CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: December 12, 2016

ITEM: Munro et. al., 2480, 2580, 2640, and 2720 SE 11th Street – Change the Comprehensive Land Use map and Change the Zoning designation of part of the properties from Medium Density Residential to Single Family Residential Estate– Margaret Munro – CPA-003277-2016/ZC-003278-2016

RESOLUTION: Approval of Comprehensive Plan Amendment
ORDINANCE: Approval of First Reading of Ordinance

FINANCIAL IMPACT: Undetermined.

BACKGROUND: Margaret Munro, 2480 SE 11th Street; George Heddinger 2580 SE 11th Street; Melvin Rosario, 2640 SE 11th Street; and Bryan Boisen, 2720 SE 11th Street are seeking approval of a change in land use designation and zoning district for that part of their property currently designated Medium Density Residential on the Comprehensive Plan and Residential Medium Density (RM-8) on the Zoning Map to Low Density Residential and (Single Family) Residential Estate (RE-1A) (see Exhibit I - Attachment C – Location Map, Attachment D – Land Use Maps and Attachment E - Zoning Maps).

The applicants also are seeking to have the fees (in the total amount of $1,294.39) for the Comprehensive Plan Land Use Map amendment and the Rezoning to be refunded as they believe that they were not noticed of the change that occurred in 2005 as discussed below (see Exhibit I - Attachment F – Applicants' Letter regarding the fees).

PLAN AND ZONING COMMISSION ACTION:
Vote: 4-0 approval, with Commissioner Brown, Costa, and Southworth absent.
Date: December 5, 2016
Motion: Adopt a resolution recommending the City Council approve the request to change the Comprehensive Plan Land Use Map
Motion: Adopt a resolution recommending the City Council approve the proposed ordinance to change the Zoning Map
** The Plan and Zoning Commission did not make a recommendation either way on refunding of the fees since required fees is under the City Council's authority.

CITY COUNCIL SUBCOMMITTEE: This item was presented to the Development and Planning City Council Subcommittee on November 28, 2016. The Subcommittee supported the change in the land use designations and the rezoning. The request to have the fees waived was not discussed as this is considered a full City Council decision.

OUTSTANDING ISSUES: There are no outstanding issues with the Plan & Zoning Commission recommendation; however, staff needs direction from the City Council on the disposition of the fees associated with the comprehensive Plan amendment and the rezoning request.

Citizen Comment Letter: After the staff report for the Plan & Zoning Commission was published and prior to the public hearing held by the Plan & Zoning Commission staff received an email from Jon Paulsen, a property owner immediately east to the proposed rezoning area, regarding opposition to the rezoning. His property is zoned Residential Medium Density (RM-8). Mr. Paulsen is opposed to the change as it places buffer requirements onto his property. A copy of the letter was presented to the Plan & Zoning Commission on the dais prior to the public hearing. A copy of this letter is attached at Exhibit II – Citizen Comment Letter. Mr. Paulsen reiterated his objection to the change in use and zoning in an email with staff (see Exhibit III – Email with Mr. Paulsen).

Fees: The fees total $1,294.39 which includes the application fees for the comprehensive plan land use map amendment, the application fees for the rezoning request, the traffic study fee, and the public hearing noticing fee for the requested actions. The applicants have submitted a letter requesting a refund of the fees as they believe they were not noticed of the comprehensive plan land use amendments and rezoning of the area that were undertaken in the southeast area of the city resulting in the current land use and zoning designations.

Attached as Exhibit IV is a copy of the noticing that was sent to property owners in the area on March 3, 2004. Included in the notice was the dates of both the Plan & Zoning Commission and the City Council public hearings for the proposed changes to the Comprehensive Plan Land Use Map. Included in the mailing list were the property owners of the subject property at the time. The notice was published in the paper and sent to property owners affected by the changes, within 370 feet of a change, or who specifically requested to be noticed.

When the consistency zoning occurred in 2005, which was a city-initiated request to rezone property to be consistent with the Comprehensive Plan, two notices were sent to property owners affected by the rezoning request. Attached as Exhibit V is a copy of the notices sent to property owners in late February 2005 for the Plan & Zoning Commission and in late March 2005 for the City Council public hearings.

These copies of the notices illustrate what was sent by the City in three separate notices of the actions of the City to assign land use designations and to zone property to the property owners in the subject area.

RECOMMENDATION - COMPREHENSIVE PLAN LAND USE MAP AMENDMENT: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approve the Comprehensive Plan Land Use map amendment to change the land use designation for a portion of the property located at 2480, 2580, 2640, and 2720 SE 11th Street from Medium Density Residential (MD) to Low Density Residential (LD) as illustrated in Exhibit VI– Comprehensive Plan Land Use Map Amendment resolution.

RECOMMENDATION – REZONING REQUEST: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approve the of a zone change for a portion of the property located at 2480, 2580, 2640, and 2720 SE 11th Street from Residential Medium Density (RM-8) to Residential Estate (RE-1A) as illustrated in Exhibit VII – Rezoning Ordinance.

Lead Planner: Kara Tragesser, AICP KT

Staff Reviews:

Department Director	LS
Appropriations/Finance	
Legal	
Agenda Acceptance	KW

PUBLICATION(S) (if applicable)

Published In	Des Moines Register Community Section	
Date(s) Published	November 25, 2016	
Letter sent to surrounding property owners		November 22, 2016

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development & Planning		
Date Reviewed	November 28, 2016		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Plan and Zoning Communication
- Attachment A - Plan and Zoning Commission Resolution – Comprehensive Plan Land Use Map Amendment
  - Exhibit A - Conditions of Approval
  - Exhibit B - Legal Description
  - Exhibit C - Land Use Map
- Attachment B - Plan and Zoning Commission Resolution – Zoning Map Amendment
  - Exhibit A - Conditions of Approval
  - Exhibit B - Legal Description

Exhibit C Zoning Map
Exhibit D - Proposed Ordinance
Attachment C - Location Map
Attachment D - Land Use Maps
Attachment E - Rezoning Maps
Attachment F - Applicants' Letter Regarding Fees
Exhibit II - Citizen Comment Letter
Exhibit III - Email with Mr. Paulsen
Exhibit IV - Noticing Information for Comprehensive Plan Land Use Map amendments 2004
Exhibit V - Noticing Information for Zoning Map changes 2005
Exhibit VI - Comprehensive Plan Land Use Amendment Resolution
Exhibit VII - Rezoning Ordinance

EXHIBIT I

CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION COMMUNICATION

Meeting Date: December 5, 2016

Item: Munro et. al., 2480, 2580, 2640, and 2720 SE 11th Street – Change the Comprehensive Land Use map and Change the Zoning designation of part of the properties from Medium Density Residential (RM-8) to Single Family Residential Estate (RE-1A) – Margaret Munro – CPA-002377-2016/ZC-003278-2016

Resolution: Approval of Comprehensive Plan Amendment
Resolution: Approval of Rezoning Request

Requested Action: Approval of Comprehensive Plan Land Use Map and Zoning Amendments

Case Advisor: Kara Tragesser, AICP

Applicant's Request: Margaret Munro, 2480 SE 11th Street; George Heddinger 2580 SE 11th Street; Melvin Rosario, 2640 SE 11th Street; and Bryan Boisen, 2720 SE 11th Street are seeking approval of a change in land use designation and zoning district for a part of their property currently designated Medium Density and Residential Medium Density (RM-8) to Low Density Residential and Single Family Residential Estate (RE-1A) (see Attachment C – Location Map, Attachment D – Land Use Maps and Attachment E - Zoning Maps). The applicants also are seeking to have the fees (in the total amount of $1,294.39) for the Comprehensive Plan Land Use Map amendment and the Rezoning to be refunded as they believe that they were not noticed of the change that occurred in 2005 as noted below (see Attachment F – Applicants' Letter regarding the fees).

