124 Southwest 29<sup>th</sup> Street, Des Moines, IA 50321.

The applicant conducted the required neighborhood meeting with the surrounding property owners and neighborhood representatives on July 14, 2015. The applicant will be available to provide a summary at the public hearing.

8. **Relevant Zoning History:** NA.



**9. 2020 Community Character Land Use Plan Designation:** The Des Moines' 2020 Community Character Plan currently designates the site as Low Density Residential, which allows for development of single-family dwellings with a density up to 6 dwelling units per acre. The proposed rezoning to "PUD" District to allow development of single-family semi-detached dwellings requires the future land use designation be revised to Low/Medium-Density Residential.

**10. Applicable Regulations:** 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, and taking into consideration the criteria set forth in Chapter 18B 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 Conceptual Plan amendment 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 Zoning Ordinance and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the Conceptual Plan amendment 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.

## **I. ADDITIONAL APPLICABLE INFORMATION**

**1. Urban Design:** The submitted elevations demonstrate that each of the six (6) buildings would be one-story with a walk-out basement. The elevations demonstrate a stone or brick veneer on all exposed portions of the lower level and an approximate 3-foot tall wainscot on the ground level. The balance would be horizontal lap siding. Staff recommends a note to state that any horizontal lap or shake-patterns siding be cementitious material. Staff also recommends that any asphalt shingle be architectural profile shingles.

The elevations also demonstrate that each dwelling would have an attached two-car garage. The PUD Conceptual Plan indicates each unit would have 1,073 square feet of floor area on its main level. Staff recommends that a note be added to state that each dwelling unit will contain a minimum of 1,100 square feet of living area on the main level, with a minimum two-car attached garage.

The proposed PUD Conceptual Plan currently states that building setbacks shall be as follows:

- Front: 10 feet from the back of curb.
- Rear: 25 feet.
- Side: 10 feet minimum from foundation to foundation, and 10 feet minimum from any plat boundary.

Staff recommends that that these setbacks be clarified to state that any structure shall be setback at least 30 feet from the from the front property line along McKinley Avenue.

Staff also recommends that the placement of structures be staggered in order to provide variation in the facades of the structures. Staff recommends that the layout of the PUD Conceptual Plan be revised so that all dwelling units front a single private access drive on the site. This would require the structures facing McKinley Avenue to be shifted to face the private internal driveway

- 2. Access or Parking:** The PUD Conceptual Plan demonstrates that the proposed development would be served by a single drive approach from McKinley Avenue. Four (4) of the structures would directly access a primary 20-foot wide driveway and two (2) of the structures would face a secondary 20-foot wide driveway that appear to function as a frontage road along McKinley Avenue. Staff recommends that the layout of the PUD Conceptual Plan be revised so that all dwelling units front a single private access drive on the site. This would require the structures facing McKinley Avenue to be shifted to face the private internal driveway.

A hammerhead turnaround must be provided at the terminus of the primary driveway to accommodate sanitation trucks or a fire apparatus.

A 5-foot wide sidewalk must be provided along McKinley Avenue. Staff also recommends that a private sidewalk network be provided within the development to connect each of the dwelling units to the sidewalk along McKinley Avenue.

- 3. Landscaping & Buffering:** Staff recommends that a note be added to the PUD Conceptual Plan to state that any off-street parking shall be landscaped in accordance with the landscape standards applicable to the "R-3" District. The PUD Conceptual Plan should also show conceptual plantings, including street trees and foundation plantings.
- 4. Natural Site Features:** The site slopes down significantly to the east and contains existing vegetation. The PUD Conceptual Plan must state that all any development will comply with the City's Tree Preservation & Mitigation Ordinance. The Ordinance allows the developer to choose between Option A (one approved replacement tree per 2,000 square feet of existing tree canopy to be removed) or Option B (replacement trees calculated using ratios contingent upon the number and caliper of existing trees to be removed). Any trees that are required as mitigation for the trees being removed may be provided as either street trees or as trees planted on the proposed lots.
- 5. Drainage/Grading:** The PUD Conceptual Plan indicates that stormwater detention would occur within the middle portion of the site. The existing stormwater sewer and flowage easement (per Book 8566, Page 680) must be reflected on the PUD Conceptual Plan.

