



Date May 7, 2018

**RESOLUTION HOLDING HEARING ON REQUEST FROM
PHONEVILAY BOUN TO REZONE PROPERTY AT
1625-1645 EAST DIEHL AVENUE, 1540-1580 HART AVENUE AND 1545-1575 HART AVENUE**

WHEREAS, on March 19, 2018, by Roll Call No. 18-0462, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on March 1, 2018, its members voted 10-0-1 in support of a motion to recommend **APPROVAL** of a request from Phonevilay Boun (owner) to rezone property locally known as 1625-1645 East Diehl Avenue, 1540-1580 Hart Avenue and 1545-1575 Hart Avenue (collectively "Property") from "R1-80" One-Family Residential District to Limited "R1-60" One-Family Low-Density Residential District, to allow subdivision of the Property with 60-foot wide single-family dwelling lots, subject to the following rezoning conditions:

1. A minimum of one street tree shall be provided per lot frontage within the development that complies with the City's street tree policies. Each tree shall be installed prior to the issuance of a Certificate of Occupancy for the dwelling constructed on that lot.
2. No same house plan shall be built on adjacent lots.
3. Each house shall have a full basement.
4. Each house shall have a minimum two-car attached garage.
5. The front façade of any house constructed must contain one of the following:
 - a. A front porch of not less than 60 square feet; or
 - b. Stone or brick masonry siding covering at least 1/3 of the façade.
6. All windows and doors shall have trim that is no less than 4-inches in width.
7. The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
8. Single story homes shall be constructed with a minimum of 1,400 square feet of above grade finished floor area.
9. 1½ story homes shall be constructed with a minimum of 1,600 square feet of above grade finished floor area with a minimum of 1,000 square feet on the first floor.
10. 2-story homes shall be constructed with a minimum of 1,800 square feet of above grade finished floor area.
11. Exterior material for any home constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, masonite, or cement fiber board.
12. Any chain link fence shall have black vinyl-cladding; and

WHEREAS, on March 19, 2018, by Roll Call No. 18-0462, it was duly resolved by the City Council that the application of Phonevilay Boun to rezone the Property, as legally described below, be set down for hearing on April 9, 2018 at 5:00 p.m. in the Council Chambers at City Hall; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and

WHEREAS, on April 9, 2018, by Roll Call No. 18-0624, the City Council opened and continued the public hearing on the proposed rezoning of the Property to May 7, 2018 at 5:00 p.m. in the Council Chambers at City Hall; and

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



Roll Call Number

Agenda Item Number

48

Date May 7, 2018

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property locally known as 1625-1645 East Diehl Avenue, 1540-1580 Hart Avenue and 1545-1575 Hart Avenue, legally described as:

Lot 23, 24, 25, 26, and 27 in CAPITOL VIEW ACRES, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

Lot 12 (Except the South 70 feet of the West 425 feet thereof) and Lots 13 and 14 in NEW HOPE, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa

from "R1-80" One-Family Residential District to Limited "R1-60" One-Family Low-Density Residential District, to allow subdivision of the Property with 60-foot wide single-family dwelling lots, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner(s) of the Property, which is binding upon the owner(s) and their successors, heirs and assigns.

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

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to Limited "R1-60" One-Family Low-Density Residential District with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "R1-60" One-Family Low-Density Residential District with conditions as set forth above, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT.

FORM APPROVED:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(ZON2018-00013)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

