



Roll Call Number

Agenda Item Number

69

Date November 4, 2019

**RESOLUTION DISMISSING HEARING ON REQUEST FROM FRED AND JERI ROBINETTE
TO REZONE PROPERTY LOCATED AT 2833 EAST ACORN STREET**

WHEREAS, on October 14, 2019, by Roll Call No. 19-1599, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 3, 2019, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Fred and Jeri Robinette (owners) to rezone property located at 2833 East Acorn Street ("Property") from "A-1" Agricultural District to Limited "R1-80" One-Family Residential District, to allow for subdivision of the Property and development of the southern portion of the Property with an additional single-family dwelling, subject to various conditions set forth in said Roll Call; and

WHEREAS, on October 14, 2019, by Roll Call No. 19-1599, it was duly resolved by the City Council that the application from Fred and Jeri Robinette to rezone the Property, legally described as follows, be set down for hearing on November 4, 2019 at 5:00 P.M., in the Council Chamber at City Hall:

LOTS 19 AND 20 IN DES MOINES FERRARI HEIGHTS, AN OFFICIAL PLAT, ALL BEING IN SECTION 1, TOWNSHIP 77, RANGE 24, WEST OF THE 5TH P.M. AND FORMING A PART OF THE CITY OF DES MOINES, WARREN COUNTY, IOWA; 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, thereafter Fred and Jeri Robinette requested to withdraw their application for the proposed rezoning of the Property.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the public hearing on the proposed rezoning of 2833 East Acorn Street from "A-1" Agricultural District to Limited "R1-80" One-Family Residential District is hereby dismissed, and the matter of the proposed rezoning is withdrawn from City Council consideration.

MOVED BY _____ TO ADOPT.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZON2019-00186)

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

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, D. Kay Cmeli K. 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

October 15, 2019

Date November 4, 2019
Agenda Item 69
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 October 3, 2019 meeting, the following action was taken regarding a request from Fred and Jeri Robinette (title holders) to rezone property located at 2833 East Acorn Street from "A-1" Agricultural District to "R1-80" One Family Residential District to allow subdivision and development of the property for an additional single-family dwelling acreage.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	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			
Rocky Sposato				X
Steve Wallace	X			
Greg Wattier				X
Emily Webb				X

APPROVAL of Part A) the Commission find the proposed rezoning in conformance with the PlanDSM Creating Our Tomorrow and Part B) **APPROVAL** of the rezoning subject to the following conditions:

1. Development of the southern parcel is prohibited until such time that a public street and utilities, including but not limited to, a dry sewer line is extended along the east property line of the property.
2. Any development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.
3. No same house plan shall be built on adjacent lots.
4. Any house shall have a full basement unless determined infeasible by the City's Building Official and Planning Administrator.
5. Any house shall have a minimum two-car attached garage.
6. 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.
7. All street facing windows and doors on any house shall have trim that is no less than 4 nominal inches in width.
8. The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
9. Any 1-story house shall be constructed with a minimum of 1,400 square feet of above-grade finished floor area.
10. Any 1-½-story house shall be constructed with a minimum of 1,600 square feet of above-grade finished floor area.
11. Any 2-story house shall be constructed with a minimum of 1,800 square feet of above-grade finished floor area.
12. Exterior material for any house constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, Masonite, or cement fiber board.
13. Any chain link fence shall have black vinyl cladding.

(ZON2019-00186)

Written Responses

3 in Favor

1 in Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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 conditions:

1. Development of the southern parcel is prohibited until such time that a public street and utilities, including but not limited to, a dry sewer line is extended along the east property line of the property.
2. Any development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.

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13. Any chain link fence shall have black vinyl cladding.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow the applicant to pursue the development of a second single-family dwelling on the southern portion of their property.
2. **Size of Site:** The property 226,076 square feet (5.19 acres).
3. **Existing Zoning (site):** "A-1" Agricultural District.
4. **Existing Land Use (site):** The subject property is comprised of two parcels owned in common. The northern parcels measures 2.64 acres and has frontage on the south side of Acorn Street. It contains a single-family dwelling. The southern parcel measures 2.55 acres. It is maintained as yard space and does not have street frontage.

5. Adjacent Land Use and Zoning:

North – “A-1”; Uses are a single-family dwelling and undeveloped land.

South – “A-1”; Uses are agricultural production and undeveloped land.

East - “A-1”; Use is agricultural production.

