CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: November 16, 2015

ITEM: Delavan Townhomes, Southeast corner of EP True Parkway and S26th Street – Amend the Comprehensive Plan Land Use Map to change approximately 2.24 acres from Office to Medium Density Residential and amend the BEH II Planned Unit Development (PUD) to modify regulations to allow development of 16 attached townhome units – Capital Homes of Iowa – CPA-002815-2015/ZC 002816-2015

Resolution: **Approval of Comprehensive Plan Amendment**
Ordinance: **Approval of First Reading the Ordinance to amend the BEH II Planned Unit Development**

FINANCIAL IMPACT: Undetermined.

BACKGROUND: The applicant, Capital Homes of Iowa, represented by Ed Arp of Civil Engineering Consultants Inc., is requesting approval of both a Comprehensive Plan Land Use amendment and an amendment to the BEH II Planned Unit Development for that property located at the southeast corner of EP True Parkway and S26th Street. The applicant is requesting a Comprehensive Plan Amendment to change approximately 2.24 acres from Office (OF) to Medium Density Residential (MD). The PUD amendment modifies regulations to allow the development of 16 attached townhomes within PUD Parcel B.

Plan and Zoning Commission Action:
Vote: 4-0 approval. Commissioners Andersen, Brown and Southworth absent
Date: October 12, 2015
Motion: Adopt a resolution recommending the City Council approve the Comprehensive Plan Land Use Map Amendment and the Rezoning requests to allow the development of 21 townhomes in PUD Parcel B.

Plan and Zoning Commission Discussion:
During the Plan and Zoning Commission meeting ten citizens spoke and voiced concerns about traffic flows around the S26th Street and E.P. True intersection. They gave examples of:

- Difficulties turning left (west) onto EP True Parkway from S26th Street;
- Difficulties turning left (south) onto S26th Street from EP True Parkway;
- How under current conditions, several cars stack up behind a vehicle on EP True Parkway waiting to turn left (south) onto S26th Street; and,
- Vehicles speeding down EP True Parkway and not realizing that there is a curve and either swerving off the road or rear ending a stopped car.

All that spoke believe that the intersection does not perform at an acceptable level and adding more homes will exacerbate the problem. In response to this issue, as a part of their approval, the Plan and Zoning Commission requested that the City Council direct Staff to study the 26th Street and EP True Parkway intersection and take the appropriate action, if necessary to improve the situation.

Subsequent to the Plan and Zoning Commission Meeting, a neighborhood meeting was held on October 29th at the prompting of Council members Trimble and Trevillyan to discuss the proposed development of the property and the neighbors' traffic concerns. Details of the traffic study was presented and accessing from Delevan Drive was discussed. Three options for the development of the property were proposed:

- Allowing the originally intended 21 attached townhomes on the western parcel and development of a mini-storage on the eastern parcel;
- Reducing the number of townhomes and increasing the amount of mini-storage;
- Eliminating all townhomes and developing the entire site with a mini-storage facility.

The applicant agreed to reduce the number of townhomes from 21 units to 16 units and prohibit stacked units (living above living). Although there is a reduction in the number of dwelling units, the amount of mini-storage is not

increasing. The PUD language has been modified from that presented to the Plan and Zoning Commission to reflect the agreed upon development.

OUTSTANDING ISSUES: There are no outstanding issues. The following items of interest are noted in the attached Plan and Zoning Commission report (see Exhibit I):

- Request
- History
- City Council Subcommittee – *Development & Planning, September 24, 2015*
- Staff Review and Comments
  - *Allowance for the Implementation of Fences*
  - *Existing Single Family*
  - *Building Setbacks*
  - *Neighborhood Meeting*
- Comprehensive Plan Consistency
- Noticing Information
- Staff Recommendations and Conditions of Approval
- Owner/Applicant/Applicant Representative Information

RECOMMENDATION: Based upon the preceding review and a finding of consistency with the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council adopt a resolution to approve the Comprehensive Plan Land use amendment to change the land use for 2.24 acres from Office to Medium Density Residential, and approve the first reading of the amended BEH II Planned Unit Development Ordinance allowing the development of 16 horizontally attached townhomes, subject to the applicant meeting all City Code requirements.

Lead Staff Member: J. Bradley Munford, Planner

STAFF REVIEWS:

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	RTG

PUBLICATION(S) (if applicable)

Published In	*Des Moines Register*	
Date(s) Published	October 2, 2015	
Letter sent to surrounding property owners		October 1, 2015

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development and Planning		
Date Reviewed	September 24, 2015		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Plan and Zoning Communication
- Attachment A - Plan and Zoning Commission Resolution _ Comprehensive Plan Amendment
- Attachment B - Plan and Zoning Commission Resolution – PUD Amendment
  - Exhibit A - Conditions
- Attachment C - Location Maps
- Attachment D - Proposed PUD Ordinance Amendment *(moved to Exhibit II)*
- Attachment E - Letter from the Public

Exhibit II - Proposed PUD Ordinance

Exhibit III - Resolution: Approve Comprehensive Plan Land Use Map Amendment

EXHIBIT I

CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION COMMUNICATION

Meeting Date: October 12, 2015

Item: Delavan Townhomes, Southeast corner of EP True Parkway and S26th Street – Amend the Comprehensive Plan Land Use Map to change approximately 2.73 acres from Office to Medium Density Residential and amend the BEH II Planned Unit Development (PUD) to modify regulations to allow development of 21 attached townhome units – Capital Homes of Iowa. – CPA-002815-2015/ZC 002816-2015

Requested Action: Approval of a Comprehensive Plan Amendment and Rezoning request to amend the BEH II Planned Unit Development

Case Advisor: J. Bradley Munford, Planner

Applicant's Request: The applicant, Capital Homes of Iowa, represented by Ed Arp of Civil Engineering Consultants Inc., is requesting approval of both a Comprehensive Plan Land Use amendment and an amendment to the BEH II Planned Unit Development for that property located at the southeast corner of EP True Parkway and S26th Street. The applicant is requesting a Comprehensive Plan Amendment to change approximately 2.73 acres from Office (OF) to Medium Density Residential (MD)

Upon changing the Comprehensive Plan Land Use designations on the property, the applicant is also requesting an amendment to the BEH II Planned Unit Development to establish standards for the development of 21 attached townhome units.

History: On May 19, 1988 the Comprehensive Plan and Zoning for this area was changed from M-1 Light Industrial and R-5 Multi-Family Residential to BEH II Planned Unit Development (Ordinance 846). This property was identified as Parcel B within the PUD and specifically allowed apartments, office, daycares, health clubs, government buildings, and churches. On October 10, 1989 the property was platted as Delavan Plat 1. That plat created the current parcel configuration and established Outlot B within this Parcel B as an Overhead Transmission Line Easement and a future development access. On January 8, 2001 the PUD was amended for Parcel B and removed apartments as an allowed use (Ordinance 1430).

City Council Subcommittee: This request to amend the Comprehensive Plan Land Use and amend the BEH II Planned Unit Development was reviewed by the Development and Planning City Council Subcommittee on September 24, 2015. The Subcommittee was supportive of the request.

Staff Review and Comment: There are no outstanding issues. Staff would note the following:

- *Allowance for the Implementation of Fences:* This is a narrow triangular shaped property that is 240 feet at its widest point. Along the north edge of the property is an existing 20 foot Sanitary Sewer Easement (this easement will be widened to 30' to comply with minimum easement width standards). The placement of vegetation within utility easements is restricted so as to not impact utility lines and to limit the size of vegetation so in the event of an emergency, large equipment is not needed to remove trees in order to access the utility line. Staff is recommending that as part of the PUD, the applicant be given the option of placing a 6' solid fence in lieu of traditional landscape buffer vegetation. If landscaping is the chosen option, the proposed PUD requires vegetation equivalent with a traditional thirty foot wide buffer which is the equivalent of one overstory or evergreen tree, two understory trees, and six shrubs per thirty-five lineal feet of buffer. In this case, it would be necessary for the applicant to place the overstory and evergreen trees outside of the utility easement and buffer area. As part of the site layout, the applicant will need to determine how they can provide the buffering. Although the fence would be at the perimeter edge of the easement, staff proposes language in the PUD requiring the execution of a Indemnity/Hold Harmless Agreement should the fence be affected if access to the utility occurs.