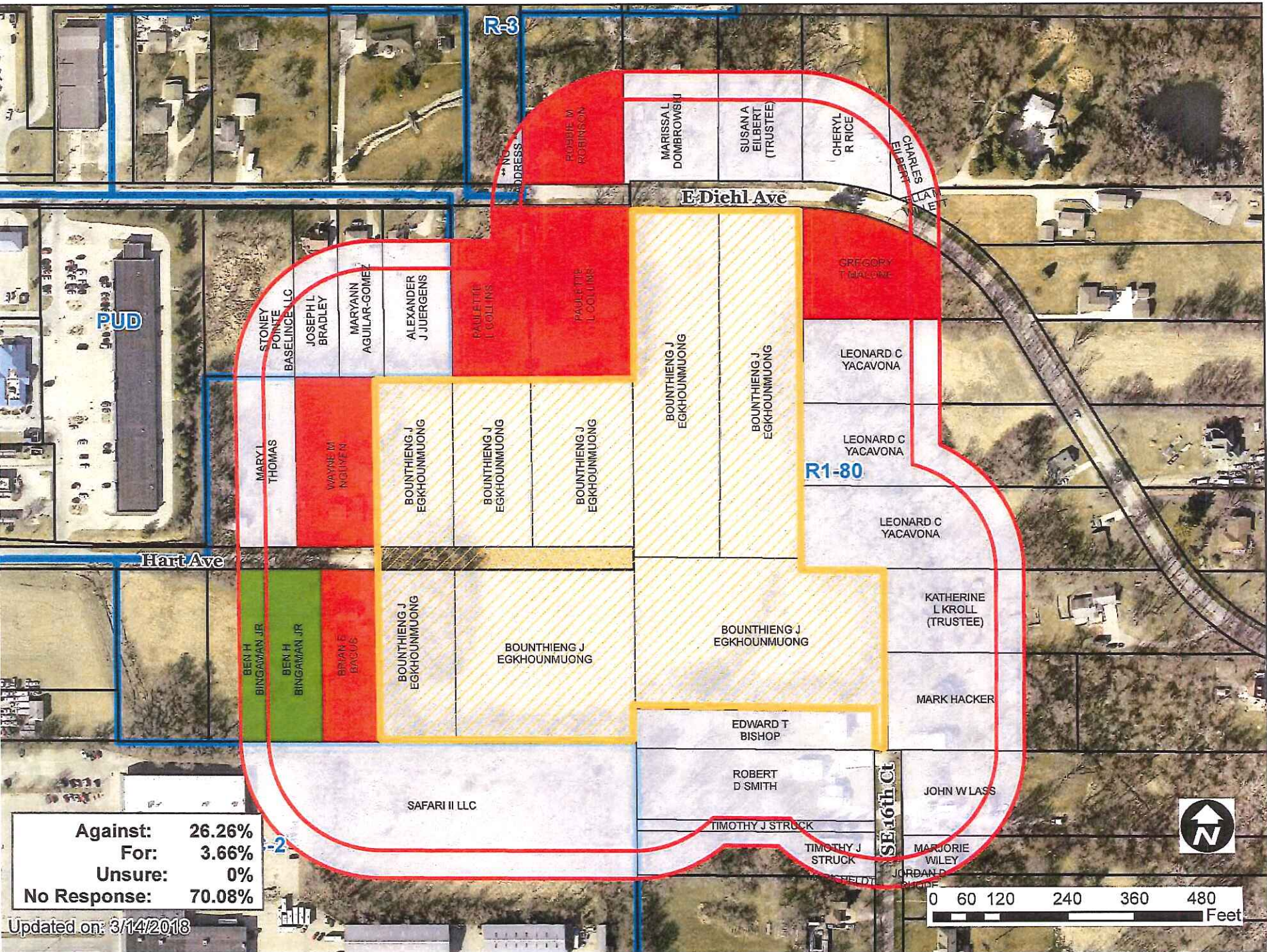
CERTIFICATE

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



8/18
 [Handwritten signature]

48





8K



March 14, 2018

Date _____
 Agenda Item 48
 Roll Call # _____

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 Phonevilay Boun (owner) to rezone property located at 1625-1645 East Diehl Avenue, 1540-1580 Hart Avenue, and 1545-1575 Hart Avenue. Additional owner of property is Bounthieng Egkhounmuong.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0-1 as follows: (Mike Simonson abstained from vote as he was not present for all of the public hearing).

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

APPROVAL of Part A) recommending that the proposed rezoning conforms with the PlanDSM Creating Our Tomorrow future land use map; and Part B) recommending approval of the rezoning subject to the following conditions:

1. A minimum of one street tree shall be provided per lot frontage within the development that complies with the City's street tree policies. Each tree shall be installed prior to the issuance of a Certificate of Occupancy for the dwelling constructed on that lot.
2. No same house plan shall be built on adjacent lots.
3. Each house shall have a full basement.
4. Each house shall have a minimum two-car attached garage.
5. The front façade of any house constructed must contain one of the following:
 - a. A front porch of not less than 60 square feet; or
 - b. Stone or brick masonry siding covering at least 1/3 of the façade.
6. All windows and doors shall have trim that is no less than 4-inches in width.
7. The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
8. Single story homes shall be constructed with a minimum of 1,400 square feet of above grade finished floor area.
9. 1½ story homes shall be constructed with a minimum of 1,600 square feet of above grade finished floor area with a minimum of 1,000 square feet on the first floor.
10. 2-story homes shall be constructed with a minimum of 1,800 square feet of above grade finished floor area.
11. Exterior material for any home constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, masonite, or cement fiber board.
12. Any chain link fence shall have black vinyl-cladding.