All grading is subject to an approved grading permit and soil erosion control plan. A note must be added to the PUD to state that a stormwater runoff control plan per City Code Section 106-136 is required.

Since a portion of the site contains fill, a geotechnical soil study would be required before any Development Plan can be reviewed and approved.

- 6. Utilities:** The PUD Conceptual Plan demonstrates that sanitary sewer would be connected to the existing sanitary sewer within an easement on private property to the east of the site. The developer is responsible for negotiating access and all costs associated with constructing the necessary sanitary sewer connections.

The PUD Conceptual Plan demonstrates that water service would be provided from the existing water service within McKinley Avenue right-of-way. The developer is responsible for all costs associated with constructing the necessary sanitary sewer connections.

- 7. Signage:** The PUD Conceptual Plan demonstrates a development sign would be located at the entrance along McKinley Avenue but does not provide any additional information. Staff recommends that that any freestanding sign shall not exceed 24 square feet in area and shall be a monument style sign as defined in Section 134-3 of the City Code in compliance with the "FSO" Freestanding Signs Overlay District requirements.
- 8. Fencing:** Staff recommends that a note be added to the PUD Conceptual Plan to state that any fencing shall in accordance with the standards applicable to the "R-3" District.
- 9. Lighting:** Staff recommends that any site lighting shall be pedestrian in scale and shall be a black archetype fixture

## SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Tim Fitzgerald asked if the applicant met with staff and if so, why the long list of conditions.

Erik Lundy stated the applicant met with staff at the Development Assistance Conference where the process and the requirements for a PUD submittal are discussed.

Greg Wattier asked what guidelines staff uses to provide recommendations on masonry material, and amount.

Erik Lundy stated the expectation is a PUD is of a higher standard. In exchange for adding density, a higher level of material quality and architectural design is desired. There is not a specific set of design guidelines. Staff tries to be consistent with other PUDs.

Greg Wattier asked if staff have an opinion on the layout of the streets.

Erik Lundy stated at one time there was actually a preliminary plat for a greater piece of land. Since that time the Commission has approved a preliminary plat on the piece to the south for a separate single-family subdivision. At this point there are five separately owned parcels.

Mike Simonson asked what length of private drive is required before there is a hammer head or a turnaround for a fire truck.

Erik Lundy stated that would be 150 feet.

Jonathan Rosenbloom asked for clarity of the current "R1-80" zoning. "R1-80" would allow three single-family units with no right to do a duplex and they are looking to do 12 duplex units.

Erik Lundy stated that is correct. Some of the land is vacant and hasn't been developed for a single-family. Some of the challenges for single-family development are the utility, connection cost and stormwater management.

Jonathan Rosenbloom asked the developer if they could specifically address the issue of cost associated with the runoff and negotiating that utility connection.

Dennis Hansen Environmental Design Group 6601 Westown Parkway, West Des Moines representing the applicant stated there are some conditions they do not agree with. Condition #1, requires stone veneer. The owner has indicated that this material is cost prohibitive. He just saw staff's recommendation this morning where they asked for 3 foot tall brick or stone wainscot.

Greg Jones asked if the applicant agrees with condition #8 regarding no buildings fronting McKinley Avenue.

Chuck Bishop Bishop Engineering 3501 104<sup>th</sup> Street stated condition #8 is a tough situation because of 13 feet of fall from McKinley to the first street and about another 13 feet of fall to the back of the lot. According to condition #8 they would be turning the dwelling units into the hillside which would prohibit walk outs and the units would not work very well facing the internal drive. His proposal is to reorient the dwelling units a little bit in order to have a wider drive to make it work. The developer will have to address the cost of hooking up to the sanitary sewer.

Greg Jones asked if either of them could answer Commissioner Rosenbloom's question about the cost for connecting to existing sanitary sewer.

Chuck Bishop stated they are still negotiating with the neighbor for an easement and have not been given any indication as to what that cost will be.

Jonathan Rosenbloom stated he asked the question about the cost because the justification for going from 3 to 12 units was partially based on economics particularly dealing with stormwater. He believes the Commission cannot justify the proposal on economics if there is no data.