West – “A-1”; Use is undeveloped land.

6. **General Neighborhood/Area Land Uses:** The site is located in an area that consists primarily of agricultural land, with several residential acreages located along East Acorn Street.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located within 250 feet of any recognized neighborhood association. All recognized neighborhood associations were notified of the public hearing by mailing of the preliminary agenda on September 13, 2019. Notifications of the hearing for this specific item were mailed on September 13, 2019 (20 days prior to the public hearing) and September 23, 2019 (10 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.
8. **Relevant Zoning History:** The subject property was annexed into the City of Des Moines and zoned as “A-1” Agriculture District in 2009.

On August 28, 2019, the Zoning Board of Adjustment considered a request from the applicant for the following relief:

- Variances of up to 8 acres less than the minimum 10 acres of lot area required for a single-family residential use (Parcels A & B).
- Exception of up to 300 feet less than the minimum 600 feet of lot width required for a single-family residential use (Parcel A).
- Exception of up to 580 feet less than the minimum 600 feet of lot width required for a single-family dwelling (Parcel B).
- Exception of the single-family dwelling design standard that front door of the dwelling shall appear to face the street (Parcel B).

The relief would have allowed the subject property to be reconfigured into a northern parcel at least 300 feet of frontage along East Acorn Street and at least 2 acres of lot area, which would contain an existing single-family dwelling; and a southern parcel with a “flag lot” layout with at least 20 feet of frontage along East Acorn Street and at least 2.5 acres of lot area, which would contain a new single-family dwelling that would face to the east.

The Board denied the requested Variance. The appellant withdrew the request for the Exceptions to preserve the right to request the Exceptions at a later date. The Zoning Ordinance does not allow the same relief to be requested within a two-year window unless it can be demonstrated that the circumstances of the request have changed.

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 subject property is comprised of two parcels owned in common. The northern parcel has frontage on the south side of Acorn Street and contains a single-family dwelling. The southern parcel is maintained as yard space and does not have street frontage. This parcel cannot be developed without street frontage that complies with the Zoning Ordinance.

As development occurs, it is imperative that lots and streets are laid out in a manner that allows for future growth. PlanDSM identifies low density residential as the planned use for the subject property and the surrounding area. However, the intent is for a street network to be developed. Staff supports the rezoning but does not believe that development on the southern parcel should occur until a street has been extended providing the lot with frontage without needing relief from the Zoning Board of Adjustment for the creation of a flag lot with limited frontage on East Acorn Street. Allowing flag lot development and living the few streets in the area with development while leaving no street access for the property to the south is not good for the long-term growth of the City.

2. Natural Site Features: 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 along East Acorn Street. Sanitary sewer is not available within 300 feet of the subject property. Therefore, single-family residential uses would be permitted to use a septic system. Once a sanitary sewer line is available within 300 feet of the property the property owner will be required to connect to the sewer system. A dry sewer line should be installed in the adjoin right-of-way at the time of development to facilitate the future extension of sewer in the area.

4. Drainage/Grading: Any 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.

5. **Traffic Study Policy:** 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. **Subdivision:** Any subdivision of the property must comply with Chapter 106 of the City Code.
7. **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) No same house plan shall be built on adjacent lots.
 - b) Any house shall have a full basement unless determined infeasible by the City's Building Official and Planning Administrator.
 - c) Any house shall have a minimum two-car attached garage.
 - d) The front façade of any house shall 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.
 - e) All street facing windows and doors shall have trim that is no less than 4 nominal inches in width.
 - f) The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
 - g) Any 1-story house shall be constructed with a minimum of 1,400 square feet of above-grade finished floor area.
 - h) Any 1-½-story house shall be constructed with a minimum of 1,600 square feet of above-grade finished floor area.
 - i) Any 2-story house shall be constructed with a minimum of 1,800 square feet of above-grade finished floor area.
 - j) Exterior material for any house constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, masonite, or cement fiber board.
 - k) Any chain link fence shall have black vinyl cladding.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendations.

Mike Ludwig stated a primary reason the City annexed property going further south was so the City would have review authority over future subdivisions. This is a subdivision that occurred before the property was within the City's 2-mile extra territorial review boundary. When you plat in the county, you plat a roadway easement instead of a right of way with the lot line going to the center of the roadway. Since there are other lots remaining to the south, staff has requested there be public infrastructure and roadway extended to serve

those properties. Our staff report recommends extension of public right of way and utilities South from Acorn Street into this development.