(ZON2018-00013)

Written Responses

1 in Favor

5 in Opposition

STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the proposed rezoning in conformance with the PlanDSM Creating Our Tomorrow.

Part B) Staff recommends approval of the rezoning subject to the following revisions:

1. A minimum of one street tree shall be provided per lot frontage within the development that complies with the City's street tree policies. Each tree shall be installed prior to the issuance of a Certificate of Occupancy for the dwelling constructed on that lot.
2. No same house plan shall be built on adjacent lots.
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STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow the applicant to subdivide the property into lots that would each have a minimum width of at least 60 feet. The applicant has submitted a conceptual layout that consists of 43 lots for single-family residential development.
2. **Size of Site:** 13.801 acres or 601,177 square feet.
3. **Existing Zoning (site):** "R1-80" One-Family Residential District.
4. **Existing Land Use (site):** Undeveloped land.
5. **Adjacent Land Use and Zoning:**
 - North – *Stoney Point "PUD" & "R1-80"; Uses are single-family dwellings.*
 - South – *"C-2" & "R1-80"; Uses are commercial center and single-family dwellings.*
 - East - *"R1-80"; Uses are single-family dwellings and vacant land.*
 - West – *"R1-80"; Uses are single-family dwellings.*
6. **General Neighborhood/Area Land Uses:** The area generally consists primarily of large lot single-family residential uses. It located east of the Southeast 14th Street/U.S. Highway 69 corridor.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Easter Lake Area Neighborhood. All recognized neighborhood associations were

notified of the public hearing by mailing of the preliminary agenda on February 9, 2018. Notifications of the hearing for this specific item were mailed on February 9, 2018 (20 days prior to the public meeting) and February 16, 2018 (13 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. The Easter Lake Area mailings were sent to Jim Bollard, 4007 Southeast 26th Street, Des Moines, IA 50320.

The applicant is required to conduct a neighborhood meeting with surrounding property owners. The applicant held a neighborhood meeting on February 6, 2018. A summary of that meeting can be provided by the applicant at the hearing.

8. Relevant Zoning History: None.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: Low Density Residential.

10. Applicable Regulations: Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject property is designated as "Low Density Residential" on the Future Land Use Map. PlanDSM describes this designation as "areas developed with primarily single family and two-family units up to 6 units per net acre. The proposed concept would be between 3 and 4 units per net acre.
- 2. Natural Site Features:** The site consists of agricultural land with some timbered area along its perimeter. Development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.
- 3. Utilities:** Water is available in East Diehl Avenue, Hart Avenue, and Southeast 16th Court adjoining the property. Sanitary sewer is available to the northwest in Southeast 14th Street. The subject property would have to extended that sewer and would likely have to provide a pumping station due to the elevation of the property. There is not public storm sewer readily accessible to the property. All necessary utilities would be required to be provided throughout any subdivision by the developer at their expense.
- 4. Drainage/Grading:** Any subdivision development of the site must comply with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan. A homeowners association may have to be established for the purposes of entering into a Stormwater Management and Facility Maintenance Agreement with the City for any necessary stormwater facilities.