- *Existing Single Family:* With the platting of the Country Side Plat 2 subdivision in 1990, a 60' landscape buffer was required to buffer the single family lots from the more intense uses proposed in the original BEH II PUD for this property. Up until 2009, City practice was for the first developing property to provide the buffer if such was required due to differing land uses. In 2009, an amendment to City Code changed this to be the more intense land use would provide the buffering. Although the proposed townhome project would be considered the more intense use, because a buffer was previously provided for the single family lots, in combination with the fact that the closest single family home is approximately seventy feet from the south property line of the townhome parcel and that the south approximately 35' of this townhome property is encumbered with various utility easements thus pushing the dwelling buildings north into the site, staff recommends that no buffer be required today of the townhomes. Staff does recommend PUD language that requires landscaping to be placed in the area south of the proposed townhome buildings to interrupt views from the existing single family homes to this property. Staff recommends vegetation within this area to be equal to that required of a traditional 60' wide buffer which is a minimum of one overstory or evergreen tree and three shrubs per thirty-five linear feet.

- *Building Setbacks:* The setback standards stated in the PUD for this Parcel B with non-residential land uses are 40' from EP True Parkway and S. 26th Street, 20' from the railroad, 35' from the east, and 50' from the south. The BEH II PUD includes another multi-family parcel which is located on the north side of EP True Parkway at 26th Street The setbacks required of that parcel are a 50' setback from EP True Parkway, 20' setback from the railroad, and 25' setback from the property to the west. The proposed PUD language indicates a merger of these requirements: 50' from the ultimate r.o.w. line of EP True Parkway, 35' from S. 26th Street, 20' along the railroad, 25' to the east, and 35' from the south boundary adjacent to the single family residential. Staff recommends the lesser standard against the single family due to the almost 100' of separation that will exist from the single family homes as a result of the various easements along the north boundary of the single family lots and the south boundary of this townhome parcel.

- *Neighborhood Meeting:* Staff requested that the applicant have a neighborhood meeting to discuss their intent to implement a townhome development on this parcel. Feedback from the consultant that is handling the project (Ed Arp) was that the neighbors raised concerns with potential increase in traffic, but no opposition to the townhomes. A letter from an area resident concerning traffic impacts is included as Attachment E. A traffic analysis was done by the City's Traffic Engineer. His analysis indicates that the proposed development is anticipated to generate significantly less traffic than the currently allowed uses for the site and there is adequate capacity in the system to accommodate the proposed townhome development. Due to the proximity of the railroad crossing and intersection of S. 26th Street with EP True Parkway, access is recommended to be off of S. 26th Street in the previously identified access easement and not to be off of EP True Parkway.

Comprehensive Plan Consistency: The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

Noticing Information: On October 2, 2015, a notice of the October 12, 2015, Plan and Zoning Commission and October 19, 2015, City Council public hearings was published in the *Des Moines Register*. Notice of this public hearing also was mailed to all surrounding property owners within 370 feet of the subject property on October 1, 2015. Included as Attachment 'E' is a letter from an area resident expressing concerns with potential increase in traffic.

Staff Recommendations and Conditions of Approval: Based upon the preceding review and a finding of consistency with the Comprehensive Plan, staff recommends that the Plan and Zoning Commission adopt a resolution recommending the City Council approve an amendment to the Comprehensive Plan Land Use Map for approximately 2.73 acres from Office (OF) to Medium Density Residential (MD) and approve an amendment to the BEH II Planned

Unit Development to accommodate townhome development on Parcel B located at the southeast corner of EP True Parkway and S26th Street, subject to the applicant meeting all City Code requirements.

Applicant:

Capital Homes of Iowa
Attn: Barrett Boesen
475 SE Alice's Road
Waukee, Iowa 50263
Barrett.Boesen@CapitalHomesIowa.com

Applicant Representative:

CEC Inc.
Ed Arp
2400 86th Street, unit 12
Des Moines, IA 50322
Arp@ceclac.com

Attachments:

Attachment A - Plan and Zoning Commission Resolution _ Comprehensive Plan Amendment
Attachment B - Plan and Zoning Commission Resolution – PUD Amendment
Exhibit A - Conditions
Attachment C - Location Maps
Attachment D - Proposed PUD Ordinance Amendment
Attachment E - Letter from the Public

ATTACHMENT A

RESOLUTION NO. PZC-15-079

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN AMENDMENT TO THE COMPREHENSIVE PLAN LAND USE MAP FOR 2.73 ACRES FROM OFFICE (OF) TO MEDIUM DENSITY RESIDENTIAL (MD)

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Capital Homes of Iowa, has requested an amendment to the Comprehensive Plan Land Use Map (CPA-002875-2015) to change the land use designation of approximately 2.73 acres from Office (OF) to Medium Density Residential (MD) located within part of the area legally described as:

Legal Description

LOTS 1 AND 2 AND OUTLOTS B AND D, DELAVAN PLAT 1, A SUBDIVISION IN THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA.

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on October 12, 2015, this Commission held a duly-noticed hearing to consider the application for Comprehensive Plan Amendment (CPA-002875-2015);

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The request for a change in the land use designation from Office (OF) to Medium Density Residential (MD) for approximately 2.73 acres generally located at the Southeast corner of EP True Parkway and S26th Street is recommended to the City Council for approval.

PASSED AND ADOPTED on October 12, 2015.

Craig Erickson, Chairperson
Plan and Zoning Commission

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on October 12, 2015, by the following vote:

AYES: Costa, Crowley, Erickson, Hatfield
NAYS: -0-
ABSTENTIONS: -0-
ABSENT: Brown, Andersen, Southworth

ATTEST:

Recording Secretary

ATTACHMENT B

RESOLUTION NO. PZC-15-080

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN AMENDMENT TO THE BEH II PLANNED UNIT DEVELOPMENT PUD TO ALLOW DEVELOPMENT OF 21 ATTACHED TOWNHOME UNITS

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Capital Homes of Iowa, has requested an amendment to the BEH II PUD (ZC-002816-2015) to modify regulations to allow development of 21 attached townhome units;

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on October 12, 2015, this Commission held a duly-noticed hearing to consider the application for Rezoning Request (ZC-002816-2015);

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report, dated October 12, 2015, or as amended orally at the Plan and Zoning Commission hearing of October 12, 2015, are adopted.

SECTION 2. REZONING REQUEST (ZC-002816-2015) to amend the BEH II PUD to allow development of 21 attached townhome units is recommended to the City Council for approval, subject to compliance with all the conditions in the staff report, dated October 12, 2015, including conditions added at the Hearing, and attached hereto as Exhibit "A", if any. Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on October 12, 2015.

Craig Erickson, Chairperson
Plan and Zoning Commission

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on October 12, 2015, by the following vote:

AYES: Costa, Crowley, Erickson, Hatfield
NAYS: -0-
ABSTENTIONS: -0-
ABSENT: Andersen, Brown, Southworth

ATTEST:

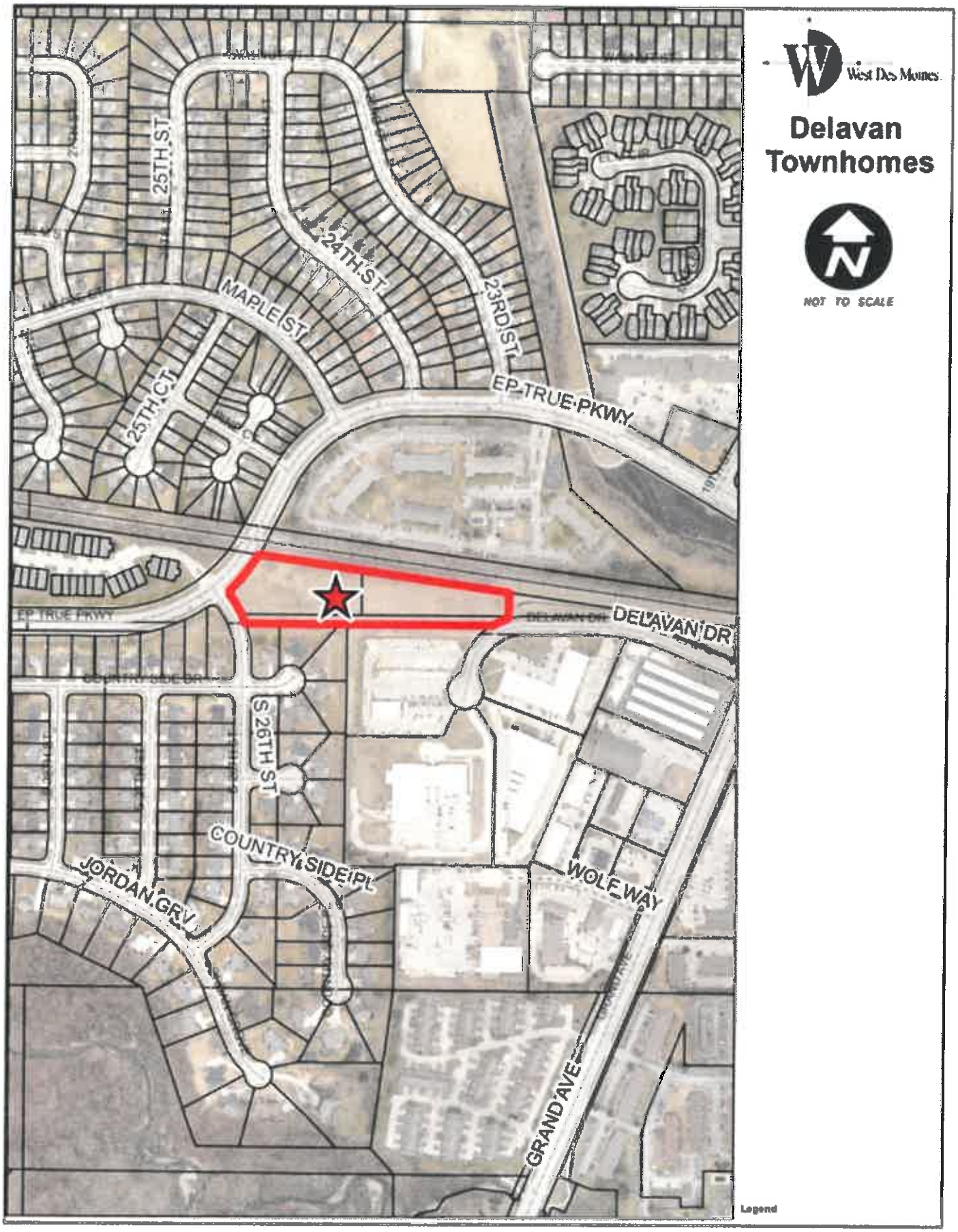
Recording Secretary

S:___Development Projects\BEH II PUD\Delevan Townhomes CPA – ZC\ CPA-002815-2015_ZC-002816-2015_SR_BEH II PUD Amendment_Delevan Townhomes_10-12-2015_PZ.docx

Exhibit A
CONDITIONS

No Conditions of Approval

ATTACHMENT C



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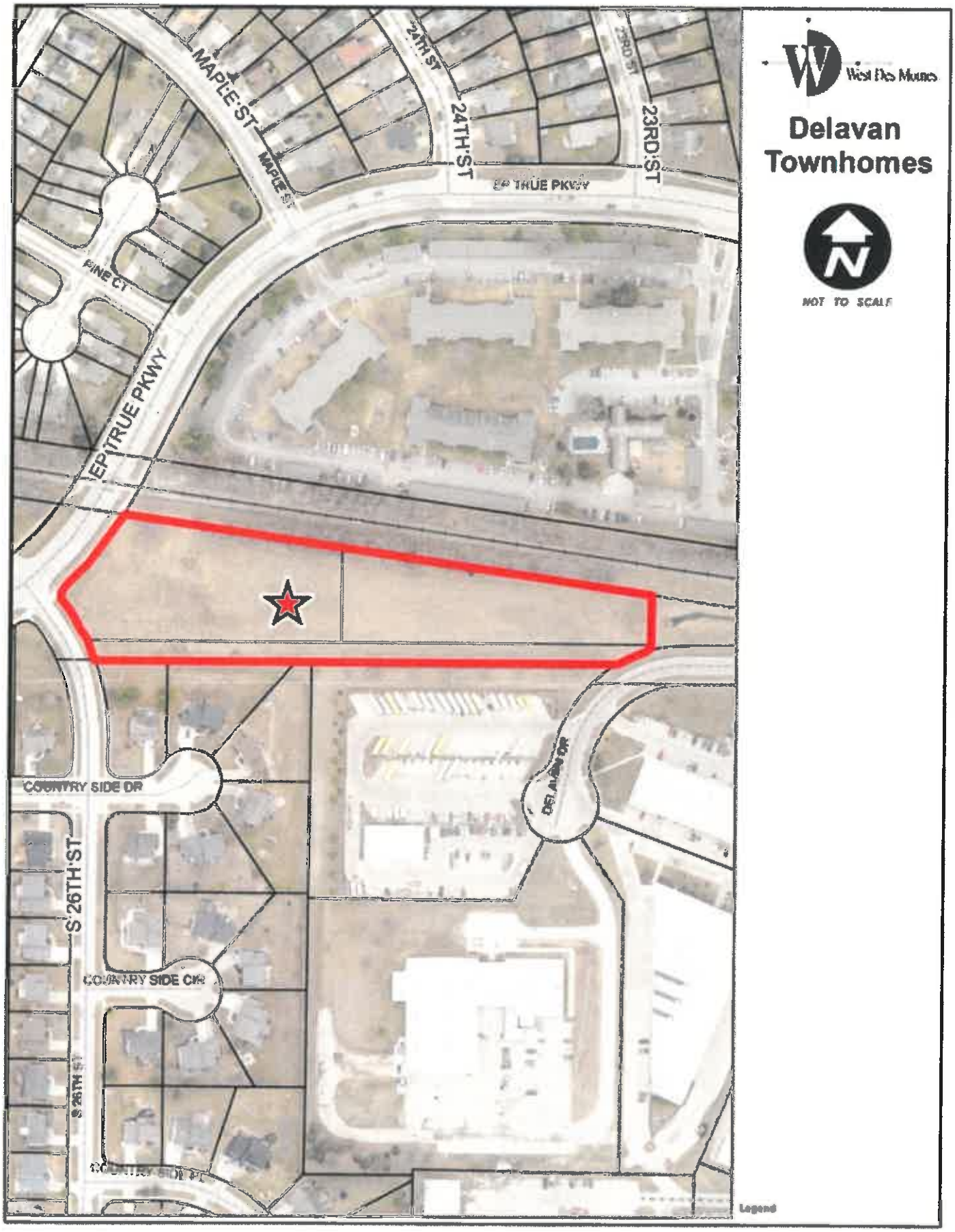