Erik Lundy stated the closest sanitary is further west and would need to be extended throughout Acorn into this development as well.

Mike Ludwig stated at a minimum the City wants a road extended to the lot being developed so it can be extended to other lots in the future. Since the sewer is more than 300 feet from a public sewer, we cannot force them to connect it at this point. Staff is requested a dry sewer to be installed so public sewer can be connected and extended in the future.

Fred Robinette, 2833 East Acorn Street stated this land has been plated since the early 80's and he bought Lot 19 nearly 21 years ago. The other lots are owned by Southland Development Corporation and when they develop their land, they will put in the roadways, sidewalks and sewer to make their investment back. He thinks he should be able to sell the lot for a single-family dwelling that fits the character of our neighborhood.

Will Page asked if he agreed with the conditions City Staff has placed on the rezoning.

Fred Robinette stated he would probably be fine with those conditions.

Will Page asked if this was his first time seeing these conditions.

Fred Robinette stated he did read the copy he received in the mail but he isn't a contractor and doesn't need to worry about how the house is built, just want it to look nice and fits the neighborhood.

Mike Ludwig stated the plat provides 40-foot easements on each of the lots going South to be used for access. Staff would be asking for 60 feet of right of way dedicated, 30 feet on each side of the common lot lines.

Dory Briles asked if there isn't any time pressure for the applicant. Asked if this could be approved after the new zoning code is adopted and the applicant wouldn't need to come before the Commission.

Mike Ludwig stated that Ms. Briles was correct.

Greg Jones asked if it needs to be rezoned from Agriculture.

Mike Ludwig stated it will be rezoned by the new zoning map the City is adopting but to obtain a permit to build, there would need to be frontage on a public street and would ask for the public infrastructure to continue south.

CHAIRPERSON OPENED THE PUBLIC HEARING

Rob Davison, 2705 East Acorn Street stated when he bought his home 4 years ago, they said he wouldn't be getting anymore neighbors because you would need to have a minimum 10-acre lot to develop on. He doesn't have anything against Mr. Robinette, he

just came in to share what he was told when he bought the home and would like to keep it the way it is.

Fred Robinette stated he would rather have single family homes than the 16-plexes Southland Development will put in there.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

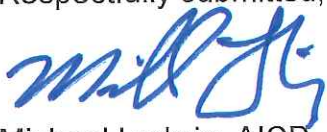
Greg Jones made a motion for approval of Part A) the Commission find the proposed rezoning in conformance with the PlanDSM Creating Our Tomorrow and Part B)

APPROVAL of the rezoning subject to the following conditions:

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Motion Carried: 10-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh

Fred and Jeri Robinette (title holders) for property located at 2833 East Acorn Street.				File # ZON2019-00186	
Description of Action	Rezone property from "A-1" Agricultural District to "R1-80" One Family Residential District to allow subdivision and development of the property for an additional single-family dwelling acreage.				
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"A-1" Agricultural District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"R1-80" One Family Residential District and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	3	1			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