History: The identified properties have two zoning districts applied: Residential Medium Density (RM-8) and Single Family Residential (RE-1A: 40,000 sq. ft. lot size). On March 24, 2004, the City Council approved the land use of the property to include Single Family Residential on the majority of the property and Medium Density Residential on a portion of the east side of the property. Also, on April 11, 2005, the City Council approved a zoned change of the property to be consistent with the comprehensive plan. At that time a roadway was shown on the Ultimate Streets Map along the line between the two districts: the Ultimate Streets Plan has been changed since that time and no longer indicates a roadway between the two districts on these properties.

City Council Subcommittee: This item was presented to the Development and Planning City Council Subcommittee on November 28, 2016. The Subcommittee supported the change in the land use designations and the rezoning. The request to have the fees waived was not discussed as this is considered a full City Council decision.

Staff Review and Comment: This request was distributed to other City departments and other agencies for their review and comment.

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: The notice for the Plan & Zoning Commission public hearing on December 5, 2016,and the City Council public hearing for these requests was published in the Des Moines Register Community Section on November 25, 2016. Notice of these public hearings was also mailed to all surrounding property owners within 370 feet of the subject property on November 22, 2016.

Staff Recommendation and Conditions of Approval - Comprehensive Plan Amendment: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the Plan and Zoning Commission adopt a resolution recommending to the City Council approval of a Comprehensive Plan Land Use Map change part of the property for 2480, 2580, 2640, and 2720 SE 11th Street from Medium Density Residential to Low Density Residential illustrated in staff report Attachment A - Resolution.

Staff Recommendation and Conditions of Approval – Rezoning Request: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the Plan and Zoning Commission adopt a resolution recommending to the City Council approval of a zone change for property at 2480, 2580, 2640, and 2720 SE 11th Street Residential Medium Density (RM-8) to Residential Single Family (RE-1A) as illustrated in staff report Attachment B, Exhibit C - Zoning Maps.

ATTACHMENTS:

Attachment A	-	Plan and Zoning Commission Resolution – Comprehensive Plan Land Use Map Amendment
Exhibit A	-	Conditions of Approval
Exhibit B	-	Legal Description
Exhibit C	-	Land Use Map
Attachment B	-	Plan and Zoning Commission Resolution – Zoning Map Amendment
Exhibit A	-	Conditions of Approval
Exhibit B	-	Legal Description
Exhibit C		Zoning Map
Exhibit D	-	Proposed Ordinance
Attachment C	-	Location Map
Attachment D	-	Land Use Maps
Attachment E	-	Rezoning Maps
Attachment F	-	Applicants' Letter Regarding Fees

ATTACHMENT A

RESOLUTION NO. PZC-16-073

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE THE COMPREHENSIVE PLAN LAND USE MAP AMENDMENT (CPA-3277-2016) FOR THE PURPOSE OF CHANGING THE LAND USE DESIGNATION OF PART OF THE PROPERTY LOCATED AT 2480, 2580, 2640, AND 2720 SE 11TH STREET MEDIUM DENSITY RESIDENTIAL TO LOW DENSITY RESIDENTIAL

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, ~~Venture Homes LLC~~ Munro Et al has requested approval of a Comprehensive Plan Land Use Map Amendment for that property legally described in Exhibit B;

Legal Description

See Exhibit B

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 December 5, 2016, this Commission held a duly-noticed hearing to consider the application for Comprehensive Plan Amendment (CPA-003277-2016);

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 and Medium Density Residential (MD) to Low Density Residential (LD) for property legally described in Exhibit B and illustrated in Exhibit C is recommended to the City Council for approval,, subject to the conditions of approval outlined in Exhibit A or as provided for orally at the public hearing.

PASSED AND ADOPTED on December 5, 2016.

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 December 5, 2016, by the following vote:

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

ATTEST:

Recording Secretary

EXHIBIT A
Conditions of Approval

None.

EXHIBIT B
Legal Descriptions

The East 272 feet of Lot 4 Fairmont Estates; and

The East 321 feet of Lot 5 Fairmont Estates; and

The East 324 feet of Lot 6 Fairmont Estates, all being official plats now in and forming a part of the City of West Des Moines, Polk County, Iowa

And

The East 335 feet or the following described property: -EX HEDDINGER PLAT 1- & -EX N 300F S 330F E 300F W 345F- N 1/2 NE 1/4 SE 1/4 SEC 27-78-25; and

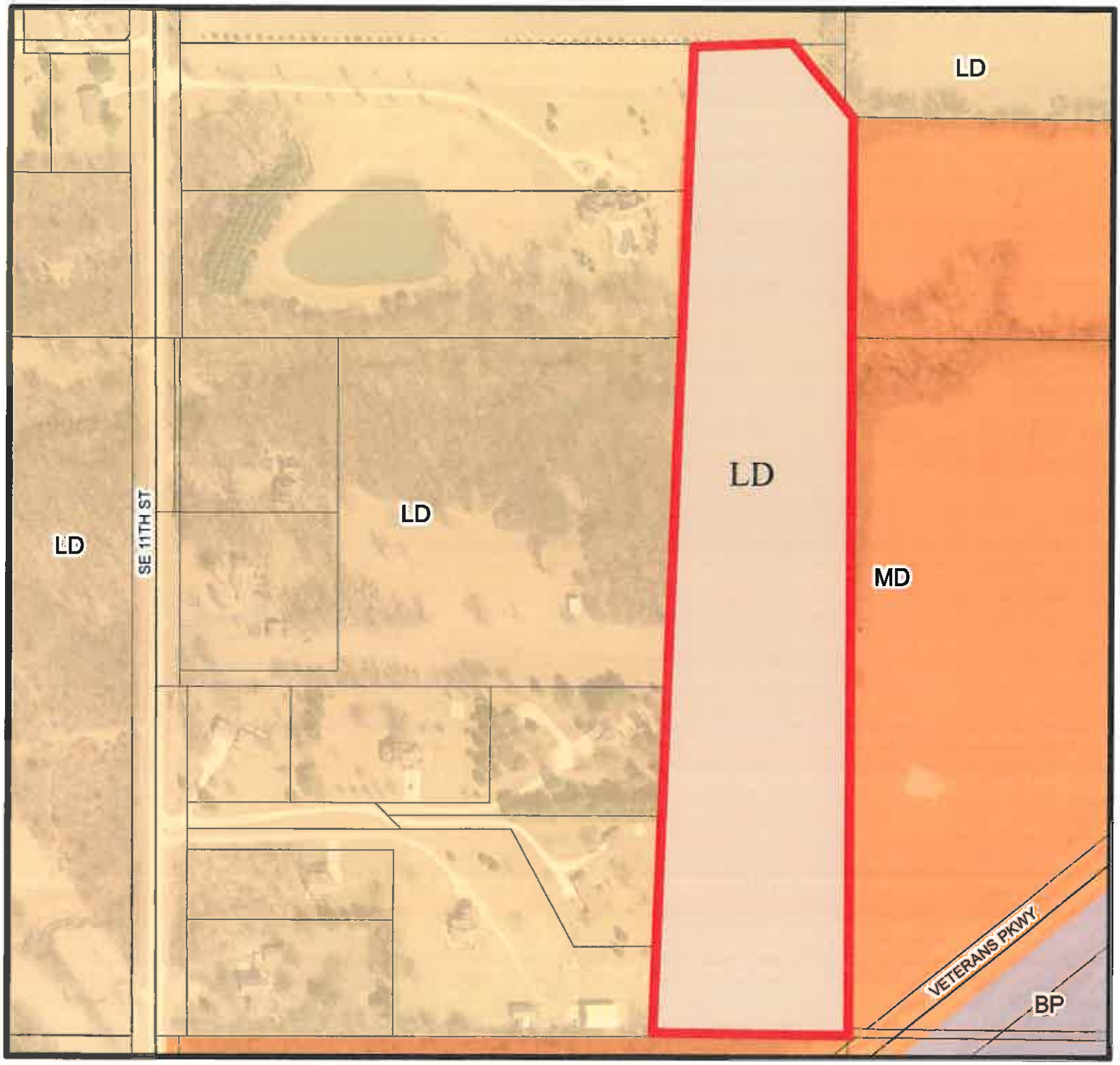
The East 334 feet of the following described property: N 245.08F MEAS ON E LN E 320.80F LOT 3 BLUE RIDGE HEIGHTS; and

