



Roll Call Number

Agenda Item Number

27

Date March 19, 2018

RESOLUTION SETTING HEARING ON REQUEST FROM MIKE HOUSBY AND RHONDA GALE TO REZONE 1970 EAST ARMY POST ROAD

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on March 1, 2018, its members voted 10-0 in support of a motion to recommend DENIAL of a request from Mike Housby and Rhonda Gale (purchasers) to rezone property at 1970 East Army Post Road ("Property") from "R1-80" One-Family Residential District to Limited "M-1" Light Industrial District, to allow the Property to be developed for a contractor business with outside storage and with "C-2" General Retail and Highway-Oriented Commercial District permitted uses; and

WHEREAS, the Property is legally described as follows:

The East 300 feet of Lot 69 and Lot 77 (Except the South 36.2 feet on the West line and the South 35.6 feet on the East line) in NEW HOPE, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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 is to be considered shall be held at the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at 5:00 p.m. on April 9, 2018, at which time the City Council will hear both those who oppose and those who favor the proposal.
3. 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:

Glenna K. Frank, Assistant City Attorney

(ZON2018-00022)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL.

MOTION CARRIED APPROVED

CERTIFICATE

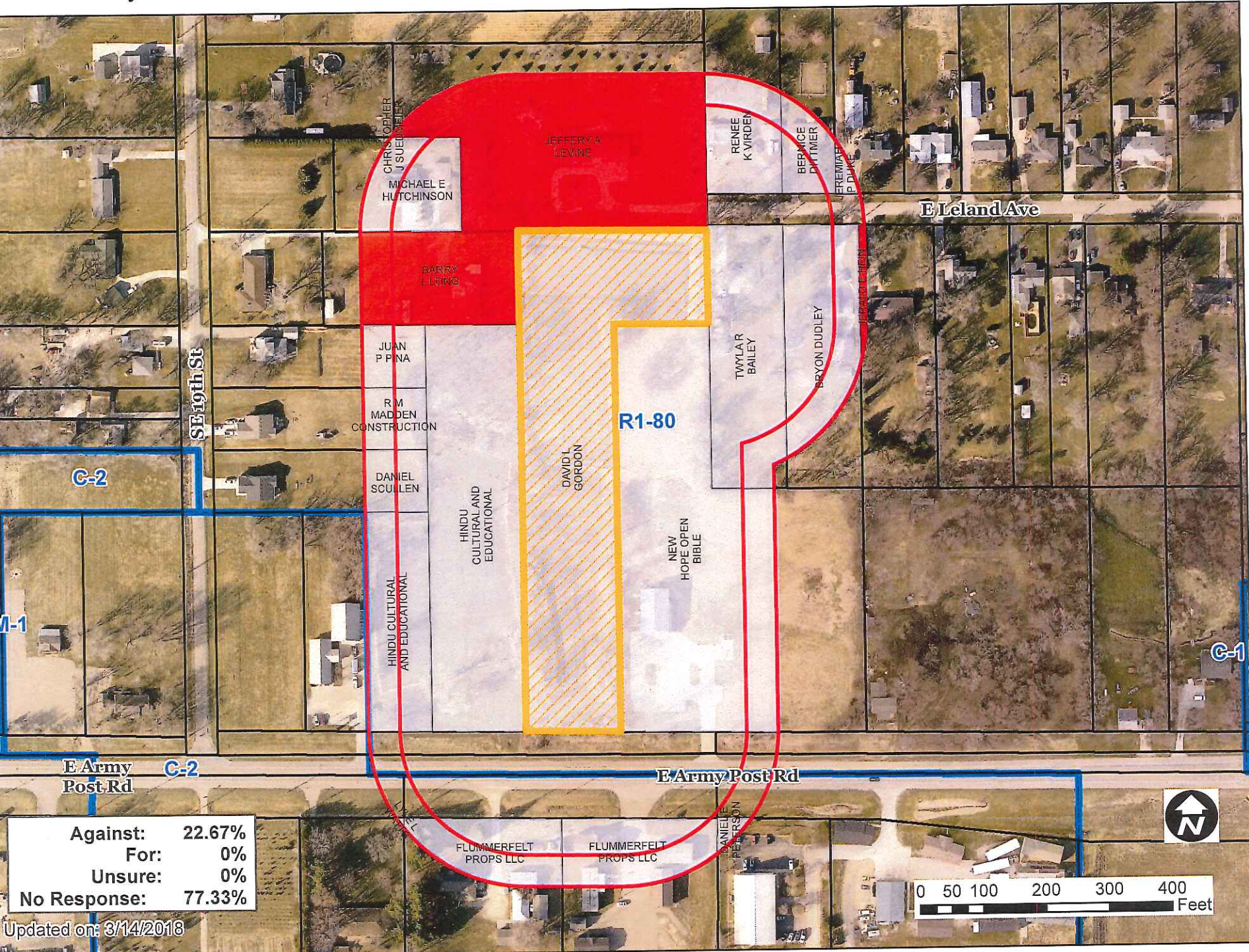
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