Dennis Hansen stated the applicant presented to them the cost of the land and to construct only one home on those very large lots would not cover costs to develop. They are across from the Iowa Air Guard so he believes these are not prime pieces of land. The cost of the land plus the cost of the utility connections is why they went with these units. They are for sale units not rentals and he expects them to cost \$225,000 to \$250,000 per unit.

Sasha Kamper asked if they can give an estimate of the difference in cost between the originally proposed masonry and the new proposed.

Dennis Hansen stated they estimated the cost to be approximately \$15,000 to \$20,000 per unit to provide the originally proposed masonry.

Dory Briles asked for a summary of the neighborhood meeting.

Dennis Hansen stated there were some concerns they could not address. Questions about why they did not have contractor present. They do not have a project yet so they do not have a contractor yet. Other concerns were the drainage in which Bishop Engineering is handling and zoning issue on other parcels of land that they have no control over. Most of the questions were concerns about the development of the units. They tried their best to address those concerns.

JoAnne Corigliano stated she believes that it would not be uncommon to use the sill height as the upper limit for the masonry. Her concerns are what this project does to the land. She does agree that if they flip the buildings nobody would buy it. After reviewing the response cards everybody had a problem with how the applicant would handle stormwater runoff. How will they handle these issues?

Chuck Bishop stated the site drains from west to east. They are going to provide stormwater detention in a couple of locations. Some of the comments were regarding the development to the east off of Stanton and allegations that their detention was not working properly. So their concern is the belief that the applicant is going to continue to create problems in the existing storm sewers. They have talked to the City of Des Moines about this problem. Their plan is to slow down the water that is coming off this site and release it at a controlled rate based on the City of Des Moines requirements. By developing these homes they will reduce the rate at which water leaves the site.

Sasha Kamper asked if it is typical to have these sorts of plans come before the Commission for issues like how stormwater drainage will be handled or determined.

Erik Lundy stated this is a Planned Unit Development (PUD) so the concept comes to the Commission of how they are going to achieve that. Staff is saying that all of the City's standards shall be met with any development plan.

Sasha Kamper asked what kind of process the City has in place to check once a development has been constructed to ensure stormwater runoff is behaving as expected.

Erik Lundy stated they inspect the drainage. Staff is also addressing the stormwater detention problem to the east.

Sasha Kamper stated her concern is recourse and enforcement.

Erik Lundy stated if there is something that is not functioning or not meeting the standard the City would have the ability to enforce the standard.

Mike Simonson stated this is true of every site plan.

Erik Lundy stated it would be similar to any site plan or subdivision plat. The City has public rights to access this and maintain the public sewer that is there, but that does not give the developer the right to connect to it. They will have to negotiate access across private property.

Brian Millard asked with all of these concerns that have been expressed by staff and the Commission could the Final PUD come back to the Commission for review.

Erik Lundy stated yes if that was made a condition of the PUD approval by the Council.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

George Davis Southwestern Hill Neighborhood Association stated the neighborhood association understanding was that the developer (the applicant) was to have a neighborhood meeting before moving forward. That did not happen. The neighborhood meeting was on July 14. He only called a few people but when he was contacted emails went out and there were 38 homes represented. The applicant did a poor job in putting the meeting together and the presentation was not good. The pictures being shown tonight are the third different set of pictures they have seen since the project was brought forward.

Some of their concerns are the following:

- He had no builder in place and said that he knew ten people or it might be him.
- They have three different pocket areas including Stanton Acres which is higher ground and homes are in the \$400,000 range. Directly below is the applicant's area and at the bottom is Summit Vista Drive. There are neighbors on Summit Vista Drive that are deluged with water problems whenever there is a rain. The problem with this is the intake manifolds were originally put in about 50 years ago to accommodate about thirty homes. Since then that area has exploded. He believes adding this development will make the water issues greater.
- The decline of property values due to this development.
- The applicant did not give them a definite indication as to whether or not he would have three homes or 12 homes and whether they would be single-family homes or townhome concept. His plans were not complete.
- The financing for this project is huge because they have seen projects started and dirt is moved and then they cannot finish it. The applicant says he has financing in place but would not reveal where he would be getting his financing.
- As people move from these homes they will become rental property. The applicant said he would require all dwellings to be owner-occupied.
- The applicant told them the homes would be sold in the \$275,000 to \$300,000 range and now tonight they area stating they will be about \$225,000.
- There has just been disparity about this and it is not planned very well all the way through. Making many people concerned about the impact this will have on future buildings and the impact on current homeowners in that neighborhood.