The East 377 feet of the following described property: PARCEL B BEG SE COR THN W 182.12F N 352.67F W 396.14F N20F E 579.51F S 371.44F TO POB LOT 1 & PARCEL C BEG SE COR THN W 673.97F N 371.44F W 579.51F N20F E 619.94F SE 255.5F E 154F NE 250.76F E 335.54F S 416.64F TO POB LOT 2 BLUE RIDGE HEIGHTS REPLT

All in and forming a part of the City of West Des Moines, Polk County, Iowa

EXHIBIT C

Munro et.al. Rezoning
Proposed Land Use



ATTACHMENT B

RESOLUTION NO. PZC-16-074

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE THE REZONING REQUEST (ZC-3278-2016) FOR THE PURPOSE OF CHANGING THE ZONING OF PART OF THE PROPERTY LOCATED AT 2480, 2580, 2640, AND 2720 SE 11TH STREET FROM RESIDENTIAL MEDIUM DENSITY (RM-8) TO RESIDENTIAL SINGLE FAMILY (RE-1A)

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, Munro et. al. has requested approval of a Rezoning Request for that property legally described in Exhibit B and illustrated in Exhibit C;

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 December 5, 2016, this Commission held a duly-noticed hearing to consider the application for the Rezoning Request (ZC-003278-2016);

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 December 5, 2016, or as amended orally at the Plan and Zoning Commission hearing of December 5, 2016, are adopted.

SECTION 2. REZONING REQUEST (ZC-003278-2016) to change the zoning of the property legally described in Exhibit B and illustrated in Exhibit C is recommended to the City Council for approval, subject to compliance with all the conditions in the staff report, dated December 5, 2016, 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 December 5, 2016.

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 December 5, 2016, by the following vote:

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

ATTEST:

Recording Secretary

Exhibit A
Conditions of Approval

None.

Exhibit B
Legal Descriptions

The East 272 feet of Lot 4 Fairmont Estates; and

The East 321 feet of Lot 5 Fairmont Estates; and

The East 324 feet of Lot 6 Fairmont Estates, all being official plats now in and forming a part of the City of West Des Moines, Polk County, Iowa

And

The East 335 feet or the following described property: -EX HEDDINGER PLAT 1- & -EX N 300F S 330F E 300F W 345F- N 1/2 NE 1/4 SE 1/4 SEC 27-78-25; and

The East 334 feet of the following described property: N 245.08F MEAS ON E LN E 320.80F LOT 3 BLUE RIDGE HEIGHTS; and

The East 377 feet of the following described property: PARCEL B BEG SE COR THN W 182.12F N 352.67F W 396.14F N20F E 579.51F S 371.44F TO POB LOT 1 & PARCEL C BEG SE COR THN W 673.97F N 371.44F W 579.51F N20F E 619.94F SE 255.5F E 154F NE 250.76F E 335.54F S 416.64F TO POB LOT 2 BLUE RIDGE HEIGHTS REPLT

All in and forming a part of the City of West Des Moines, Polk County, Iowa

EXHIBIT C

Munro et.al. Rezoning
Proposed Zoning

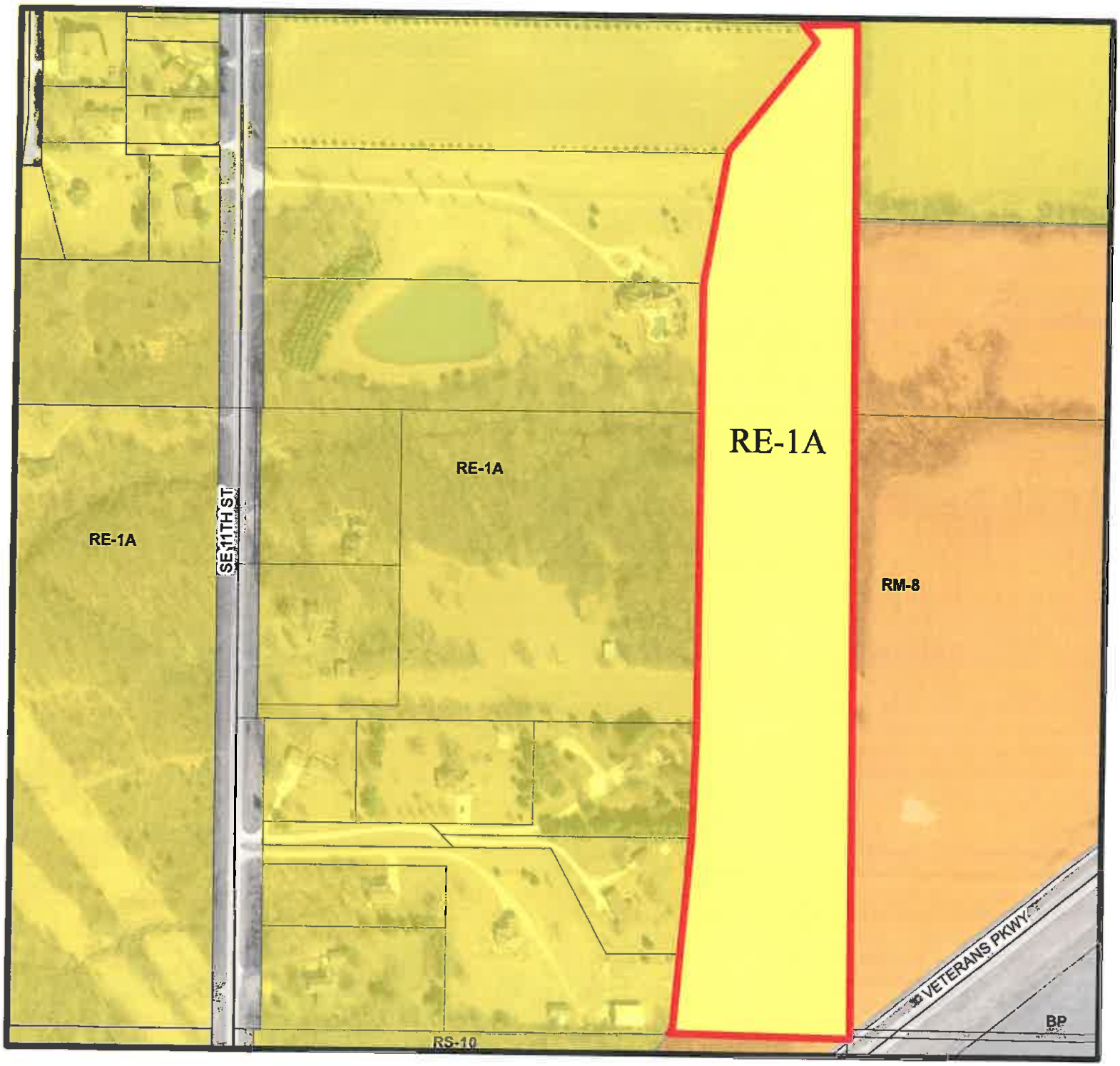


EXHIBIT D

Prepared by: K Tragesser, Development Services, P.O. 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

ORDINANCE NO.