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

Mayor

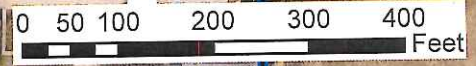
City Clerk





Against:	22.67%
For:	0%
Unsure:	0%
No Response:	77.33%

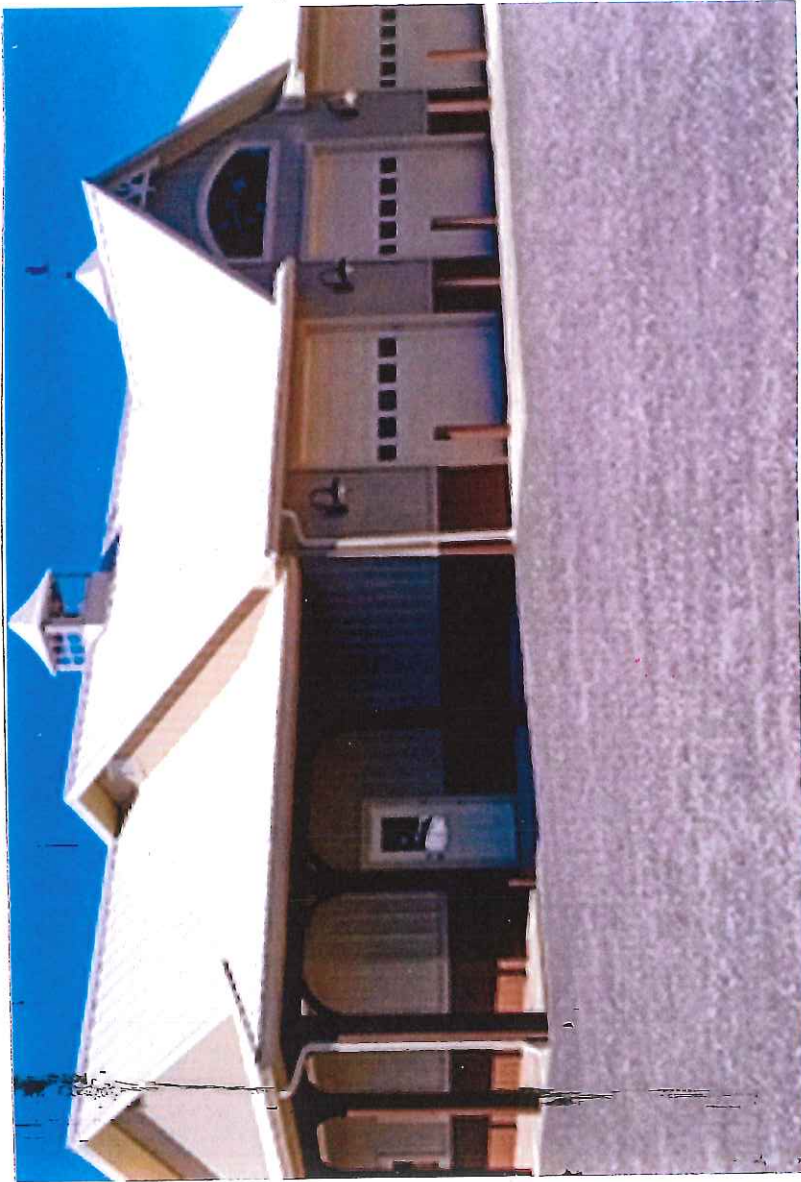