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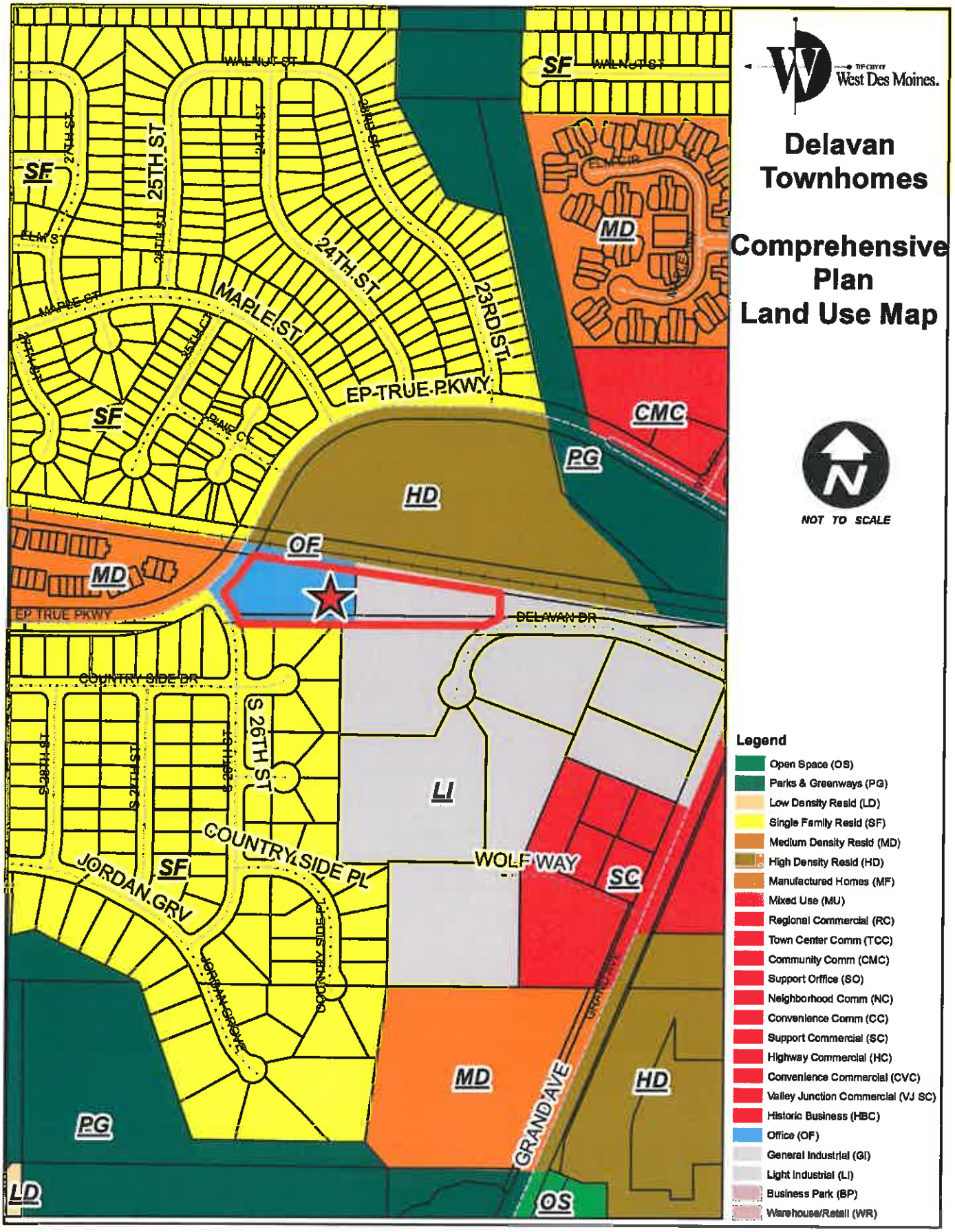
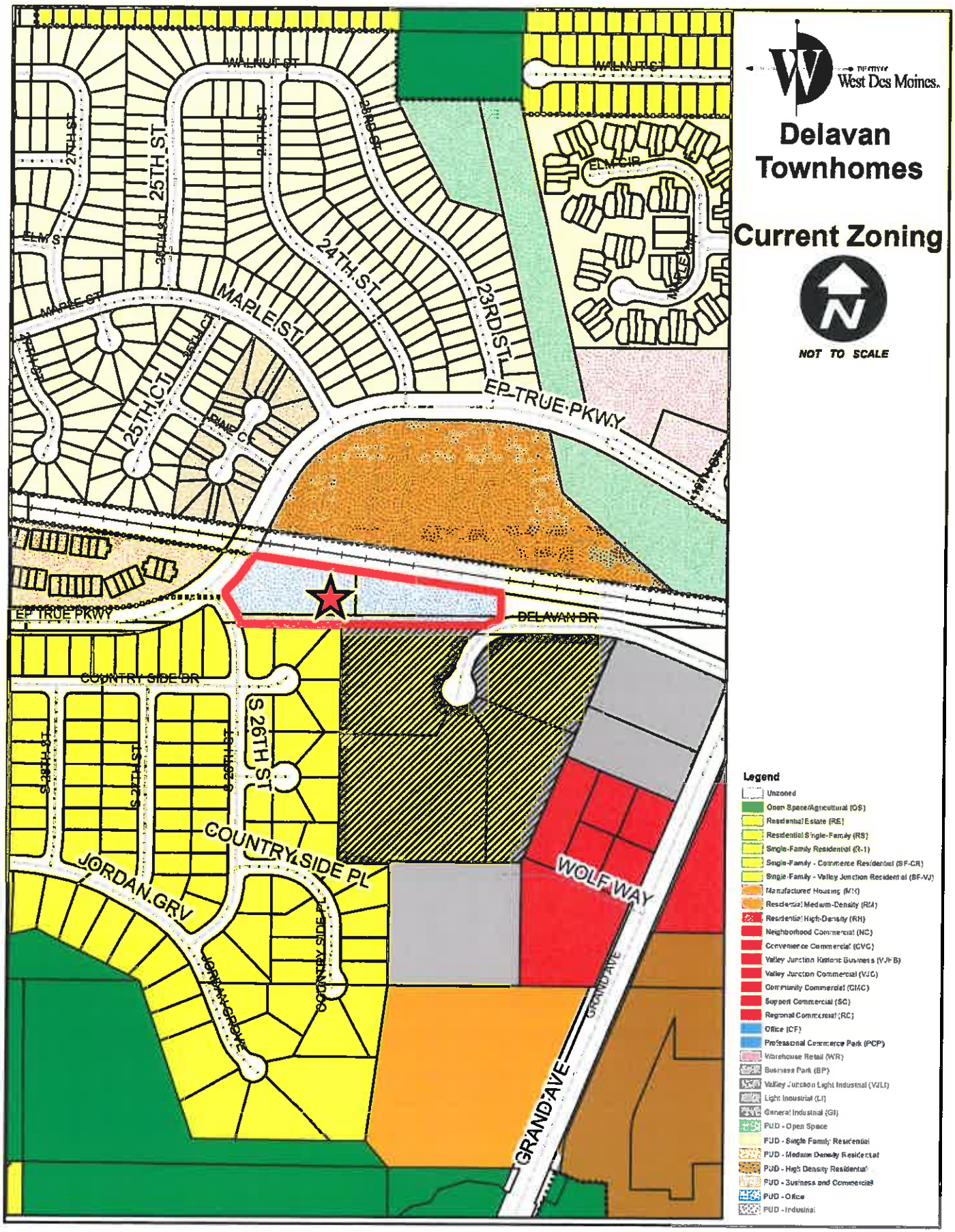

Delavan Townhomes
Comprehensive Plan Land Use Map
The City of West Des Moines
NOT TO SCALE
WALNUT ST
25TH ST
24TH ST
23RD ST
ELM ST
MAPLE ST
EP TRUE PKWY
PINE CT
DELAVAN DR
COUNTRY SIDE DR
S 26TH ST
COUNTRYSIDE PL
JORDAN GRV
JORDAN GROVE
WOLF WAY
GRAND AVE
SF
MD
CMC
PG
HD
OF
LI
SC
LD
OS
Legend
Open Space (OS)
Parks & Greenways (PG)
Low Density Resid (LD)
Single Family Resid (SF)
Medium Density Resid (MD)
High Density Resid (HD)
Manufactured Homes (MF)
Mixed Use (MU)
Regional Commercial (RC)
Town Center Comm (TCC)
Community Comm (CMC)
Support Office (SO)
Neighborhood Comm (NC)
Convenience Comm (CC)
Support Commercial (SC)
Highway Commercial (HC)
Convenience Commercial (CVC)
Valley Junction Commercial (VJ SC)
Historic Business (HBC)
Office (OF)
General Industrial (GI)
Light Industrial (LI)
Business Park (BP)
Warehouse/Retail (WR)


West Des Moines.
Delavan Townhomes
Current Zoning
NOT TO SCALE
WALNUT ST
WALNUT CT
27TH ST
25TH ST
26TH ST
24TH ST
23RD ST
ELM ST
ELM CIR
MAPLE ST
25TH CT
EP TRUE PKWY
DELAVAN DR
COUNTRY SIDE DR
S 26TH ST
S 28TH ST
S 27TH ST
COUNTRYSIDE PL
JORDAN GRV
JORDAN CREEK
WOLF WAY
GRAND AVE
Legend
Unzoned
Open Space/Agricultural (OS)
Residential Estate (RE)
Residential Single-Family (RS)
Single-Family Residential (R-1)
Single-Family - Commerce Residential (SF-CR)
Single-Family - Valley Junction Residential (SF-VJ)
Manufactured Housing (MH)
Residential Medium-Density (RM)
Residential High-Density (RH)
Neighborhood Commercial (NC)
Convenience Commercial (CVC)
Valley Junction Historic Business (VJHB)
Valley Junction Commercial (VJC)
Community Commercial (CMC)
Support Commercial (SC)
Regional Commercial (RC)
Office (OF)
Professional Commerce Park (PCP)
Warehouse Retail (WR)
Business Park (BP)
Valley Junction Light Industrial (VJLI)
Light Industrial (LI)
General Industrial (GI)
PUD - Open Space
PUD - Single Family Residential
PUD - Medium Density Residential
PUD - High Density Residential
PUD - Business and Commercial
PUD - Office
PUD - Industrial

ATTACHMENT D

Prepared by: J. B. Munford, Development Services, PO Box 65320, W.D.M., IA 50265-0320, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2015, AND ORDINANCES #846 AND #1430 PERTAINING TO P.U.D. (PLANNED UNIT DEVELOPMENT) DISTRICT REGULATIONS AND GUIDELINES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. AMENDMENT. Ordinance #846 and #1430 pertaining to the **BEH II Planned Unit Development (PUD)**, Section 3, *Conditions,* Subsection A, *General Conditions* is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

SECTION 3: CONDITIONS:

A. General Conditions: The sketch plan incorporates multi-family residential use and approximately ~~4.1~~ ***1.21*** acres of land reserved for nonresidential development which shall be distributed by area, type, use and location according to the sketch plan as presented.

1. All subdivisions, public streets, public street rights-of-way and general development shall adhere to the standards and design criteria set forth in the West Des Moines subdivision ordinance and the Des Moines metropolitan design standards as adopted by the city of West Des Moines pertaining thereto, unless otherwise stated within this ordinance.

2. Unless otherwise specified herein, the development of the BEH II PUD shall comply with ~~chapter 15 (off-street parking and loading areas), chapter 3 (general zoning provisions), and chapter 1 (entitlement process and procedures) of~~ title 9, zoning, of the West Des Moines city code.