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP AND THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, BY AMENDING TITLE 9: ZONING, CHAPTER 4: ZONING DISTRICTS AND MAP

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

SECTION 1. AMENDMENT: The Zoning Map of the City of West Des Moines, Iowa, is hereby amended by changing the zoning of part of the property located at 2480, 2580, 2640, and 2720 SE 11th Street from Residential Medium Density (RM-8) to residential single family (RE-1A)and as illustrated in Exhibit B;

Legal Description

SEE EXHBIT A

SECTION 2. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase or part of this 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 3. VIOLATIONS AND PENALITIES. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in title 1, Chapter 4, Section 1 and Section 2 of the City Code of the City of West Des Moines, Iowa.

SECTION 4. 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 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Approved and passed by the City Council on the ____ day of _____, 2016

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson
City Clerk

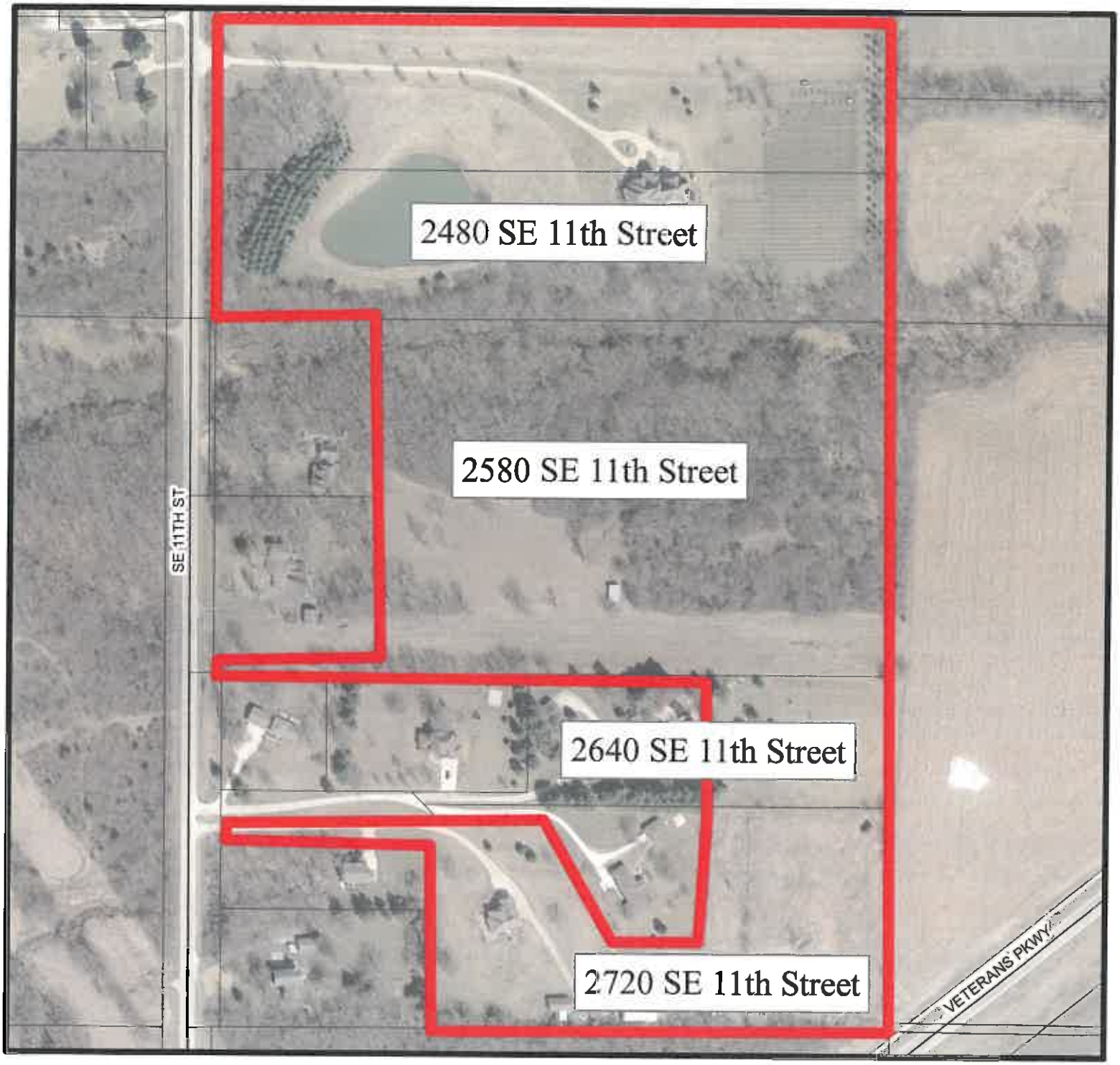
I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____ _____, 2016.