5. **Traffic/Street System:** The submitted development concept shows the site would be served by street extension of Hart Avenue and street connection to East Diehl Avenue. A traffic study was not required in accordance with the City's traffic study policy. Any street system would be reviewed through the subdivision process.
6. **Urban Design:** Staff recommends the following design standards to ensure a level of quality that will support the long term stability of the proposed development and is consistent with the minimum placed on similar developments throughout the City.
- a) A minimum of one street tree shall be provided per lot frontage within the development that complies with the City's street tree policies. Each tree shall be installed prior to the issuance of a Certificate of Occupancy for the dwelling constructed on that lot.
 - b) No same house plan shall be built on adjacent lots.
 - c) Each house shall have a full basement.
 - d) Each house shall have a minimum two-car attached garage.
 - e) The front façade of any house constructed must contain one of the following:
 - i. A front porch of not less than 60 square feet; or
 - ii. Stone or brick masonry siding covering at least 1/3 of the facade.
 - f) All windows and doors shall have trim that is no less than 4-inches in width.
 - g) The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
 - h) Single story homes shall be constructed with a minimum of 1,400 square feet of above grade finished floor area.
 - i) 1½ story homes shall be constructed with a minimum of 1,600 square feet of above grade finished floor area with a minimum of 1,000 square feet on the first floor.
 - j) 2-story homes shall be constructed with a minimum of 1,800 square feet of above grade finished floor area.
 - k) Exterior material for any home constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, masonite, or cement fiber board.
 - l) Any chain link fence shall have black vinyl-cladding.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Carolyn Jenison arrived at 6:17 PM.

Greg Jones asked for clarification that if this area was not rezoned, then the developer would not have to follow any of the recommended minimum housing standards.

Jason Van Essen stated that is correct. Only in rezoning to the R1-60 would they have to follow the current staff recommendation.

Phonevilay Boun, represented his brother and wife in the ownership group.

Mike Whaler, Bishop Engineering, representing the ownership, stated they agree with the terms the city has proposed. He did want to note that staff has recommended a forced sewer main over to SE 14th Street. This is over 1400 linear feet and comes at a considerable cost. Other than that, he felt Jason Van Essen had covered their plans.

Jacqueline Easley asked if they were in agreement with the staff recommendation.

Mike Whaler stated they were in agreement.

CHAIRPERSON OPENED THE PUBLIC HEARING

Robbie Robinson, 1590 E. Diehl Ave., expressed concerns over changing the R1-80 zoning in this area. He believes that they should be building within the existing zoning and not increasing the density of the area. As a resident of the area, he prefers the look of acreages. Previous zoning changes have resulted in issues such as the change for Prairie Hills Senior Living that resulted in rezoning and then was rezoned to allow the Melbourne apartments. He wanted it noted that changes to zoning should be made for the applicant and not the area. He did review the plans at neighborhood meeting and it seems the developer wants to do some good things, but he believes they should utilize existing zoning. He believes there are already water problems in the area and more concrete will mean more problems. He also thinks this should wait until the proper infrastructure is built. Lift stations don't work long-term and he has personally seen sewage spills in the area and this must be addressed. He strongly believes the zoning should not change.

Gregory Malone, 1675 E. Diehl Ave., first asked the question if a final decision was going to be made tonight.

Jacqueline Easley stated that this would only be a recommendation tonight that is forwarded to City Council. They will provide the final decision.

Gregory Malone stated he had concerns that two of the lots were being built over a creek that is currently used for water run-off. He has major concern about erosion control and storm water runoff. He also noted that Diehl Avenue is not wide enough for the traffic coming through and this will also lead to more problems and accidents. He feels that smaller lots should not be allowed as it could bring down his property value. He believed the plan called for homes with a sale price around \$250k with three car garages. This reduces the yard sizes in the area. His main concerns are the width of the Diehl Avenue and then addressing the ditches and adding curbs and railings along the road.

Pam Malone, 1675 E. Diehl Ave., stated her opposition to the change of the RI-80 zoning due to density of the neighborhood. She states she chose this area to live as it had the feel of the country, while still in the city. They have chickens and enjoy the wildlife they see around the area. Her objections are based on emotions and she is hopeful that the feel of the neighborhood will not change by adding too many more homes.

Mike Simonson arrived at 6:33 PM.

Rebuttal

Michael Whaler stated the storm water management would comply with City of Des Moines standards and they will create a detention pond and make it better than it is currently today in the area. The lots are preliminary and they will flex as needed to work around the creek area. The lift station is required by the City as septic fields will not be allowed. They have also been asked to connect the sewer line to SE 14th Street. The lift stations will be constructed to city standards.

COMMISSION ACTION:

Greg Jones stated if they area is not rezoned there will be no enhanced standards for the single-family dwellings that get constructed. Rezoning will make this area better.

Will Page asked to view the response card map.

Greg Jones made a motion for Part A) recommending that the proposed rezoning conforms with the PlanDSM Creating Our Tomorrow future land use map; and Part B) recommending approval of the rezoning subject to the following conditions:

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12. Any chain link fence shall have black vinyl-cladding.