3. In all areas within a 100-year frequency flood hazard zone, or adjoining drainageways, and detention ponding areas involving potential flood hazards, no building shall be erected which has a lowest floor, including basements, less than one foot (1') above the determined level of the 100-year frequency flood event, and no building shall be located within twenty five feet (25') of any easement or property boundary of a major drainageway, storm water detention basin or pond, unless said location is approved as part of a development entitlement by the city council and said building is structurally designed accordingly.

4. The developer, their successors and assigns, if any, shall pay all planning, engineering, and construction costs for the interior development of the planned unit development, for all streets, storm sewers, sanitary sewers, drainageway improvements, detention basins, water mains, buffers and other improvements within parcels A, B, and C of the PUD as may be required by this ordinance, the subdivision ordinance, the zoning ordinance, or the Des Moines metropolitan design standards as adopted by the city of West Des Moines

SECTION 2. AMENDMENT. Ordinance #846 and #1430 pertaining to the **BEH II Planned Unit Development (PUD)**, Section 3, *Conditions,* Subsection B, *Land Use Criteria*, number 2: *Parcel B* and number 3: *Parcel C* are hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

2. ~~Parcel B: The following general use regulations, performance standards, and provisions shall apply to all development proposals for that property within parcel B as shown on the sketch plan of the BEH II planned unit development:~~

~~a. The following uses shall be allowed within parcel B:~~

~~(1) Buildings and uses owned by a city, county, state, federal or other political subdivision which are operated for the social benefit of the public including: libraries, fire stations, postal distribution centers, and governmental offices, provided outdoor material and equipment storage yards shall be prohibited.~~

~~(2) Churches, with the approval of a permitted conditional use permit.~~

~~(3) Nursery schools for the day care or temporary overnight care of children, with the approval of a permitted conditional use permit.~~

~~(4) Private clubs, athletic and health centers, lodges and fraternal buildings, provided no retail sale and distribution of consumer products to the general public shall occur from the site.~~

~~(5) Professional and semiprofessional office buildings as allowed within the office (OF) zoning district, except depository institutions (SIC 60), and provided that no wholesale or retail sale and distribution of consumer products shall occur from the site.~~

~~b. Architecture and use of materials for the construction of any building shall be accomplished in a manner compatible and not conflicting with the residential uses within the neighborhood.~~

~~Architectural design shall be acceptable to the city, with all buildings required to use materials residential in character, materials of wood and/or brick exterior veneer and roof principally of a gable, mansard or hip style design. Regardless of use, all heating, ventilation, and air-conditioning mechanical units shall be screened as practical from adjoining residential developments.~~

~~c. No building shall be set closer than forty feet (40') from the ultimate right-of-way of E.P. True Parkway and South 26th Street; twenty feet (20') from the railroad right-of-way; thirty five feet (35') from the east parcel line, unless parcels B and C are developed jointly as a single site without any light industrial uses, in which case there shall be no setback; and fifty feet (50') from any residential lot along the south boundary of the parcel. The maximum building height for any building within parcel B shall be twenty four feet (24'). All accessory structures shall meet minimum setback requirements as set forth in chapter 7, setback and bulk density regulations, title 9, zoning, of the city code. Off street parking lots shall be sufficiently set back from E.P. True Parkway a minimum of twenty feet (20') and buffered as practical from all public streets and adjoining residential developments with the use of landscaping, earthberming and/or wall structures as may be required by the city.~~

2. ***Parcel B: All general use regulations, performance standards and provisions set forth in title 9, zoning ordinance, of the West Des Moines city code for the medium density residential district (RM) shall apply to any development proposal for the property within parcel B as shown on the sketch plan, except as otherwise provided herein. This area involves approximately 2.90 acres.***

   All non-residential uses shall be prohibited within parcel B.

   This parcel shall encompass a maximum of twenty-one (21) dwelling units which shall be developed with residential buildings no greater than two (2) stories in height, and of a design, scale and dwelling unit type

as shall be determined as part of a Site Plan review by the city for the entire parcel and shall be approved by the plan and zoning commission and city council.

This parcel shall be developed as a single master planned project with each building compatible in design, scale and use of cohesive materials. Design and use of materials for the construction of any building within parcel B shall be acceptable to the city and accomplished in a manner compatible with the adjoining residential uses in the neighborhood. Architectural design, materials, exterior details and textures, treatment of windows and doors, and use of angles and multiplicity of planes within the wall and roof design shall be residential in character. All ground mechanical units shall be screened from view from adjoining residential developments, all streets and private drives.

No building shall be set closer than fifty feet (50') from the right-of-way of E.P. True Parkway; thirty-five feet (35') from right-of-way of South 26th Street; twenty feet (20') from the railroad right-of-way; twenty five feet (25') from the east and thirty-five feet (35') from the south parcel line. All detached accessory structures shall meet minimum setback requirements as set forth in chapter 7, setback and bulk density regulations, title 9, zoning, of the city code. Off-street parking lots shall be sufficiently set back from E.P. True Parkway and S. 26th Street a minimum of thirty feet (30') and buffered as practical from all public streets and adjoining residential developments with the use of landscaping, earth berming and/or wall structures as may be required by the city.

Buffering and transition methods shall be required as set forth in Title 9, Chapter 19, Section 8E and Title 9, Chapter 5, Section 7C of city code unless noted otherwise below:

1. ***Minimum 30' buffer shall be required along EP True Parkway and S. 26th Street. Plantings shall be equal to that required per City Code for a standard 30' wide buffer.***
2. ***Minimum 20' buffer along the north adjacent to the railroad tracks. Buffer plantings shall be equal to that required per City Code for a standard 30' wide buffer. In lieu of buffer plantings, a 6' solid fence may be constructed at the property line. Prior to installation of the fence, the developer shall execute an Indemnity/Hold Harmless Agreement releasing the City of any responsibility for damages, repair, removal, or reinstallation should access to utilities within the easement area be necessary.***
3. ***No buffer shall be required along the east although mitigation of the future light industrial use is encouraged.***
4. ***No buffer shall be required along the south; however, landscape vegetation shall be located immediately north of the access drive to interrupt views from the existing single family homes. Vegetation in this area shall be equal to that required per City Code for a standard 60' wide buffer.***
5. ***The placement of vegetation within any public easement shall be limited to understory trees, shrubs, grasses and perennials unless otherwise further restricted per the easement document. No overstory or evergreen trees are allowed within a public easement.***

3. Parcel C: The following general use regulations, performance standards, and provisions shall apply to all development proposals for that property within parcel C as shown on the sketch plan of the BEH II planned unit development:

   a. The following uses shall be allowed within parcel C:

      ~~(1) Any use allowed in parcel B.~~

      ~~(2)~~ *(1)* All permitted and permitted conditional uses allowed within the light industrial (LI) zoning district, except the following uses which shall be prohibited:

      Construction and contractor's operations and storage yards (SIC 15, 16, and 17)

      Fabricated metal products, except machinery and transportation equipment (SIC 34)

      Grain mill products (SIC 204)

      Ready-mixed concrete (SIC 3273)

Tobacco products (SIC 21)

Fuel dealers (SIC 598)

Automotive repair, services, and parking (SIC 75)

Heavy construction equipment rental and leasing (7353)

Guard dogs (part of SIC 7381)

Photo finish labs (SIC 7384)

Welding repair (SIC 7692)

Tank repair and cleaning services, metal reshaping and replating services, recreation vehicle repair services, agricultural equipment repair services, miscellaneous automotive repair services (all part of SIC 7694)

Personal services (SIC 72)

Bus terminal operations (part of SIC 41)

Railroad transportation (SIC 40)

Transportation by air (SIC 45)

Transportation services (SIC 47)

Special warehousing and storage, not elsewhere classified (SIC 4226)

Terminal and joint terminal maintenance facilities for motor freight transportation (SIC 423)

b. Architecture and use of materials for the construction of any building shall be accomplished in a manner compatible and not conflicting with the residential uses within the neighborhood.