_____

Ryan T. Jacobson
City Clerk

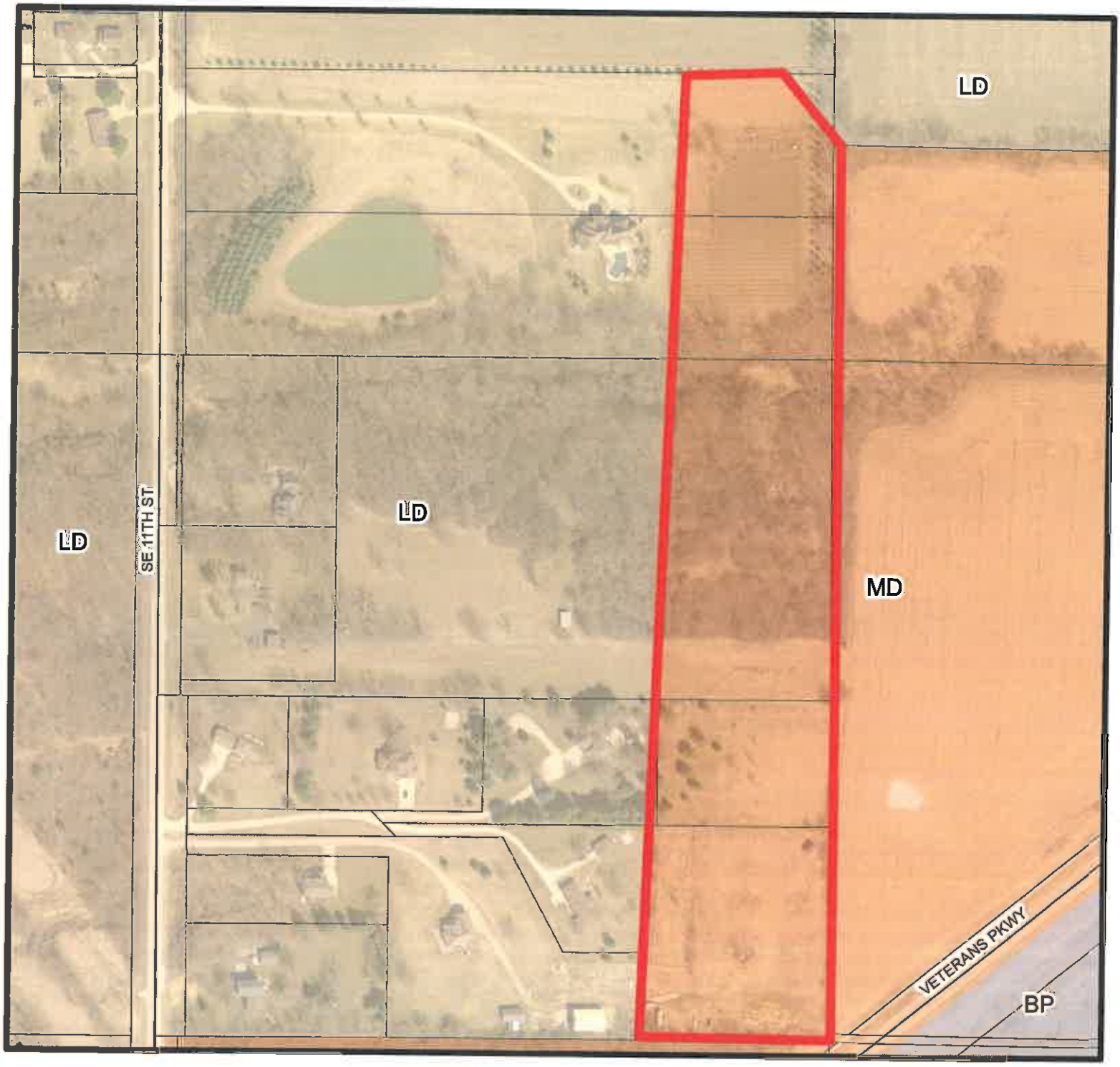
ATTACHMENT C

Munro et.al. Rezoning
Location Map

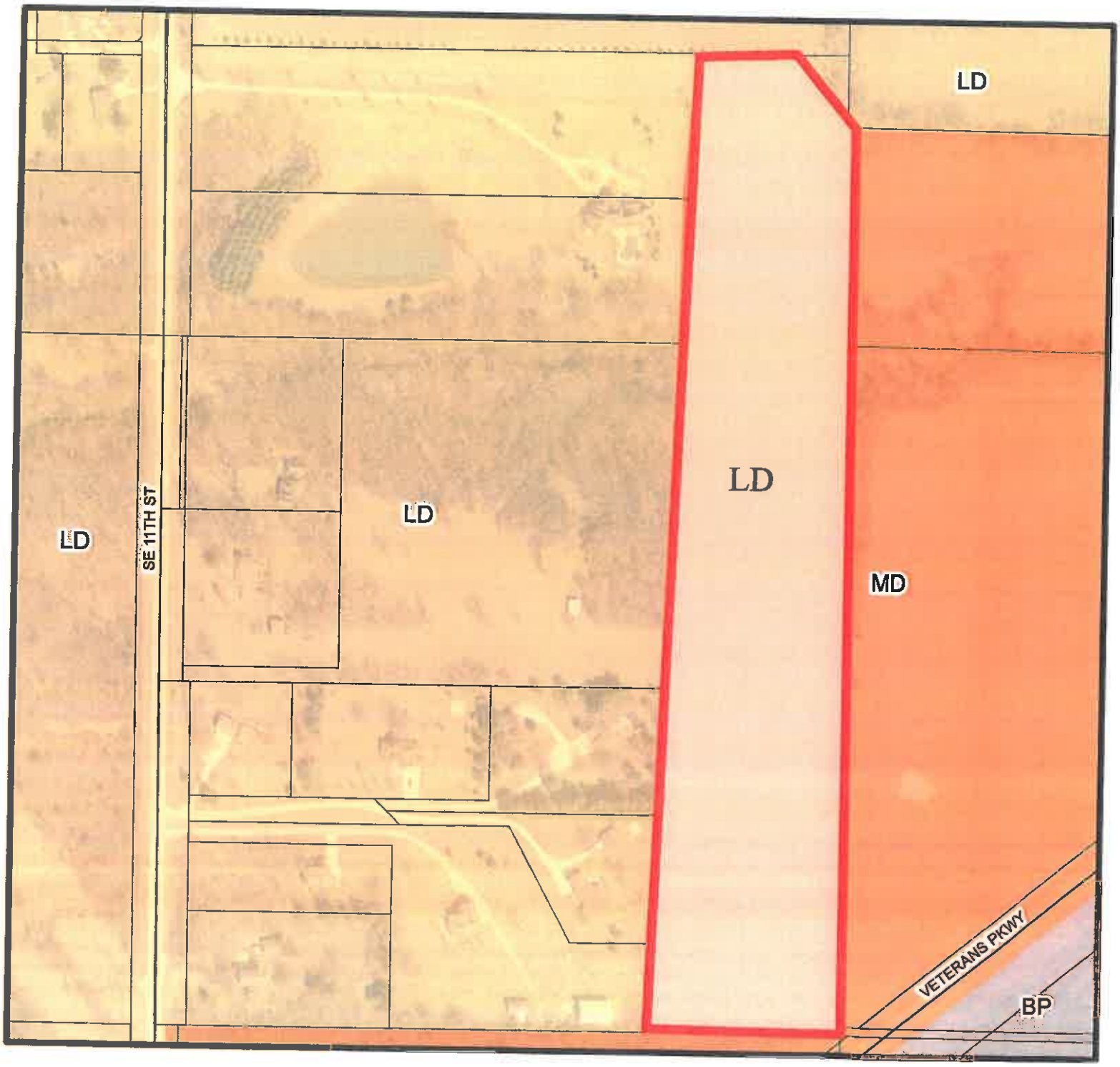


ATTACHMENT D

Munro et.al. Rezoning
Current Land Use

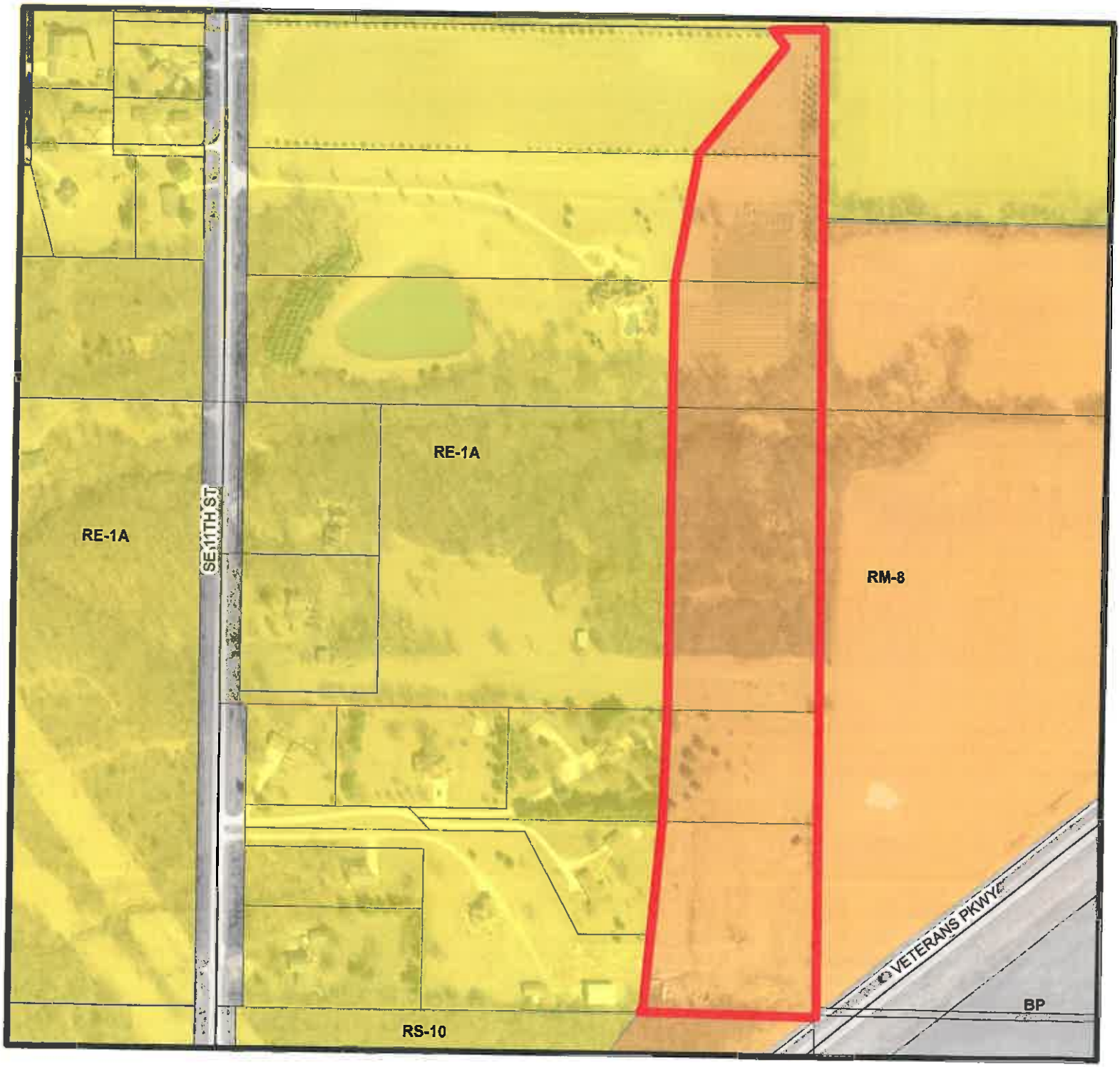


Munro et.al. Rezoning
Proposed Land Use

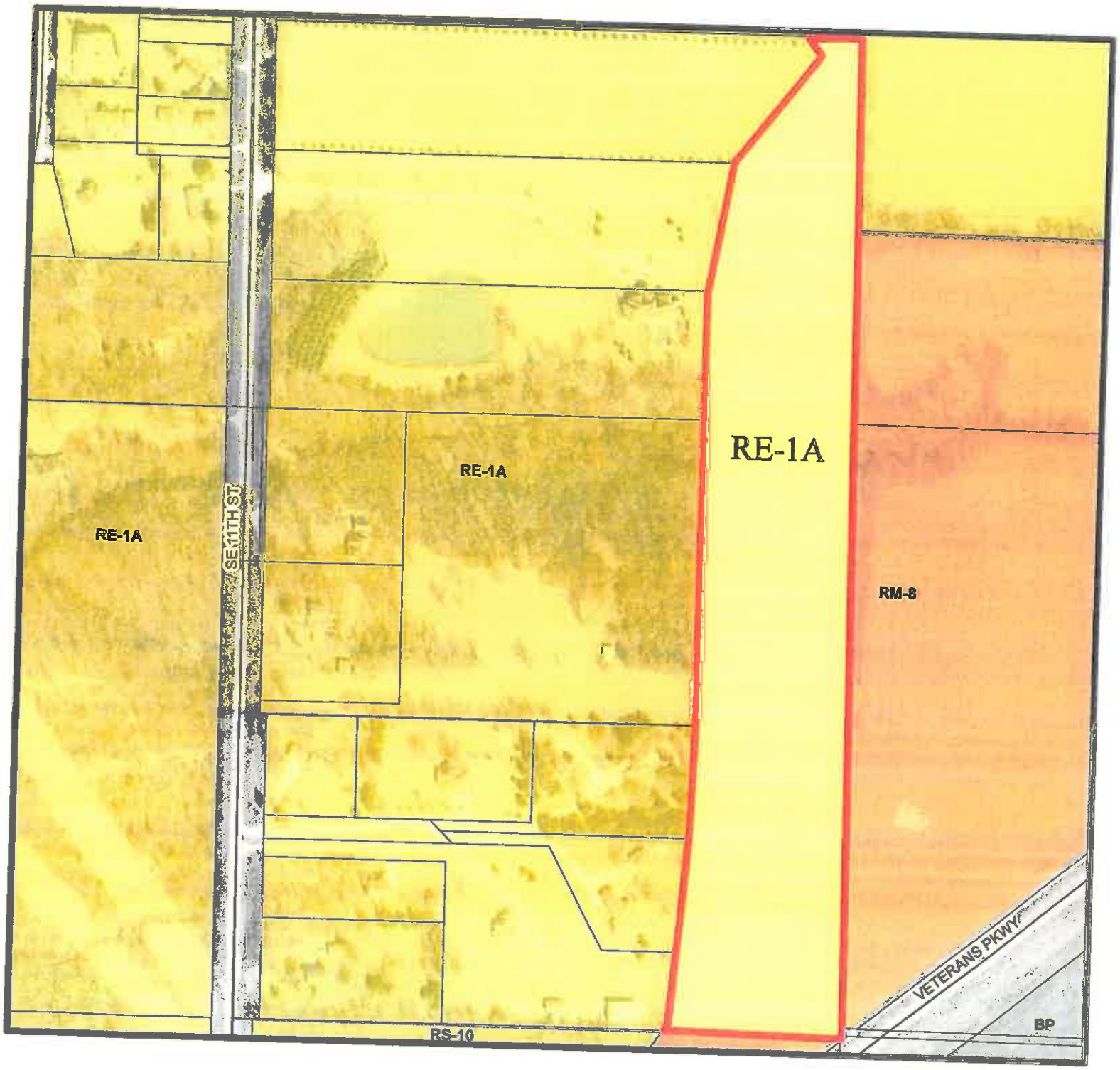


ATTACHMENT E

Munro et.al. Rezoning
Current Zoning



Munro et.al. Rezoning
Proposed Zoning



ATTACHMENT F

RECEIVED
CITY OF WDM
NOV 15 2016
DEVELOPMENT SERVICES

To: Development Services of West Des Moines
Project: Munro Rezoning
November 14, 2016

Until the City of West Des Moines planned a road behind our properties, our entire piece of land was zoned RE-1A. The city changed a portion of our land to RM-8. We would like to make our land unified again by rezoning it back to RE-1A.

We were not aware of this change. We were aware of the Southwest Connector road plans but not understanding that our personal property was being rezoned. We did attend the public hearings on the road but our property was never mentioned.

I had recently attended the numerous rezoning meetings dealing with the Grubb rezoning. At this time I inquired with Lynn Twedt why our land had this line through it. Through research I found out that that line portion of our properties was rezoned when the city was planning the Southwest connector (now Veterans Parkway) to RM-8.

We are respectably requesting the fees for rezoning to be waived. We believe that our properties should never been changed and would like them back to there original zoning.

Thank you for your time,

Margaret Munro

Gerry H Hedberg

Tragesser, Kara

From: Jon Paulsen <jjpcpa@mwcplc.com>
Sent: Monday, December 05, 2016 8:58 AM
To: Twedt, Lynne
Cc: Tragesser, Kara; Jon Paulsen
Subject: Zoning Meeting
Attachments: CCE120516.pdf

Hi Lynne:

I would like to just confirm my understand from out last discussions as to rezoning.