Updated on: 3/14/2018



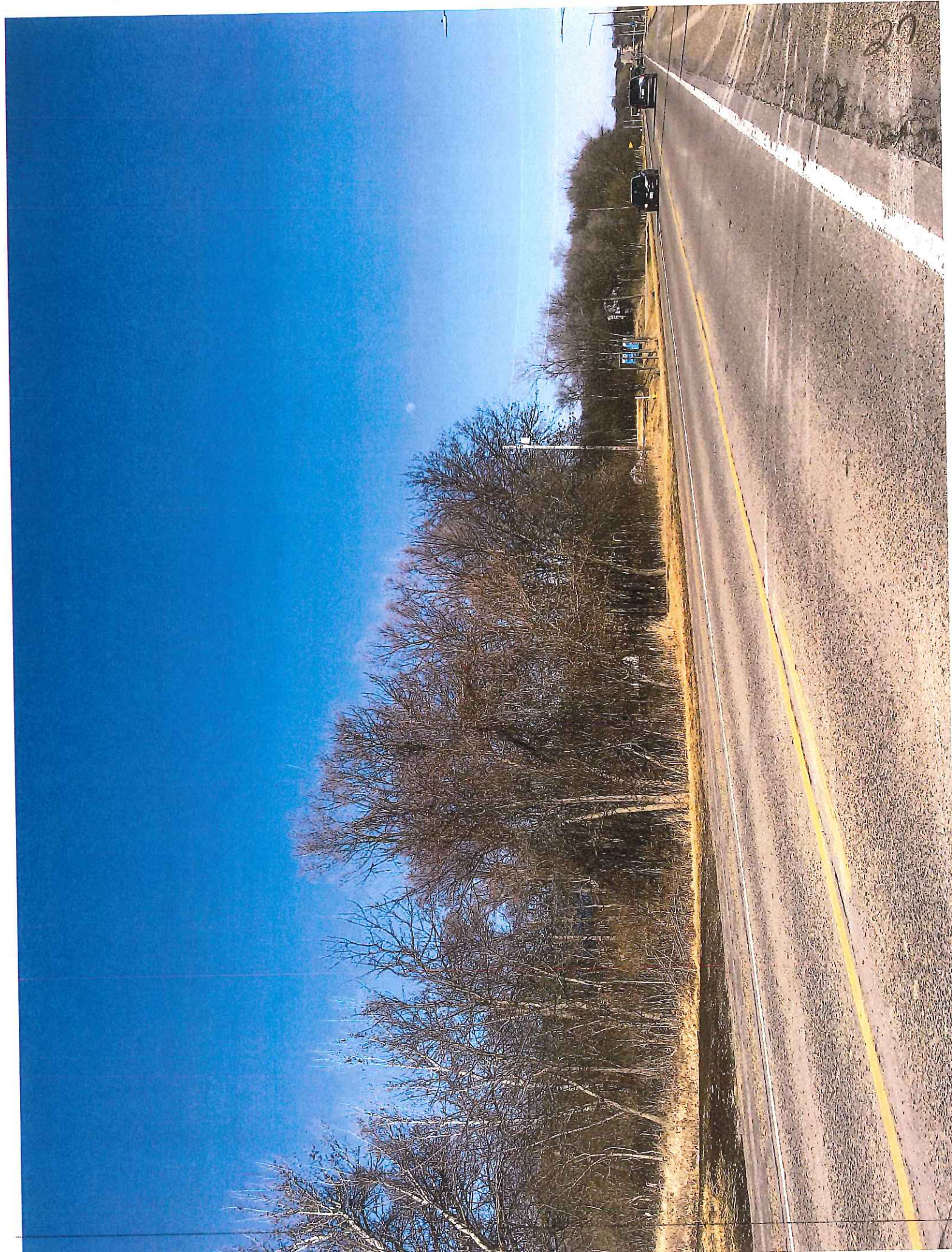
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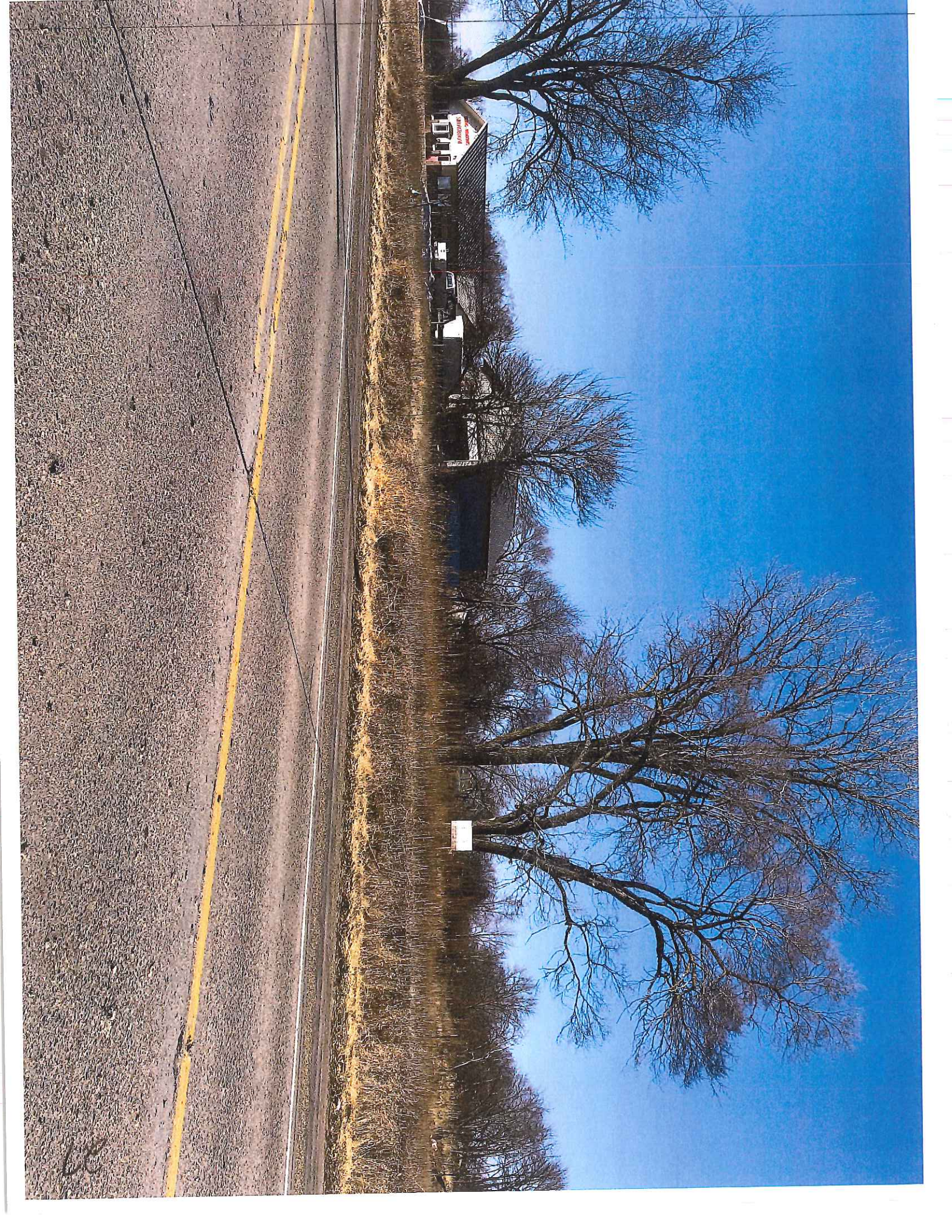
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March 14, 2018