Mike Simonson asked has the neighborhood association taken a formal position.

George Davis stated yes they are opposed to this development. Their neighborhood is progressing and is not against the development that is going to enhance other homes in the area or make property values go up.

Greg Wattier asked if Mr. Davis agreed that townhomes were the highest and best use of the property due to the proximity of the Iowa Air Guard facility.

George Davis stated he does not agree with that statement.

Greg Wattier asked if neighborhood association believes that only single-family homes should be built and no townhomes, or apartments.

George Davis stated he believes that everyone in that neighborhood loves the single-family concept. They realize that townhome concept may be acceptable as opposed to a duplex concept. However, not this project.

Bill Carmichael 3312 Stanton Avenue owner of 4406 SW 33<sup>rd</sup> stated his concerns are the stormwater detention and the applicant's work ethics are not good he does not complete projects. He believes if "R-3" is granted in this area every developer will come along and buy property down the road and the next thing you know there are apartments.

Basil Nimry 3201 Southern Woods Drive stated his previous address on Maish Avenue flooded on a regular basis. The stormwater sewer lids came off a couple of times and the stormwater design is flawed in terms of the number of housing units and capacity the sewer can handle. When he bought the land where he currently resides it was his understanding that it was an extension of Southern Hills. This stood for the quality, the schools and extensive covenants. Lately it seems that the covenants are changed and property zoning is changing around them.

Cal Stout 4413 SW 33<sup>rd</sup> Street stated he would never describe this area as barren. He believes it is beautiful and "R-1" is good zoning for this area and "R-3" is not so good. He asked that the Commission keep the neighborhood zoned "R-1".

### Rebuttal

Dennis Hansen stated the numbers that were kicked around at the neighborhood meeting were sales prices between \$225,000 and \$300,000 per unit. If they do not get zoning approval there will be no reason to have a builder. The applicant has always said that he could go back to three units and maybe four but he thought the highest use would be to go to the townhome concept.

Brian Millard asked who owns the ground.

Dennis Hansen stated he understands that it would be an association, but he is not sure if this has been established.

Chuck Bishop stated they would come back with a subdivision plat and would plat off individual lots for the units. The homeowner would own some of the ground in front, on the side and behind the unit. They are not going to do condominiums because you cannot get financing for condominiums.

Sasha Kamper asked about why the meeting with the neighbors only occurred two days before the first meeting with the City.

Dennis Hansen stated he believes the applicant was trying to maintain a tight schedule. He understands that it was short notice but the meeting was well attended.

Sasha Kamper stated she believes it speaks more to process than just their concerns. How many things have been really looked at in detail if communication with the neighbors came at the 11<sup>th</sup> hour? Perhaps some of these other things aren't nailed down and should be.

Dennis Hansen stated possibly but he reiterates there was a limitation on time to try to make this meeting. They received input from them and what is being said is they are just not interested in this development.

Jacqueline Easley asked if 12 units are not approved would the applicant be interested in developing 3 units.

Dennis Hansen stated yes, that could always be done. The question is can enough value come of it to make it worthwhile in developing.

Tim Fitzgerald asked for clarification as to which conditions they are not in agreement to.

Dennis Hansen stated the applicant opposes condition #1. Unless 3' of masonry is the maximum on any side.

Mike Ludwig asked if the applicant agrees with condition #8 regarding no units fronting on McKinley Avenue.

Dennis Hansen stated no because those units would be virtually impossible to sell. They could reposition them somewhat on the site but they would still face towards McKinley.

Greg Wattier asked staff about the thought process of their recommendation to approve this request with 19 conditions when the entire neighborhood association is adamantly and vehemently against this project.

Mike Ludwig stated that based on the revised drawings that were submitted and included in the packet, staff felt the quality of the development was substantial. Staff's opinion was these comparable or higher quality of townhome units as have been approved for other projects in Des Moines. During Plan DSM outreach people stated they want a variety of housing types in neighborhoods and expressed a desire to be able to stay within their neighborhoods in alternate housing products. Whether or not it is directly applicable to this neighborhood's view point or their view point on this specific project he cannot speak to that. The stormwater issues are valid concerns and he believes the stormwater division is addressing these issues.