Architectural design shall be acceptable to the city, with all uses which are allowed in parcel C being required to use materials which are residential in character, materials of wood and/or brick exterior veneer and a roof principally of a gable, mansard or hip style design. Regardless of use, all heating, ventilation, and air-conditioning mechanical units shall be screened as practical from adjoining residential developments.

c. No building shall be set closer than forty five feet (45') from the ultimate right-of-way of Delavan Drive; twenty feet (20') from the railroad right-of-way; thirty five feet (35') from the west parcel line, ~~unless parcels B and C are developed jointly as a single site without any light industrial uses, in which case there shall be no setback;~~ and thirty five feet (35') from the east and south parcel boundary lines. The maximum building height for any building within parcel C shall be twenty four feet (24'). All accessory structures shall meet minimum setback requirements as set forth in chapter 7, setback and bulk density regulations, title 9, zoning, of the city code. Off-street parking lots shall be sufficiently set back from Delavan Drive a minimum of ten feet (10') and buffered with the use of landscaping, earthberming and/or wall structures as may be required by the city. (Ord. 1430, 1-8-2001)

SECTION 3. AMENDMENT. Ordinance #846 and #1430 pertaining to the **BEH II Planned Unit Development (PUD)**, Section 4, *Review Process* is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

SECTION 4: REVIEW PROCESS:
As part of the approval process, any development which shall occur on parcels A, B, and C shall be submitted

through the site plan or permitted conditional use permit review process and approved by the ~~city council after a recommendation from the plan and zoning commission~~ ***appropriate authority*** in accordance with chapter 1, entitlement, title 9, zoning, of the West Des Moines city code.

SECTION 4. AMENDMENT. Ordinance #846 and #1430 pertaining to the **BEH II Planned Unit Development (PUD)**, Section 10, *Traffic Reports,* is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

SECTION 10: TRAFFIC REPORTS:
~~Prior to, or in conjunction with the development of any parcel, or portion of a parcel, the developer shall have the traffic report reviewed by a traffic consultant to ensure that the provisions and assumptions of the original traffic report are not negatively impacted or changed by the proposed development. A written evaluation shall be submitted to the city that shall identify what the impacts of the development of that parcel will have on the existing street system and what improvements are necessary for the safe and orderly movement of traffic in and around the area. The developer shall be responsible for the full cost associated with any improvements necessary to mitigate additional traffic generated as a result of the development.~~

Prior to development of any parcel within the PUD, a Traffic Analysis completed by the City for the purpose of determining traffic impacts and required improvements that would be necessary for the safe and orderly movement of vehicles into and around the proposed development. The developer shall be responsible for the full cost associated with any improvements necessary to mitigate additional traffic generated as a result of the development.

SECTION 5. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase or part of the Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 6. VIOLATIONS AND PENALTIES. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in 1-4-1 of the City Code of the City of West Des Moines, Iowa.

SECTION 7. OTHER REMEDIES. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

SECTION 8. EFFECTIVE DATE. This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

Passed and approved by the City Council on this ____ day of _____ 2015.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____ 2015.

_____
Ryan T. Jacobson, City Clerk

REVISED BEH II P.U.D.

LEGAL DESCRIPTION

A parcel of land in the southwest ¼ of Section 9, T-78N, R-25W of the 5th P.M. City of West Des Moines, Polk County, Iowa, that is more particularly described as follows:

Commencing as a point of reference at the southeast corner of said Section 9; thence N89°58'30"W, 1483.70 feet along the south line of Section 9 to a point; thence N00°01'30"E, 33.00 feet to a point on the right-of-way (R.O.W.) line of Delavan Drive and the point of beginning; thence N89°58'30"W, 1183.65 feet along said north R.O.W. line to the south ¼ corner of Section 9; thence S89°59'10"W, 1328.01 feet along said north R.O.W. line to the southwest corner of the southeast ¼ of the southwest ¼ of Section 9; thence N00°07'36"E, 526.72 feet along the west line of the southeast ¼ of the southwest ¼ of Section 9 to a point on the south R.O.W. line of the C & NW Railroad; thence S81°46'00"E, 2536.71 feet along said south R.O.W. line to a point; thence S00°01'30"W, 163.64 feet to the point of beginning and containing 19.889 acres more or less.

and,

that part of Lot 1 not included in the above described parcel, Lot 2, Outlot "B" and Outlot "D", of said Delavan Plat 1 an official plat, now in and forming a part of the City of West Des Moines, Polk County, Iowa

except,

That part of Lots 5 & 6, Country Side Plat 2, an official plat, now in and forming a part of the City of West Des Moines, Polk County, Iowa that lies within the above described parcel.

LEGEND

P.U.D. boundary

Section line

NORTH

SCALE: 1"=400'

0' 100' 200' 400'

CIVIL ENGINEERING CONSULTANTS, INC.
2400 86TH STREET, UNIT 12 DES MOINES, IOWA 50322-4379
PHONE: 515.276.4884 FAX: 515.276.7084

Q:\A-FILES\A-1700\A1728\info from others\E4444-NEW PUD-ALL.dwg, 10/7/2015 2:07:32 PM, pdoanetto, 1:397.8

ATTACHMENT E

RECEIVED
CITY OF WEST DES MOINES
DEVELOPMENT SERVICES

John D. Hintze

2508 Jordan Grove
West Des Moines, IA 50265
(515) 225-0690

October 6, 2015

West Des Moines Plan and Zoning
Commission
Development Services Department
4200 Mills Civic Parkway, Suite 2D
PO Box 65320
West Des Moines, IA 50265

Re: Delavan Town Homes

Dear Commission Members:

I am writing in opposition to the construction of the Delavan Town Homes to be considered at the public hearing of the Plan and Zoning Commission on Monday, October 12, 2015, if access to the property is contemplated from South 26th Street or EP True Parkway. My objection is based solely upon safety and traffic issues. Access to EP True Parkway from South 26th Street is already very problematic at the present time. The additional population density will exacerbate the already difficult traffic condition.

In an effort for people to make a left turn onto EP True Parkway, they are already pulling in front of oncoming west bound traffic resulting in many close calls for those who are daring and substantial wait time for those who are patient. In order to consider additional density in that already busy intersection, a traffic solution must be achieved. Access to the property should be restricted to sole access from Delavan Drive. The subject property should not be permitted to have access to either South 26th Street or EP True Parkway.

If traffic from the project is permitted to have access through South 26th Street, a right turn lane from South 26th Street onto EP True Parkway must be required. I also think that a traffic light would be needed to reduce the safety risk.

I do not object to the development of the property and I realize that the owner has the right to use of the property, but I strongly object to use of the property that will increase safety hazards and traffic congestion. My issues can be resolved if access to the property is restricted to be solely from Delavan Drive, and no access to the property is permitted from either South 26th Street or EP True Parkway.

I will be out of town the date of the public hearing, but I request that my letter be presented to the Plan and Zoning Commission prior to the formulation of their recommendation to the City Council. Thank you for your attention to my request.

Very truly yours,

John D. Hintze
#01160314

EXHIBIT II

Prepared by: J. B. Munford, Development Services PO Box 65320 West Des Moines IA 50265-0320 (515)222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES APPROVING THE COMPREHENSIVE PLAN AMENDMENT (CPA-002875-2015) TO AMEND THE COMPREHENSIVE PLAN LAND USE MAP FOR APPROXIMATELY 2.24 ACRES FROM OFFICE (OF) TO MEDIUM DENSITY RESIDENTIAL (MD)

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, Capital Homes of Iowa has requested approval for a Comprehensive Plan Amendment to amend the Comprehensive Plan Land Use Plan for the property legally described as:

Legal Description

LOTS 1 AND OUTLOT B, DELAVAN PLAT 1, A SUBDIVISION IN THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA.

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on October 12, 2015, the Plan and Zoning Commission did recommend the City Council approve the Comprehensive Plan Amendment;

WHEREAS, on November 16, 2015, this City Council held a duly-noticed public hearing to consider the application for Comprehensive Plan Amendment;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA DOES HEREBY FIND AND RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report for the hearing or as amended orally at the City Council hearing are adopted.

SECTION 2. The amendment of the Comprehensive Plan Land Use Map as described above is hereby adopted.

PASSED AND ADOPTED on November 16, 2015.

Steven K. Gaer
Mayor

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Des Moines, Iowa, at a regular meeting held on November 16, 2015, by the following vote:

ATTEST:

Ryan T. Jacobson, City Clerk

EXHIBIT III

Prepared by: J. B. Munford, Development Services, PO Box 65320, W.D.M., IA 50265-0320, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2015, AND ORDINANCES #846 AND #1430 PERTAINING TO P.U.D. (PLANNED UNIT DEVELOPMENT) DISTRICT REGULATIONS AND GUIDELINES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. AMENDMENT. Ordinance #846 and #1430 pertaining to the **BEH II Planned Unit Development (PUD)**, Section 3, *Conditions,* Subsection A, *General Conditions* is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

SECTION 3: CONDITIONS:

B. General Conditions: The sketch plan incorporates multi-family residential use and approximately ~~4.1~~ ***1.86*** acres of land reserved for nonresidential development which shall be distributed by area, type, use and location according to the sketch plan as presented.