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their March 1, 2018 meeting, the following action was taken regarding a request from Mike Housby and Rhonda Gale (purchasers) to rezone property located at 1970 East Army Post Road. The subject property is owned by David Gordon.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
Chris Cutler	X			
David Courard-Hauri				X
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard				X
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Mike Simonson	X			
Rocky Sposato				X
Steve Wallace	X			
Greg Wattier				X

**DENIAL** of Part A) That the Commission recommend the requested rezoning not in conformance with the PlanDSM Creating Our Tomorrow future land use designation; Part B) that the Commission recommend denial of the request to amend the PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential and Medium Density Residential to Industrial; and Part C) that the Commission recommend denial of the





request to rezone the subject property from "R1-80" One-Family Residential District to a Limited "M-1" Light Industrial District.

(21-2018-4.03) & (ZON2018-00022)

### Written Responses

0 in Favor

3 in Opposition

### **STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the requested rezoning not in conformance with the PlanDSM Creating Our Tomorrow future land use designation.

Part B) Staff recommends denial of the request to amend the PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential and Medium Density Residential to Industrial.

Part C) Staff recommends denial of the request to rezone the subject property from "R1-80" One-Family Residential District to a Limited "M-1" Light Industrial District.

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

#### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant has secured a purchase agreement for the property and desires to construct a building and site improvements to allow a contractor business with outdoor storage to be operated at the premises. The proposed business requires "M-1" or "M-2" zoning. The applicant is proposing to rezone the property to a Limited "M-1" District that restricts use of the property to a contractor's storage yard and uses allowed in the "C-2" General Retail and Highway-Oriented Commercial District.
2. **Size of Site:** 142,650 square feet or 3.275 acres.
3. **Existing Zoning (site):** "R1-80" One-Family Residential District
4. **Existing Land Use (site):** Undeveloped land.
5. **Adjacent Land Use and Zoning:**

North – "R1-80", Use is a single-family dwelling.