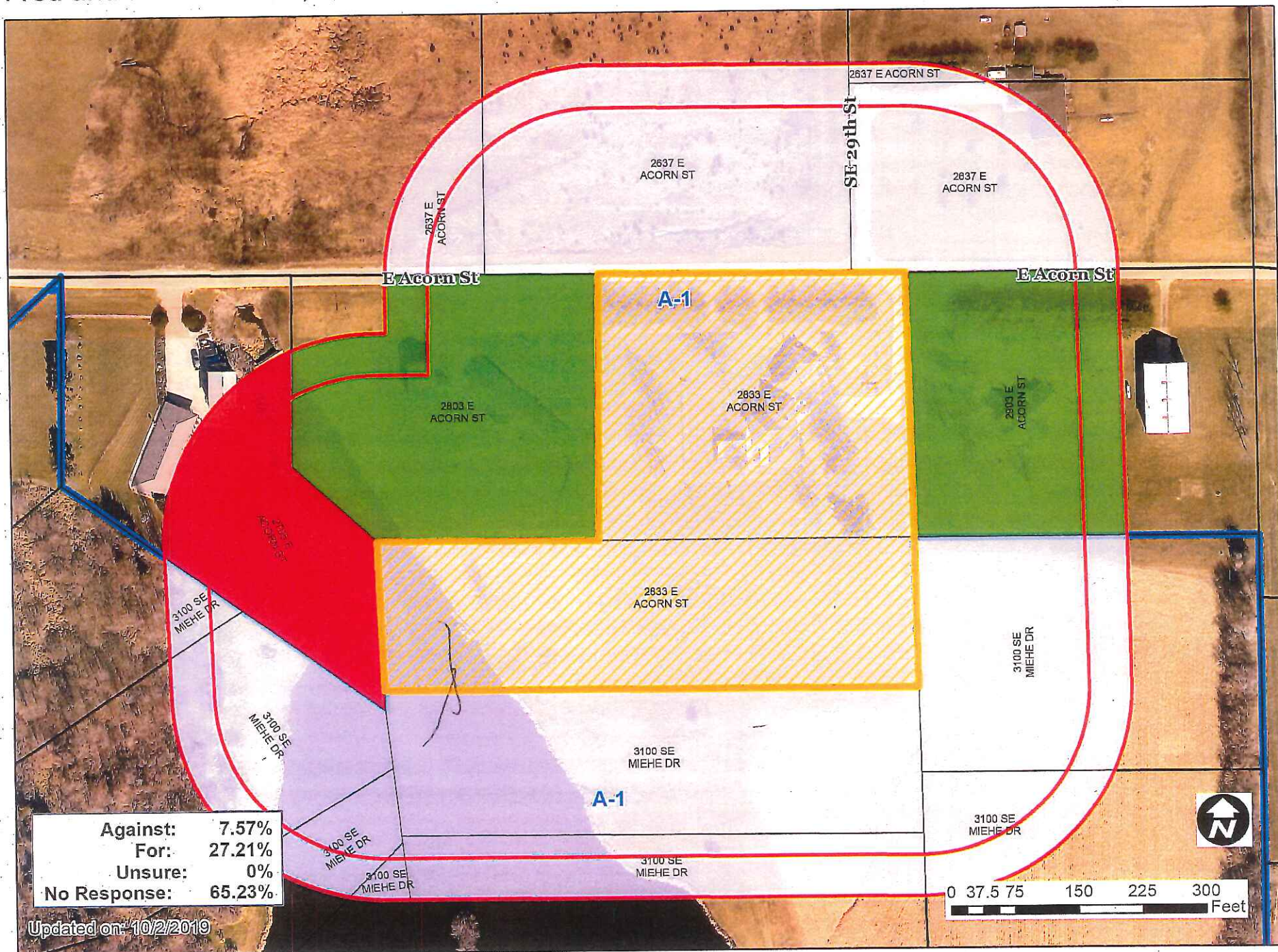
Fred and Jeri Robinette, 2833 East Acorn Street

ZON2019-00186



1 inch = 150 feet

ZON2019-00186



1 inch = 150 feet

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Item ZON2019-00186Date 9-26-19☒ (am) (am not) in favor of the request

SUBJECT PROPERTY

(Circle One)

Print Name Fred & Jeri RobinetteSignature Fred RobinetteAddress 2833 E. Acorn St. DSM Ia 50320RECEIVED
COMMUNITY DEVELOPMENT

SEP 30 2019

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

Adding another Quality home for a family
in the Neighborhood.Item ZON2019-00186Date 9-26-2019☒ (am) (am not) in favor of the request

(Circle One)

Print Name Nancy AbbottSignature Nancy AbbottAddress 2903 E Acorn StRECEIVED
COMMUNITY DEVELOPMENT

OCT 02 2019

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

Item ZON2019-00186Date 9-26-2019☒ (am) (am not) in favor of the request

(Circle One)

Print Name Roger & Kym EtzelSignature Roger & Kym EtzelAddress 2803 E. Acorn St- DSM, IA
50320RECEIVED
COMMUNITY DEVELOPMENT

SEP 30 2019

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

Developing the area would improve the neighborhood.
It will also add another quality property to the
Des Moines and Warren County tax base.
Proposed construction fits perfectly with current
properties in our development.

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Item ZON2019-00186

Date 9-29-19

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

OCT 02 2019

Print Name Rod Davison

Signature Rod Davison

Address 2705 E ACORN ST

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

THIS WAS ZONING WHEN I MOVED
IN AND I WANT IT TO STAY SAME
THIS WAS WHY I BOUGHT MY
PROPERTY IN THIS AREA KEEP
IT THE SAME NO CHANGES