1. All subdivisions, public streets, public street rights-of-way and general development shall adhere to the standards and design criteria set forth in the West Des Moines subdivision ordinance and the Des Moines metropolitan design standards as adopted by the city of West Des Moines pertaining thereto, unless otherwise stated within this ordinance.

2. **Unless otherwise specified herein, the development of the BEH II PUD shall comply with** ~~chapter 15 (off-street parking and loading areas), chapter 3 (general zoning provisions), and chapter 1 (entitlement process and procedures.) of~~ title 9, zoning, of the West Des Moines city code.

3. In all areas within a 100-year frequency flood hazard zone, or adjoining drainageways, and detention ponding areas involving potential flood hazards, no building shall be erected which has a lowest floor, including basements, less than one foot (1') above the determined level of the 100-year frequency flood event, and no building shall be located within twenty five feet (25') of any easement or property boundary of a major drainageway, storm water detention basin or pond, unless said location is approved as part of a development entitlement by the city council and said building is structurally designed accordingly.

4. The developer, their successors and assigns, if any, shall pay all planning, engineering, and construction costs for the interior development of the planned unit development, for all streets, storm sewers, sanitary sewers, drainageway improvements, detention basins, water mains, buffers and other improvements within parcels A, B, and C of the PUD as may be required by this ordinance, the subdivision ordinance, the

zoning ordinance, or the Des Moines metropolitan design standards as adopted by the city of West Des Moines

SECTION 2. AMENDMENT. Ordinance #846 and #1430 pertaining to the **BEH II Planned Unit Development (PUD)**, Section 3, *Conditions,* Subsection B, *Land Use Criteria*, number 2: *Parcel B* and number 3: *Parcel C* are hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

2. ~~Parcel B: The following general use regulations, performance standards, and provisions shall apply to all development proposals for that property within parcel B as shown on the sketch plan of the BEH II planned unit development:~~

~~a. The following uses shall be allowed within parcel B:~~

~~(1) Buildings and uses owned by a city, county, state, federal or other political subdivision which are operated for the social benefit of the public including: libraries, fire stations, postal distribution centers, and governmental offices, provided outdoor material and equipment storage yards shall be prohibited.~~

~~(2) Churches, with the approval of a permitted conditional use permit.~~

~~(3) Nursery schools for the day care or temporary overnight care of children, with the approval of a permitted conditional use permit.~~

~~(4) Private clubs, athletic and health centers, lodges and fraternal buildings, provided no retail sale and distribution of consumer products to the general public shall occur from the site.~~

~~(5) Professional and semiprofessional office buildings as allowed within the office (OF) zoning district, except depository institutions (SIC 60), and provided that no wholesale or retail sale and distribution of consumer products shall occur from the site.~~

~~b. Architecture and use of materials for the construction of any building shall be accomplished in a manner compatible and not conflicting with the residential uses within the neighborhood.~~

~~Architectural design shall be acceptable to the city, with all buildings required to use materials residential in character, materials of wood and/or brick exterior veneer and roof principally of a gable, mansard or hip style design. Regardless of use, all heating, ventilation, and air-conditioning mechanical units shall be screened as practical from adjoining residential developments.~~

~~c. No building shall be set closer than forty feet (40') from the ultimate right-of-way of E.P. True Parkway and South 26th Street; twenty feet (20') from the railroad right-of-way; thirty five feet (35') from the east parcel line, unless parcels B and C are developed jointly as a single site without any light industrial uses, in which case there shall be no setback; and fifty feet (50') from any residential lot along the south boundary of the parcel. The maximum building height for any building within parcel B shall be twenty four feet (24'). All accessory structures shall meet minimum setback requirements as set forth in chapter 7, setback and bulk density regulations, title 9, zoning, of the city code. Off street parking lots shall be sufficiently set back from E.P. True Parkway a minimum of twenty feet (20') and buffered as practical from all public streets and adjoining residential developments with the use of landscaping, earthberming and/or wall structures as may be required by the city.~~

3. ***Parcel B: All general use regulations, performance standards and provisions set forth in title 9, zoning ordinance, of the West Des Moines city code for the medium density residential district (RM) shall apply to any development proposal for the property within parcel B as shown on the sketch plan, except as otherwise provided herein. This area involves approximately 2.24 acres.***

All non-residential uses shall be prohibited within parcel B.

This parcel shall encompass a maximum of sixteen (16) horizontal attached dwelling units (no living above living) which shall be developed with residential buildings no greater than two (2) stories in height, and of a design, scale and dwelling unit type as shall be determined as part of a Site Plan review by the city for the entire parcel and shall be approved by the plan and zoning commission and city council.

This parcel shall be developed as a single master planned project with each building compatible in design, scale and use of cohesive materials. Design and use of materials for the construction of any building within parcel B shall be acceptable to the city and accomplished in a manner compatible with the adjoining residential uses in the neighborhood. Architectural design, materials, exterior details and textures, treatment of windows and doors, and use of angles and multiplicity of planes within the wall and roof design shall be residential in character. All ground mechanical units shall be screened from view from adjoining residential developments, all streets and private drives.

No building shall be set closer than fifty feet (50') from the right-of-way of E.P. True Parkway; thirty-five feet (35') from right-of-way of South 26th Street; twenty feet (20') from the railroad right-of-way; twenty five feet (25') from the east and thirty-five feet (35') from the south parcel line. All detached accessory structures shall meet minimum setback requirements as set forth in chapter 7, setback and bulk density regulations, title 9, zoning, of the city code. Off-street parking lots shall be sufficiently set back from E.P. True Parkway and S. 26th Street a minimum of thirty feet (30') and buffered as practical from all public streets and adjoining residential developments with the use of landscaping, earth berming and/or wall structures as may be required by the city.

Buffering and transition methods shall be required as set forth in Title 9, Chapter 19, Section 8E and Title 9, Chapter 5, Section 7C of city code unless noted otherwise below:

6 ***Minimum 30' buffer shall be required along EP True Parkway and S. 26th Street. Plantings shall be equal to that required per City Code for a standard 30' wide buffer.***
7 ***Minimum 20' buffer along the north adjacent to the railroad tracks. Buffer plantings shall be equal to that required per City Code for a standard 30' wide buffer. In lieu of buffer plantings, a 6' solid fence may be constructed at the property line. Prior to installation of the fence, the developer shall execute an Indemnity/Hold Harmless Agreement releasing the City of any responsibility for damages, repair, removal, or reinstallation should access to utilities within the easement area be necessary.***
8 ***No buffer shall be required along the east although mitigation of the future light industrial use is encouraged.***
9 ***No buffer shall be required along the south; however, landscape vegetation shall be located immediately north of the access drive to interrupt views from the existing single family homes. Vegetation in this area shall be equal to that required per City Code for a standard 60' wide buffer.***
10 ***The placement of vegetation within any public easement shall be limited to understory trees, shrubs, grasses and perennials unless otherwise further restricted per the easement document. No overstory or evergreen trees are allowed within a public easement.***

3. Parcel C: The following general use regulations, performance standards, and provisions shall apply to all development proposals for that property within parcel C as shown on the sketch plan of the BEH II planned unit development:

   b. The following uses shall be allowed within parcel C:
      ~~(2) Any use allowed in parcel B.~~
      ~~(2)~~ *(1)* All permitted and permitted conditional uses allowed within the light industrial (LI) zoning district, except the following uses which shall be prohibited:

         Construction and contractor's operations and storage yards (SIC 15, 16, and 17)

         Fabricated metal products, except machinery and transportation equipment (SIC 34)

Grain mill products (SIC 204)

Ready-mixed concrete (SIC 3273)

Tobacco products (SIC 21)

Fuel dealers (SIC 598)

Automotive repair, services, and parking (SIC 75)

Heavy construction equipment rental and leasing (7353)

Guard dogs (part of SIC 7381)

Photo finish labs (SIC 7384)

Welding repair (SIC 7692)

Tank repair and cleaning services, metal reshaping and replating services, recreation vehicle repair services, agricultural equipment repair services, miscellaneous automotive repair services (all part of SIC 7694)

Personal services (SIC 72)

Bus terminal operations (part of SIC 41)

Railroad transportation (SIC 40)

Transportation by air (SIC 45)

Transportation services (SIC 47)

Special warehousing and storage, not elsewhere classified (SIC 4226)

Terminal and joint terminal maintenance facilities for motor freight transportation (SIC 423)

b. Architecture and use of materials for the construction of any building shall be accomplished in a manner compatible and not conflicting with the residential uses within the neighborhood.