South - "C-2", Uses are a single-family dwelling and a mobile home sales facility.

East – "R1-80", Use is a church.

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



6. **General Neighborhood/Area Land Uses:** The subject property is located along the East Army Post Road highway corridor between the SE 14<sup>th</sup> Street and Indianola Avenue intersections. The general area contains a mix of commercial, residential and institutional uses, as well as undeveloped land.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Easter Lake Area Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on February 9, 2018. A Final Agenda was mailed to the neighborhood associations on February 23, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on February 9, 2018 (20 days prior to the hearing) and on February 16, 2018 (10 days prior to the hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Easter Lake Area Neighborhood Association notices were mailed to Jim Bollard, 4007 SE 26<sup>th</sup> Street, Des Moines, IA 50320.

8. **Relevant Zoning History:** None.
9. **PlanDSM Creating Our Tomorrow Future Land Use Plan Designation:** Low Density Residential and Medium Density Residential.
10. **Applicable Regulations:** The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Creating Our Tomorrow Future Land Use Plan Designation:** The southern portion of the subject property is designated as "Medium Density Residential" on the Future Land Use Map. Plan DSM describes this designation as follows:

*Areas developed with a mix of single-family, two-family and multi-family residential up to 17 dwelling units per net acre.*

The northern portion of the site is designated at "Low Density Residential." Plan DSM describes this designation as follows:

*Areas developed with primarily single-family and two-family residential units with up to 6 dwelling units per net acre.*

The proposed rezoning requires the Future Land Use Map to be amended to the "Industrial" designation. Plan DSM describes this designation as follows:



*Accommodates industrial development and limited supporting commercial uses. Development in this classification could have large impact on adjoining properties and the environment which would need to be mitigated.*

Staff believes that industrial development should be focused in areas of the City that are already designated for those types of uses. The subject property and the parcels to the east and west are designated for residential development. Staff believes it is important to maintain a large enough mass of land designated for residential development that it is likely to occur and be successful. Staff also notes the existing single-family residential development to the north of the subject property and the need to provide a transition of uses, which the current mix of Medium Density Residential and Low Density Residential designations accomplishes.

2. **Natural Site Features:** Any development of the site must comply with the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).
3. **Site Plan Requirements:** Any future development of the site must conform to the City's Site Plan requirements, including those regarding storm water management, landscaping, and screening of adjoining residential properties. All grading is subject to an approved grading permit and soil erosion control plan.
4. **Utilities:** There are no public sanitary or storm sewers in the area to serve the property. There is an existing 16-inch water main in the East Army Post Road right-of-way.

## **SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation for denial of the request.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Mike Housby 6414 NW Dr., stated this property will not be used for retail purposes and has no set hour of business. His business sells construction type equipment to ready-mix contractors. Sometimes it is required to do seminars or trainings for the equipment he sells. He does have trucks and trailers and believes that parking this equipment outdoors is the big issue. Regarding the building, they are looking at a 3 bay, 1 drive through with an office and conference room area. When trying to see how this fits into PlanDSM, he did notice mixed-use buildings 200 yards away from the subject property, and shed / Morton buildings near this property.

Mike Simonson asked if staff had a good understanding about what he would be storing outside of this building?

Jason Van Essen stated it would be considered as a contractor storage yard.

Mike Housby stated this won't look like a sales yard with a bunch of equipment laying around all the time. He will use this property to take photos and promote his products in a clean, wide open environment.



Greg Jones asked if he's was agreeing to keep some of the back portion of the property zoned R1-80 even though he doesn't know how far back he needs to go.

Mike Housby stated they are putting up a 120x60 foot building, with septic and retainage as well.

Nova Levine stated it makes sense to have it rezoned off Army Post but they don't want the portion that's in their neighborhood to be used for industrial purposes.

Jolynne Long 6135 SE 19<sup>th</sup>, stated she doesn't want M-1 there because of the potential of someone else taking over the property if this plan doesn't work out.

Mike Simonson asked if they would support keeping the back portion zoned residential or prefer no industrial zoning at all.

Jolynne Long stated she does not want any M-1 at all because if this plan falls through, it could be easier for the next guy to come in a plea with you and get M-1 all the way back.

Jim Bollard 4007 SE 26<sup>th</sup>, stated he doesn't want to see the M-1 in the Army Post corridor. The other concern is the amount of equipment that could be stored on this property due to lack of sales on his equipment.