Erik Lundy stated that Charlie Lepak Engineering Department who is housed in Permit and Development Center is responding to the concerns that were raised about the Stanton North subdivision. Some of the issues revolve around establishing ground cover and making sure the runoff and sediment control is also in place.



Mike Ludwig stated that staff will continue to follow up on this because it is a concern whether or not this project gets built. There were comments about a project being rental. Any single-family home in Des Moines can be rented. Just having single-family lots or single-family houses does not ensure that there's not rental. Rental is an occupancy type not a use. Staff was looking at the use. The decision for Commission is whether or not 12 units are an appropriate number for the site. Staff believed it is appropriate with the 19 conditions listed. For Planned Unit Developments staff routinely has that many conditions because the PUD is establishing their own zoning which necessitates more detailed conditions and notes on a project.

Sasha Kamper stated her biggest concern is the stormwater situation. She thinks about it in the context that she knows which is Rice Field in Beaverdale. That situation it was decided that the trade-off for building a PUD in an area was the developer had to pay to bring things up to code and put in new sewer pipes to connect into the existing storm sewer to help alleviate existing water runoff problems in addition to addressing the new water runoff that would be caused by development. She asked what is different in this situation that a different position would be taken.

Mike Ludwig stated the Beaverdale Project ran a private sewer main down the street and connected in with the public sewer for the new development without any City participation in the project cost. Previously, there was going to be City participation in constructing a new public sewer in one of the adjoining streets that would take storm water off of the streets in the area. When Rice Field went to a less dense project they were authorized to build a private sewer to serve only the new development. In this project they would be constructing sewer connection to existing public sewer, they would have to obtain an easement from an adjoining property owner.

Erik Lundy stated because this is a PUD they could propose a private main to serve their separate services for their townhome plat. The plat would come back to the Commission for review. In regards to the turnaround question, his understanding is the fire access would stay on McKinley. Therefore they do not require it as a fire access lane because of distance from a hydrant is sufficient.

Mike Simonson asked if this rezoning request is denied what is the mechanism for the developer to come back with a different plan.

Mike Ludwig stated the developer would need to prepare a new submittal, submit that application, hold a neighborhood meeting, go through staff review and be back to the Commission. If it is the same request there would be a one year delay before they could request it again. However, if they came back with less units that would be a change in the plan so they could resubmit as soon as they had plans prepared.

JoAnne Corigliano stated she would like to see something in place, such as can they require permeable paving or something that would help reduce the water runoff.

Mike Ludwig stated the Commission could recommend any conditions that they think are appropriate for the development that are directly tied to concerns that were heard. The City Council would have to hold a hearing on this rezoning proposal and would have to agree to impose those conditions on the developer. On a PUD they don't have to sign an agreement to those conditions. The ordinance that gets adopted by the Council would

include whatever final conditions get approved. He is uncertain that a requirement for permeable surface is justified. Typically that is something that has been proposed by the applicant. Staff normally states they have to comply with the storm water management requirements. The Commission has required the final development plan to come back to them if there are significant concerns about individual issues. It is not provided in the code so it would need to be a condition of the PUD.

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

Will Page stated he has listened to what the neighborhood association had to say and the result of their comments was resounding. He believes the Commission should respect what they are telling the Commission. Personally, he likes the design with the stone and believes it is a very interesting design and quality material. The main concern he heard from the neighbors was the density. He proposed a motion to have the same condition as the original staff recommendation except to change the concept plan to allow a maximum of three single-family semi-detached structures (six dwelling units) with a single private access drive from McKinley Avenue. If the developer can go with that it would seem to be a compromise with the neighborhood. If the developer cannot go with this suggestion because of cost constraints, maybe the best thing for him to do is sell the property to someone else who can make better use of it.

Mike Simonson stated he did not believe he could support that motion in that he believes they are making firm decision without any input from the developer or the neighborhood. He would rather deny the rezoning and let them go back to the neighborhood, get more information on stormwater and come back with a new plan. He could support more density than single-family homes. Very rarely does the Commission hear from a neighborhood group that is so unified against a proposed rezoning.