Architectural design shall be acceptable to the city, with all uses which are allowed in parcel C being required to use materials which are residential in character, materials of wood and/or brick exterior veneer and a roof principally of a gable, mansard or hip style design. Regardless of use, all heating, ventilation, and air-conditioning mechanical units shall be screened as practical from adjoining residential developments.

c. No building shall be set closer than forty five feet (45') from the ultimate right-of-way of Delavan Drive; twenty feet (20') from the railroad right-of-way; thirty five feet (35') from the west parcel line, ~~unless parcels B and C are developed jointly as a single site without any light industrial uses, in which case there shall be no setback;~~ and thirty five feet (35') from the east and south parcel boundary lines. The maximum building height for any building within parcel C shall be twenty four feet (24'). All accessory structures shall meet minimum setback requirements as set forth in chapter 7, setback and bulk density regulations, title 9, zoning, of the city code. Off-street parking lots shall be sufficiently set back from Delavan Drive a minimum of ten feet (10') and buffered with the use of landscaping, earthberming and/or wall structures as may be required by the city. (Ord. 1430, 1-8-2001)

SECTION 3. AMENDMENT. Ordinance #846 and #1430 pertaining to the **BEH II Planned Unit Development**

(PUD), Section 4, *Review Process* is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

SECTION 4: REVIEW PROCESS:
As part of the approval process, any development which shall occur on parcels A, B, and C shall be submitted through the site plan or permitted conditional use permit review process and approved by the ~~city council after a recommendation from the plan and zoning commission~~ ***appropriate authority*** in accordance with chapter 1, entitlement, title 9, zoning, of the West Des Moines city code.

SECTION 4. AMENDMENT. Ordinance #846 and #1430 pertaining to the **BEH II Planned Unit Development (PUD)**, Section 10, *Traffic Reports,* is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

SECTION 10: TRAFFIC REPORTS:
~~Prior to, or in conjunction with the development of any parcel, or portion of a parcel, the developer shall have the traffic report reviewed by a traffic consultant to ensure that the provisions and assumptions of the original traffic report are not negatively impacted or changed by the proposed development. A written evaluation shall be submitted to the city that shall identify what the impacts of the development of that parcel will have on the existing street system and what improvements are necessary for the safe and orderly movement of traffic in and around the area. The developer shall be responsible for the full cost associated with any improvements necessary to mitigate additional traffic generated as a result of the development.~~

Prior to development of any parcel within the PUD, a Traffic Analysis completed by the City for the purpose of determining traffic impacts and required improvements that would be necessary for the safe and orderly movement of vehicles into and around the proposed development. The developer shall be responsible for the full cost associated with any improvements necessary to mitigate additional traffic generated as a result of the development.

SECTION 5. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase or part of the Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 6. VIOLATIONS AND PENALTIES. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in 1-4-1 of the City Code of the City of West Des Moines, Iowa.

SECTION 7. OTHER REMEDIES. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

SECTION 8. <u>EFFECTIVE DATE.</u> This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

Passed and approved by the City Council on this ____ day of _____ 2015.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____ 2015.

_____
Ryan T. Jacobson, City Clerk

REVISED BEH II P.U.D.

LEGAL DESCRIPTION

A parcel of land in the southwest ¼ of Section 9, T-78N, R-25W of the 5th P.M. City of West Des Moines, Polk County, Iowa, that is more particularly described as follows:

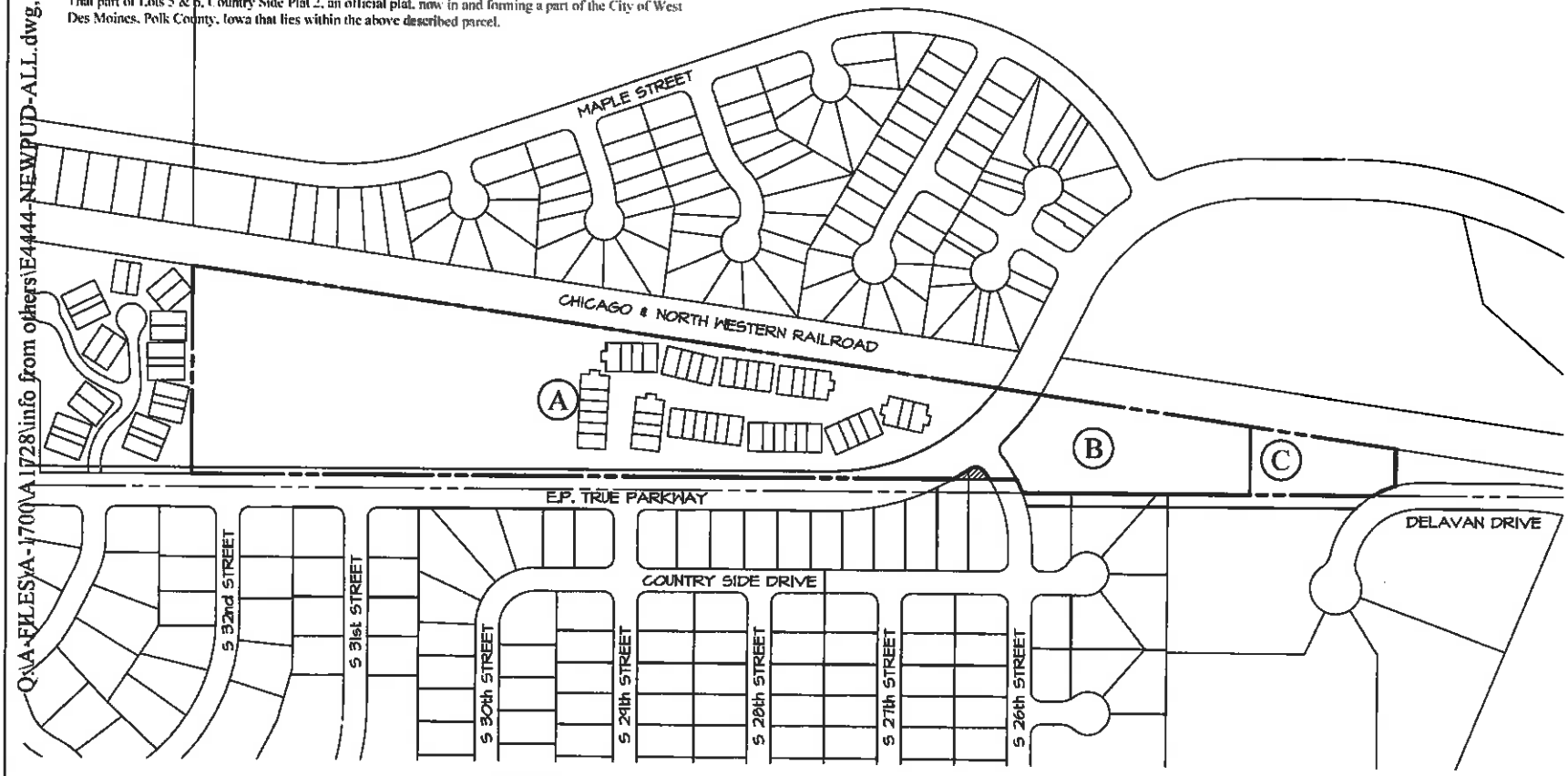
Commencing as a point of reference at the southeast corner of said Section 9; thence N89°58'30"W, 1483.70 feet along the south line of Section 9 to a point; thence N00°01'30"E, 33.00 feet to a point on the right-of-way (R.O.W.) line of Delavan Drive and the point of beginning; thence N89°58'30"W, 1183.65 feet along said north R.O.W. line to the south ¼ corner of Section 9; thence S89°59'10"W, 1328.01 feet along said north R.O.W. line to the southwest corner of the southeast ¼ of the southwest ¼ of Section 9; thence N00°07'36"E, 526.72 feet along the west line of the southeast ¼ of the southwest ¼ of Section 9 to a point on the south R.O.W. line of the C & NW Railroad; thence S81°46'00"E, 2536.71 feet along said south R.O.W. line to a point; thence S00°01'30"W, 163.64 feet to the point of beginning and containing 19.889 acres more or less.

and,

that part of Lot 1 not included in the above described parcel, Lot 2, Outlot "B" and Outlot "D", of said Delavan Plat 1 an official plat, now in and forming a part of the City of West Des Moines, Polk County, Iowa

except,

That part of Lots 5 & 6, Country Side Plat 2, an official plat, now in and forming a part of the City of West Des Moines, Polk County, Iowa that lies within the above described parcel.



LEGEND

P.U.D. boundary

Section line

NORTH

SCALE: 1"=400'

0' 100' 200' 400'

CIVIL ENGINEERING CONSULTANTS, INC.
2400 86TH STREET, UNIT 12 DES MOINES, IOWA 50322-4379
PHONE: 515.276.4884 FAX: 515.276.7084

Q:\A-FILES\A-1700\A1728\info from others\E4444-NEWPUD-ALL.dwg, 10/7/2015 2:07:32 PM, pdoanetto, 1:397.8