Mike Housby stated he is more than willing to compromise on the zoning. It is more about the access of coming in and out for him. If storage of equipment becomes a problem, he will move the equipment to the 16-18 acers his family owns.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Mike Simonson stated he cannot support this request as he is not certain of what they intend to do with the property.

Greg Jones added they should figure out a way to have a business that does not require M-1 zoning and believes the business plan is too fluid. He believes that commercial zoning is more appropriate than industrial zoning.

**COMMISSION ACTION:**

Mike Simonson made a motion for Part A) That the Commission recommend the requested rezoning not in conformance with the PlanDSM Creating Our Tomorrow future land use designation; Part B) that the Commission recommend denial of the request to amend the PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential and Medium Density Residential to Industrial; and Part C) that the Commission recommend denial of the request to rezone the subject property from "R1-80" One-Family Residential District to a Limited "M-1" Light Industrial District.

Motion Passed: 10-0



Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

EML:tjh

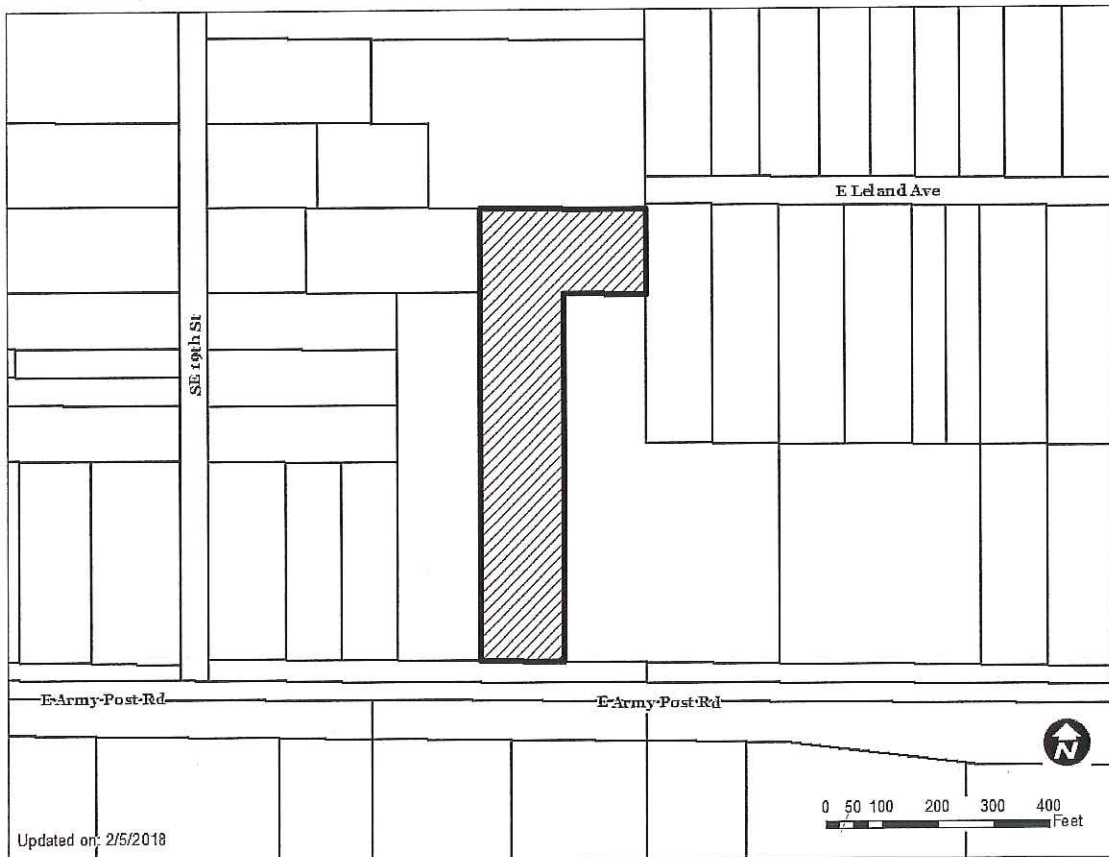


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Mike Housby and Rhonda Gale (purchasers) for property located at 1970 East Army Post Road. The subject property is owned by David Gordon.			File #		
			21-2018-4.03		
Description of Action	Amendment of the PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential and Medium Density Residential to Industrial.				
PlanDSM Future Land Use	Current: Medium Density Residential and Low Density Residential. Proposed: Industrial.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"R1-80" One-Family Residential District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property	0	3		72%	
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	X		No	