Brian Millard stated in listening to this item it mirrors a development that was larger but with the same problems. Apparently, the City is aware there of stormwater issues in this area. The same thing was happening on the Sawyers Landing project. It went through Plan and Zoning but the City Council stopped it because they realized that there may be a problem and staff looked at it and the City Council walked the hillside. Before the project could go forward a \$1.8 million storm sewer was put in the neighborhood before the development would go forward. There is still a water problem coming off the hillside from the development but there is little that can be done unless the homeowners take the other home owners to court. He would like to make sure that the City does due diligence on this site before they let anything go forward because it puts it in the hands of the citizens and property owners and ultimately, effects the entire area.

Jonathan Rosenbloom stated he agrees with Commissioner Simonson because not only does the developer have a chance to rethink this but also the neighborhood group will get a chance to rethink it.

### **COMMISSION ACTION:**

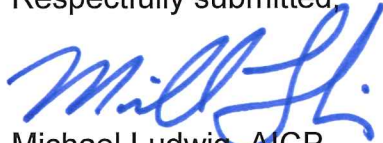
Will Page moved approval of a PUD Conceptual Plan for three (3) single-family semi-detached dwellings, (6 dwelling units), with a single private access drive from McKinley Avenue subject to original staff conditions.

Motion failed 1-10 (Dory Briles, JoAnne Corigliano, Jacqueline Easley, Tim Fitzgerald, Greg Jones, Sasha Kamper, Brian Millard, Jonathan Rosenbloom, Mike Simonson, and Greg Wattier voted in opposition. Will Page vote in favor).

Jonathan Rosenbloom made a motion to deny the applicant's request of a PUD Conceptual Plan for six (6) single-family semi-detached dwellings, (12 dwelling units), with a single private access drive from McKinley Avenue.

Motion passed 10-0-1 (Brian Millard abstained).

Respectfully submitted,



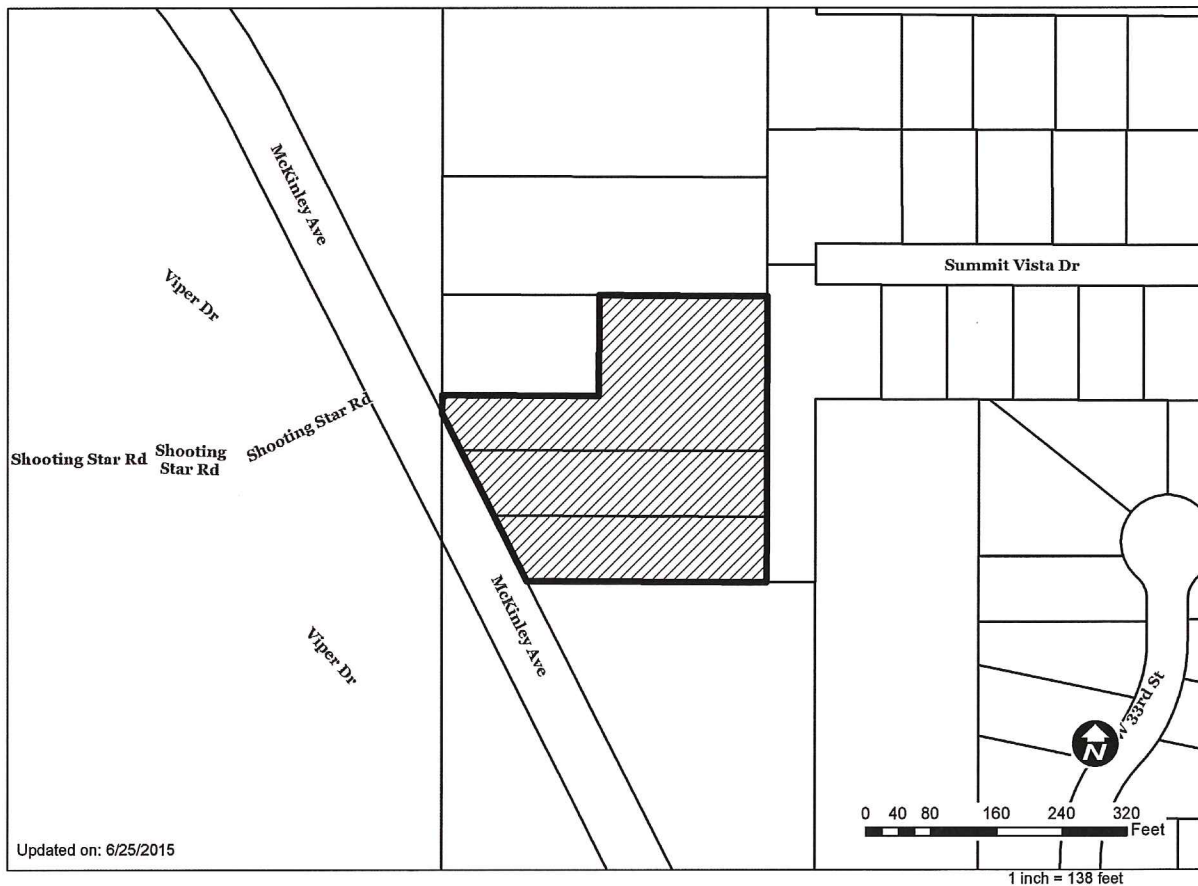
Michael Ludwig, AICP  
Planning Administrator