Motion Passed: 10-0-1 (Mike Simonson abstained from vote as he was not present for all of the public hearing)

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Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

EML:tjh

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Phonevilay Boun (owner) for property located at 1625-1645 East Diehl Avenue, 1540-1580 Hart Avenue, and 1545-1575 Hart Avenue. Additional owner of property is Bounthieng Egkhounmuong.				File # ZON2018-00013	
Description of Action	Rezoning from "R1-80" One-Family Residential District to "R1-60" One-Family Low-Density Residential District, to allow subdivision of the property with 60-foot wide single-family dwelling lots.				
Plan/DSM Future Land Use	Current: Low Density Residential. Proposed: N/A.				
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	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property	1	5		>20%	
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	X
	Denial			No	

Phonevilay Boun, 1625-1645 East Diehl Ave., 1540-1580 Hart Ave., 1545-1575 Hart Ave. ZON2018-00013



1 inch = 229 feet

Item ZON2018-00013

Date February 27, 2018

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

RECEIVED

COMMUNITY DEVELOPMENT Name PAULETTE COLLINS

MAR 05 2018 Signature Paulette Collins

Address 1515 E. DIEHL AVE.

DES MOINES, IOWA 50320
Reason for opposing or approving this request may be listed below.

Item ZON2018-00013

Date 2-26-18

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

(Circle One)

Print Name GREGORY T MALONE

Signature [Signature]

Address 1675 E DIEHL AVE
DES MOINES IA 50320

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

LOT SIZE DOES NOT MATCH
OTHER PROPERTIES. WATER
RUN OFF
DAMAGE TO CREEK BED.

Item ZON2018-00013

Date 2-21-18

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

(Circle One)

RECEIVED

Print Name BRIAN BACUS

COMMUNITY DEVELOPMENT

Signature [Signature]

FEB 26 2018

Address 1535 HART

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

I DO NOT WISH TO HAVE A NEW HOUSING
DEVELOPMENT TO MY EAST. I DO NOT
WANT HART OFF OF SE 14TH TO BECOME A
THROUGH STREET.

Item ZON2018-00013

Date 2-26-18

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

RECEIVED
COMMUNITY DEVELOPMENT

Print Name M. Isobel Bingham

Signature M. Isobel Bingham

MAR 05 2018

Address 1525-1505-1475 4th
6001 + 6017 SE 14th

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

Item ZON2018-00013

Date 2-23-18

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

RECEIVED
COMMUNITY DEVELOP.

Print Name ROBBIE ROBINSON

Signature Robbie Robinson

FEB 26 2018

Address 1590 E. DIEHL AVE

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

1. PAST ZONING, DIDN'T FOLLOW PLAN
2. SEWAGE SPILLS, WITH LIFT STATIONS
- CONSTANT PROBLEMS WITH THEM
3. TRAFFIC PROBLEMS.
4. WATER RUNOFF - NO SEWERS
5. BUILD WITHIN, CURRENT ZONING