In the attached document the properties to the west of my property are requesting a rezoning change from Medium Density to Single Family residential. My understanding is that in this case they would be required to buffer my property and my property would have no additional buffering requirements. If this is not correct I would object to any zoning change as it would have a detrimental effect on my property.

Please confirm if my understanding is correct. I will be unable to attend the zoning meeting tonight to a prior commitment.

Thanks and happy holidays.

Jon J. Paulsen, CPA
Meriwether, Wilson and Company, PLLC
4500 Westown Parkway, Suite 140
West Des Moines, Iowa 50266-6717

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EXHIBIT III

Twedt, Lynne

From: Jon Paulsen <jjpcpa@mwcplc.com>
Sent: Monday, December 05, 2016 5:20 PM
To: Twedt, Lynne
Subject: Re: Zoning Meeting

Lynn:

In this situation there is no way the zoning on the adjacent properties should be changed as it is not subject to a development plan at this time. Only a negative impact can be experience by adjacent properties with higher zoning. The city should keep the zoning as it is at this time

Sent from my iPhone

On Dec 5, 2016, at 5:00 PM, Twedt, Lynne <Lynne.Twedt@wdm.iowa.gov> wrote:

> John:
> You are correct, it is counter to what I indicated during the Browns Woods discussions. City Code states the following:
>
> *5. Burden Of Provision Of A Buffer: The burden of provision and selection of the buffer shall be as follows:*
>
> *a. Where two (2) different districts or uses, requiring a buffer between them, are both in an existing improved condition, the above requirement is not retroactive. Should a buffer be desired, it shall be by mutual agreement between property owners or as otherwise provided by law. However, in the event any or all of the improved property is abandoned, destroyed, demolished, etc., for the purpose of renewal, redevelopment, etc., that portion of such property being renewed, redeveloped, etc., shall be considered vacant land subject to the requirements herein.*
>
> *b. Where districts or uses require a buffer between them, the burden of the buffer shall be assumed by the developer of the more intense land use and shall be installed when said property develops. The developer of the less intense land use may choose to provide a buffer in order to provide more effective screening to the more intense land use but shall not be required to provide a buffer. In the event a landowner **adjacent to an already developed** property changes the land use designation or zoning of their land to a less intensive use and therefore causes a buffer to be required where none would have been required before then the required buffer shall be shifted away from the owner of the **already developed property** and shall be placed upon the landowner whose actions are causing the need for a buffer.*

I was applying the highlighted provision to **any change** in land use; however, upon more careful reading, it is clear that the shift onto the property requesting the change in use only applies when the adjacent property is already in a developed state, which you are not.

Staff is in the process of reviewing the buffer section of city code to determine if changes are warranted. I can agree that making a **developed** property (of higher intensity) make changes to provide a buffer due to a land use change request that puts a lower intense use adjacent shouldn't be required. I don't agree that when both are in an undeveloped state, that the responsibility should shift because a neighboring property changes land use. I know some staff is in agreement that it should

apply as I had originally believed it did. Not sure how our code review will all flesh out and whether changes will be made, but for now, strict application of code would put the buffer responsibilities on your property.

Sorry for the inaccurate information prior.
Please do not hesitate to contact me with any questions or to discuss further.
Lynne

From: Jon Paulsen [mailto:jjpcpa@mwcplc.com]
Sent: Monday, December 05, 2016 3:44 PM
To: Tragesser, Kara <Kara.Tragesser@wdm.iowa.gov>
Cc: Twedt, Lynne <Lynne.Twedt@wdm.iowa.gov>; Jon Paulsen <jjpcpa@mwcplc.com>
Subject: RE: Zoning Meeting

Lynne:

This seems inconsistent with our discussion of what was the situation with Mr. Grubb and his request to go to single family from R8. In the situation you said he would be required to provide a buffer due to the change in the zoning on the land going from R8.

The situation here appears to be the same with the properties now requesting the zoning change from R8 to single family currently under consideration.

Jon J. Paulsen, CPA
Meriwether, Wilson and Company, PLLC
4500 Westown Parkway, Suite 140
West Des Moines, Iowa 50266-6717

<image001.gif>

NOTICE: This Meriwether, Wilson & Company, PLLC email message (including any file attachment) is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged and/or confidential. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply email or a collect telephone call and delete or destroy all copies of this message and any file attachment. Thank you.

From: Tragesser, Kara [mailto:Kara.Tragesser@wdm.iowa.gov]
Sent: 12/05/2016 2:59 PM
To: Jon Paulsen
Cc: Twedt, Lynne
Subject: RE: Zoning Meeting

Hi Jon,

Upon review of the buffer requirements in the zoning code, the area that is being rezoned is not required to install a buffer adjacent to your property. It would if your property was developed at a higher density already.

I will place before the Commission tonight a copy of your email which opposes the rezoning of the properties identified in the notice.

Thank you for contacting us.

Kara –

KARA V. TRAGESSER, AICP
PLANNER | DEVELOPMENT SERVICES
CITY OF WEST DES MOINES
PO BOX 65320 | 4200 MILLS CIVIC PARKWAY SUITE 2D
WEST DES MOINES IA 50265-0320
P: 515-222-3620 F: 515-273-0602
WWW.WDM.IOWA.GOV

From: Twedt, Lynne
Sent: Monday, December 05, 2016 8:59 AM
To: Tragesser, Kara <Kara.Tragesser@wdm.iowa.gov>
Subject: FW: Zoning Meeting

From: Jon Paulsen [mailto:jjpcpa@mwcplc.com]
Sent: Monday, December 05, 2016 8:58 AM
To: Twedt, Lynne <Lynne.Twedt@wdm.iowa.gov>
Cc: Tragesser, Kara <Kara.Tragesser@wdm.iowa.gov>; Jon Paulsen <jjpcpa@mwcplc.com>
Subject: Zoning Meeting

Hi Lynne:

I would like to just confirm my understand from out last discussions as to rezoning.

In the attached document the properties to the west of my property are requesting a rezoning change from Medium Density to Single Family residential. My understanding is that in this case they would be required to buffer my property and my property would have no additional buffering requirements. If this is not correct I would object to any zoning change as it would have a detrimental effect on my property.

Please confirm if my understanding is correct. I will be unable to attend the zoning meeting tonight to a prior commitment.

Thanks and happy holidays.

Jon J. Paulsen, CPA
Meriwether, Wilson and Company, PLLC

EXHIBIT IV

NOTICE
of a Public Hearing

Notice sent to property owners

The West Des Moines Plan and Zoning Commission will review a City–initiated amendment to the West Des Moines Comprehensive Plan Land Use Map, Land Use Designations, 2020 Circulation System and Ultimate Streets Maps on Wednesday, March 10, 2004: The Commission will forward its recommendation to the West Des Moines City Council who will review the amendment at their March 15, 2004 meeting. This proposed amendment will update the current Comprehensive Plan for only that portion of the City's planning area bounded by the Raccoon River, I-35, the east corporate limits, and Sections 4, 5, and portions of Sections 6, 7, 8 and 9 in Linn Township in Warren County. A colored map of the proposed land use designations for the area can be found on the City's webpage at www.wdm-ia.com under *NEWS - Comprehensive Plan Update – Southeast Area Map* or you can call 222-3620 to make other arrangements to get a copy of the proposed land use map. You are receiving this notice because you own property within this area, are within 370 feet from the boundary of this area, or have requested to receive information about the Comprehensive Plan Update.

This amendment was previously discussed and approved at the October 1, 2003, Plan and Zoning Commission meeting. However, the Community Development Council Committee recommended changes to the proposed land use designations in this area and requested that the amendment be reviewed again by the Commission before coming to the full City Council for their review and action.