Mike Housby and Rhonda Gale, 1970 East Army Post Road

21-2018-4.03



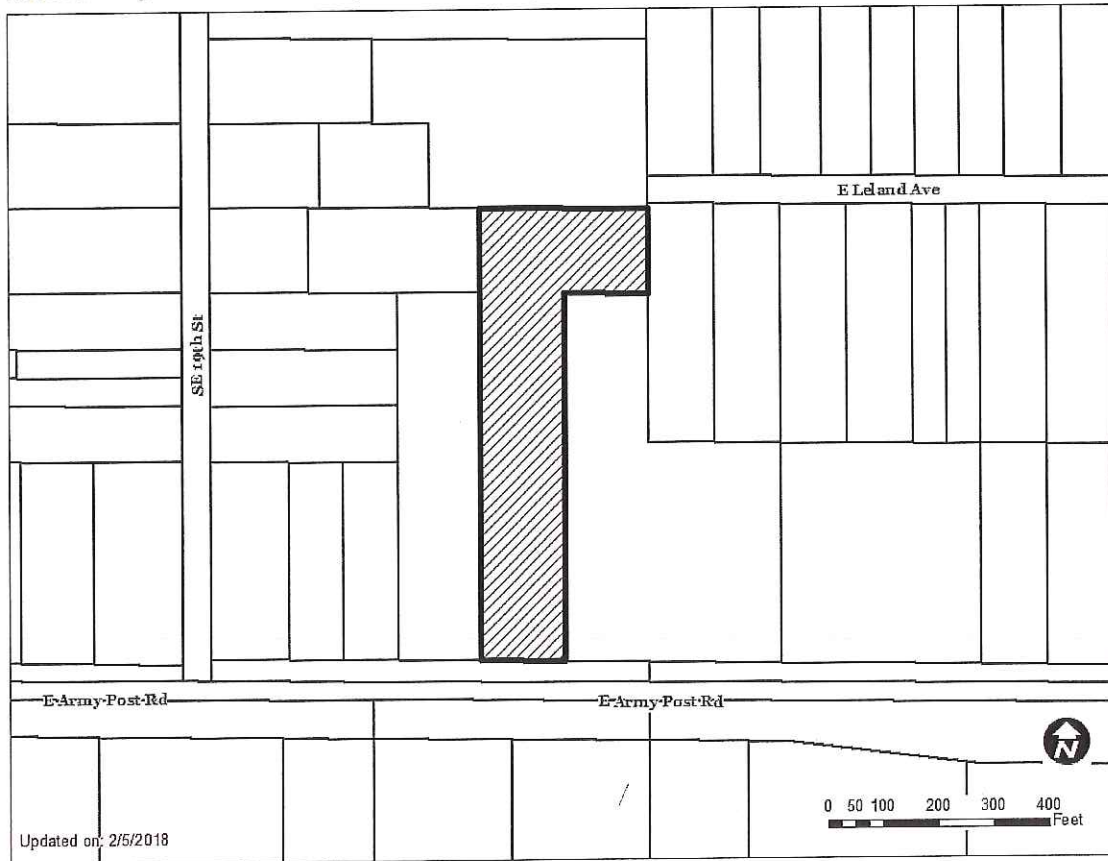
1 inch = 202 feet



Mike Housby and Rhonda Gale (purchasers) for property located at 1970 East Army Post Road. The subject property is owned by David Gordon.			File # ZON2018-00022		
Description of Action	Rezoning from "R1-80" One-Family Residential District to Limited "M-1" Light Industrial District, to allow the property to be developed for a contractor business with outside storage as the only "M-1" District permitted use and allow uses as permitted in "C-2" Districts.				
PlanDSM Future Land Use	Current: Medium Density Residential and Low Density Residential. Proposed: Industrial.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"R1-80" One-Family Residential District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property	0	3		720%	
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	X		No	

Mike Housby and Rhonda Gale, 1970 East Army Post Road

ZON2018-00022



1 inch = 202 feet



Item ZON2018-00022 Date 3/1/18

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

(Circle One)

Print Name Barry Long  
Signature [Signature]  
Address 6138 SE 19th

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

to close to our home

Item ZON2018-00022 Date 2-21-2018

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

(Circle One)  
**RECEIVED**

COMMUNITY DEVELOPMENT  
Print Name JERALD E. HEIN  
Signature [Signature]  
Address 2055 E. LELAND

FEB 26 2018

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

THE LAND AT THE WEST END OF  
EAST LELAND AVE SHOULD REMAIN R1-80  
ZONING TO MATCH ADJACENT PROPERTIES  
AND TO KEEP COMMERCIAL TRAFFIC FROM USING  
EAST LELAND AVE.