Item ZON2018-00013

Date Feb 22, 2018

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

COMMUNITY DEVELOPMENT

RECEIVED

Print Name WAYNE NGUYEN

Signature Wayne Nguyen

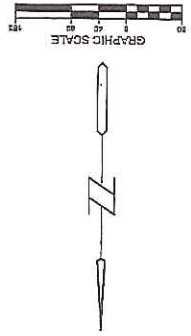
FEB 26 2018

Address 1516 HART AVE DSM, 50320

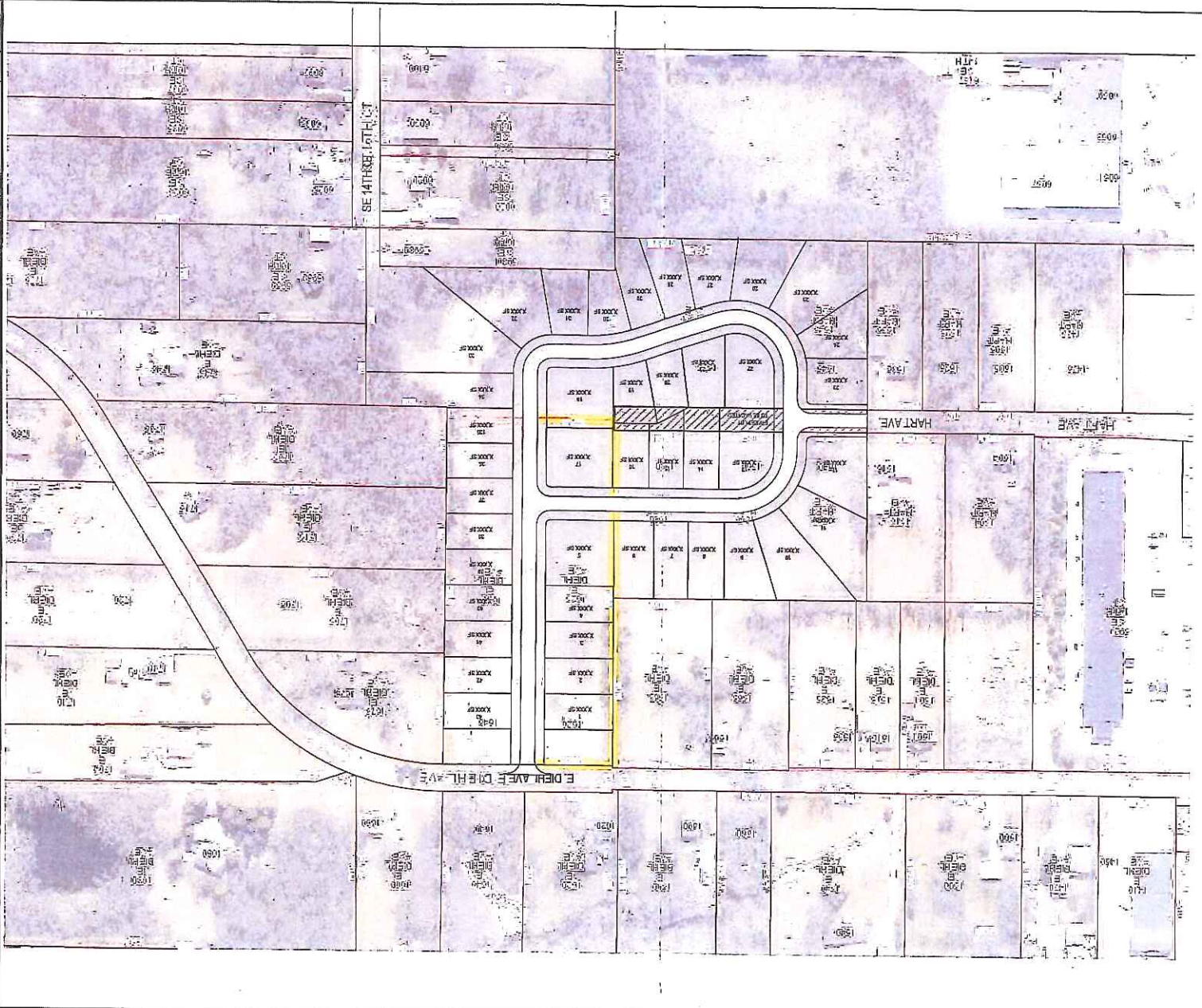
Reason for opposing or approving this request may be listed below.

THIS NEIGHBORHOOD BECOME OVER
CROWDED

PROJECT # 2171 DEVELOPER: BISHOP ENGINEERING & ARCHITECTS, P.C. 1500 W. 13TH ST. DES MOINES, IA 50319



GENERAL NOTES
 1. SEE ALL NOTES ON PREVIOUS SHEETS.
 2. ALL DIMENSIONS ARE IN FEET AND INCHES.
 3. ALL DISTANCES ARE TO CENTERLINE UNLESS OTHERWISE NOTED.



<p>C2.1 SHEET NUMBER</p>	<p>180107 PROJECT NUMBER</p>
	<p>1-17-2018 REVISION DATE</p>
<p>DESIGNED BY CHECKED BY DATE</p>	<p>DATE</p>
<p>PROJECT NAME</p>	<p>E. DIEHL AVE. DES MOINES, IOWA</p>
<p>R1-60 CONCEPT PLAN</p>	
<p>Bishop Engineering "Training Your Forward Development" 3501 110th Street Des Moines, Iowa 50323-2007 Phone: 515.281.1100 Fax: 515.281.1101 Email: Engineering & Land Surveying Established 1925</p>	