MGL:clw  
Attachment

<b>Robert J. Ellis (owner) and Rebecca Orr (owner) for properties located at 4111, 4117, and 4121 McKinley Avenue.</b>		<b>File #</b> <b>ZON2015-00120</b>			
<b>Description of Action</b>	Denial of request to rezone property from "R1-80" One-Family Residential District to "PUD" Planned Unit Development District. This would allow approval of a PUD Conceptual Plan for six (6) single-family semi-detached dwellings, for a total of 12 dwelling units, with a single private access drive from McKinley Avenue.				
<b>2020 Community Character Plan</b>	Current: Low-Density Residential. Proposed: Low/Medium Density Residential.				
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.				
<b>Current Zoning District</b>	"R1-80" One-Family Residential District and "FSO" Freestanding Sign Overlay District.				
<b>Proposed Zoning District</b>	"PUD" Planned Unit Development and "FSO" Freestanding Sign Overlay District.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area		4			
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial	10-0-1		No	

Robert J. Ellis and Rebecca Orr, 4111, 4117 & 4121 McKinley Avenue

ZON2015-00120



Item ZON2015-00120

Date 7-9-15

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

**RECEIVED**

COMMUNITY DEVELOPMENT

Print Name Steve Mauro

Signature Steve Mauro

JUL 13 2015

Address 3224 Summit Vista DR.

DEPARTMENT

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

① This neighborhood is an established neighborhood of homes. Townhomes will drag the property value of existing homes down. ② AM not in favor of centers who have no investment in property. ③ existing water flow/drainage will flow directly into my backyard.

Item ZON2015-00120

Date 7-9-2015

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

**RECEIVED**

COMMUNITY DEVELOPMENT

Print Name THOMAS L. CROSS SR.

Signature Thomas L. Cross Sr.

JUL 14 2015

Address 4103 MCKINLEY AVE

DEPARTMENT

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

PURCHASED THIS HOUSE BECAUSE OF THE CURRENT ZONING. SINGLE FAMILY HOMES MAKE FOR MORE PERMANENT NEIGHBORS

Reason for opposing or approving this request may be listed below:  
 water burn off, wild life displacement  
 flash flooding, traffic congestion,  
 degradation of green space, soil erosion,

Item ZON2015-00120  
 Date 7-13-15  
 (I am) (am not) in favor of the request  
 COMMUNITY DEVELOPMENT  
 JUL 16 2015  
 DEPARTMENT  
 Address 50321  
 Signature  
 Print Name John Molloy

Reason for opposing or approving this request may be listed below:  
 The sewer system in this area is already  
 stressed beyond it's capacity and creates flooding to  
 property's north of Stanton. The Ellis property is an EYE SORE!!  
 Please look at his personal property first. Perhaps he should clean it up first  
 He knows nothing about building/is only looking to make money. No-No-No!

Item ZON2015-00120  
 Date 7-9-'15  
 (I am) (am not) in favor of the request  
 COMMUNITY DEVELOPMENT  
 JUL 16 2015  
 DEPARTMENT  
 Address 3293 Summit Vista Dr. DM  
 Signature Nancy & Carlsen  
 Print Name Nancy Carlsen

I cannot be present for the hearing. Please listen to my neighbors who are opposed.

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