Item ZON2018-00022

Date 3/1/2018

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

(Circle One)

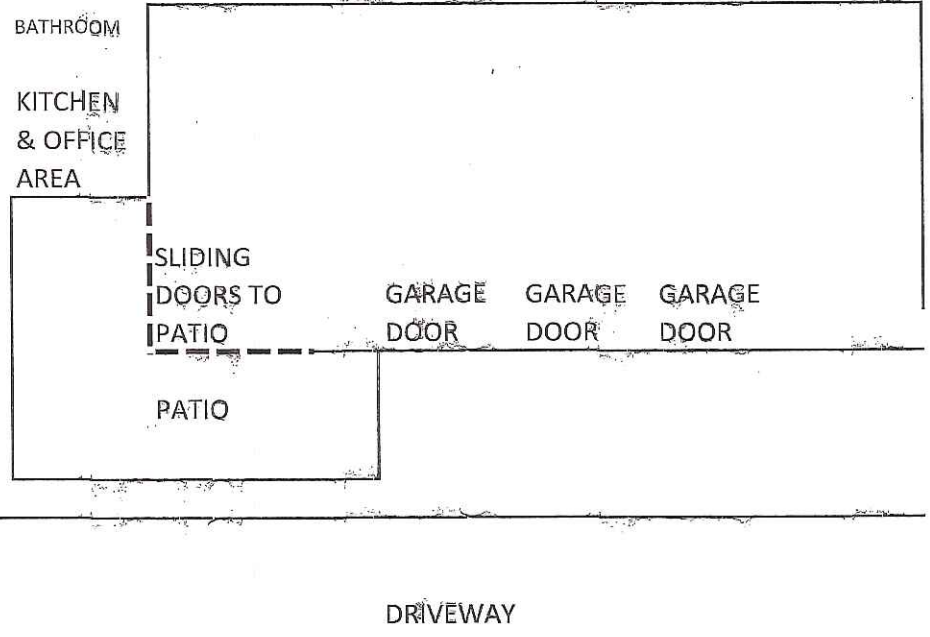
Print Name Jeffery A Levine  
Signature [Signature]  
Address 1998 E Leland Ave

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

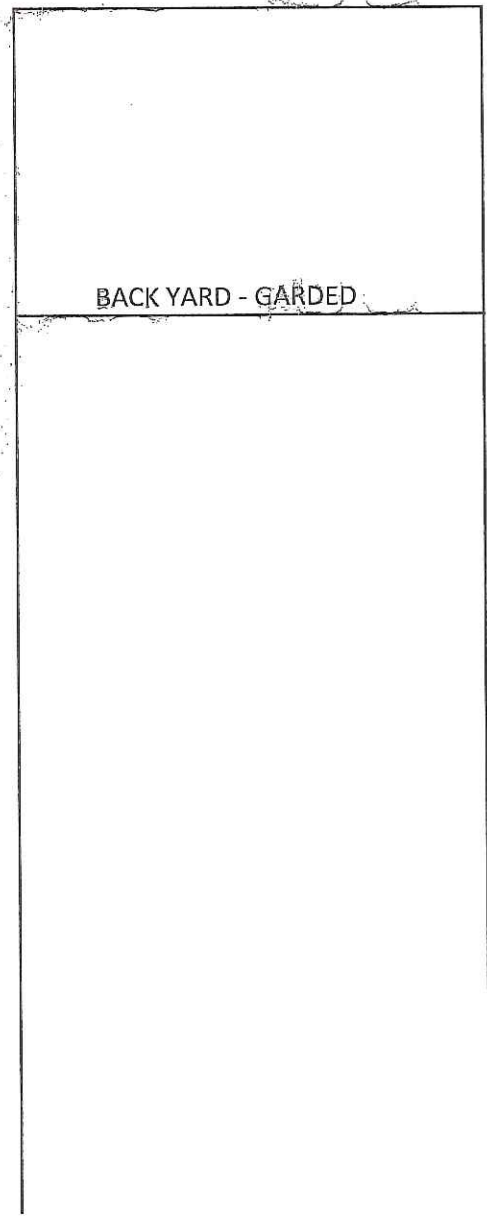
I don't believe a M-1 Light Industrial  
District Zone belongs in a residential  
District.



ARMY POST ROAD



1551



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