The Plan and Zoning Commission meeting will begin at 7:05pm and will be held in the West Des Moines City Hall Council Chambers, located at 4200 Mills Civic Parkway, West Des Moines, IA 50265. The City Council meeting will begin at 5:30pm and will also be held in the West Des Moines City Hall Council Chambers. At both meetings, the public will be given an opportunity to address the Commission or Council to express their views on the proposed Comprehensive Plan amendments.

The City's planning area extends from the City's corporate boundaries on the east to just past R-22 in Dallas County on the west, and from the corporate boundaries/I-80 on the north to Sections 4, 5, and portions of Sections 6, 7, 8 and 9 in Linn Township in Warren County and to G-14 in Madison County on the south; however, only the area south of the Raccoon River and east of I-35 (the southeast area) will be considered at this hearing. Future hearings will review other quadrants of the planning area, as well as the updated text and supporting maps and information proposed for the document.

Please understand that the intent of this Comprehensive Plan Update effort is to plan for future land uses in the areas within and outside of the City's present corporate limits. Any annexation or zoning changes would require separate action, and are not part of the Comprehensive Plan Update process.

If you have any questions on this project, please contact **Kara Tragesser** or **Naomi Larson**, the case planners assigned to this project, at (515) 222-3620 or email them at commdevelop@wdm-ia.com. A letter expressing your comments and opinions on this matter may also be submitted to the Community Development Department, 4200 Mills Civic Parkway, P.O. Box 65320, West Des Moines, Iowa 50265, prior to the meeting date.

Clyde E. Evans
Community Development Director

Published on February 27, 2004, in the Polk County Press Citizen
Published on March 3, 2004, in the Indianola Record Herald

It is the responsibility of the individual with a disability requiring accommodations to inform the Community Development Department, at least 48 hours in advance, that certain accommodations are requested in order to allow full participation in the Plan and Zoning Commission meeting. Please call 515-222-3620 to request the necessary accommodations.

NOTICE
of a Public Hearing

Notice sent to newspapers

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Clyde E. Evans
Community Development Director

Published on February 27, 2004, in the Polk County Press Citizen
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ATTACHMENT I

EXHIBIT V

Notice sent to paper and property owners

NOTICE OF PUBLIC HEARING

The West Des Moines Plan and Zoning Commission will hold a public hearing to review a request by the City of West Des Moines for consistency rezoning to zone land consistent with the Comprehensive Plan Land Use map for land within the corporate limits. The subject properties generally are located south of the Raccoon River and east of I-35 to the West Des Moines Corporate limits. Also at this meeting, the Commission will hear a request by the City to amend the Comprehensive Plan Zoning Compatibility matrices and an Ordinance Amendment for City Code Title 9, Zoning, to establish a new zoning district, the Warehouse/Retail district.

This public hearing will be held at the Commission's regularly scheduled meeting on Wednesday, March 9, 2005, at 7:00 P.M. in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, West Des Moines, Iowa.

Upon their review, the Commission will make a recommendation that will be forwarded to the City Council, who will make the final decision on this request. A separate public hearing notice will be issued for the subsequent City Council meeting date regarding this item. Comments may be given in person before the Commission during the public hearing or written comments regarding this request may be submitted prior to the hearing to the Community Development Department, 4200 Mills Civic Parkway, Suite 2D, PO Box 65320, West Des Moines, IA, 50265-0320. If you have any questions regarding this request, please contact **Kara Tragesser or Naomi Larson**, the case planners assigned to this project, at 515-222-3620.

It is the responsibility of the individual with a disability requiring accommodations to inform the Community Development Department, at least 48 hours in advance, that certain accommodations are requested. The City of West Des Moines is pleased to provide these accommodations in order to allow full participation in the Plan and Zoning Commission meetings. Please call 515-222-3620 or contact the Community Development Department to request these accommodations.

Clyde E. Evans, AICP
Community Development Director

Published February 25, 2005, in the Polk County Press Citizen
Published February 23, 2005, in the Indianola Record Herald
Published February 24, 2005, in the Dallas County News

Notice sent to property owners

PROPOSED ZONING DISTRICT

211

Address: Not Assigned: refer to Geoparcel Number

Geoparcel Number (obtained from Polk County): ~~782527476003~~ Example

Proposed Zoning District(s): ~~PCP~~ Example

ZONING DISTRICT ABBREVIATIONS AND DEFINITIONS

For more information regarding the types of uses that are allowed in each zoning district, please refer to Chapter 5 (for residential uses) and Chapter 6 (for non-residential uses) of the City's Zoning Code, which can be found on the City's web page at www.wdm-ia.com. From the home page, click on "West Des Moines City Code" and choose "Title IX Zoning" and then your selected chapter.

OS-Agricultural/Open Space District: The purpose of this district to provide for areas that will be dominated by agricultural uses, grazing, nonfarm wooded areas and very large lot estate or farm homes. To encourage the preservation of areas designated as agricultural/open space in a largely undeveloped state, allowable dwelling units may be transferred to portions of the subject property which are not designated agricultural/open space. It is also intended that this designation: 1) provide for very low-density farmland environment and housing/lifestyle choice; 2) retain land with significant topographical or other physical constraints as open space; 3) provide a buffer between incompatible land uses; 4) provide for the controlled development of natural resources; 5) provide for the preservation of areas with unique environmental resources; and 6) hold some land from urban development until such time as development within urban services areas are approaching full development or the development of the property has a significant beneficial effect for the city and furtherance of the policies of the comprehensive plan.

RE-Residential Estate District: The purpose of this district is to promote a residential environment typified by larger lot single-family detached dwellings of an individual design. The minimum lot size within a development or area shall be stipulated by a minimum lot size suffix that will be established for each RE district (e.g. "1A" means that the minimum lot size is one acre). These low-density lots shall be grouped and be of such a number so as to form an identifiable neighborhood and image. Developments within this density range may lend themselves to development with septic systems. However, all developments on septic systems shall be fitted with dry sewers to allow connection to the citywide sanitary system when it becomes available. Septic systems shall only be allowed for developments located in areas that have soils and unit densities suitable for septic systems. Areas with poor soils for septic systems and no available sewers shall not be developed until such time that adequate sanitary sewers for the development are secured.

RS-Residential Single-Family District: The purpose of this district is to encourage residential neighborhoods of exclusively single-family detached dwellings with a wide range of lot sizes. Any development must have an overall density from 1.1 to 6.0 dwelling units/acre. Minimum lot sizes may be established for each RS district through the use of a minimum lot size suffix (e.g. "RS-10" means that the minimum lot size will be 10,000 square feet). This land use zone is also intended to facilitate pedestrian access to schools, churches, parks, and neighborhood convenience shopping.

RM-Residential Medium-Density District: The purpose of this district is to foster a residential environment typified by single-family attached homes and low density multi-family dwellings. Sites designated as such shall be oriented to arterial and collector streets, transit routes, convenience shopping, local and regional services, and employment centers. This district is important to the housing market as it is geared to both owners and renters. The district allows for single-family attached and multi-family dwelling units of no more than 12 dwelling uunits/acre. Suffixes shall be used in the RM district to identify the maximum allowed density for the subject property (e.g. "RM-8" means that the maximum density is 8 dwelling units per acre).

RH-Residential High-Density District: The purpose of this district is to provide for a relatively high-density residential environment. This land category may be utilized as a transition between commercial retail and office uses, and lower density residential uses. Developments within this land use district shall be oriented to arterial or collector streets, transit routes, convenience shopping, local and regional services, and employment centers. This district allows single-family attached and multi-family dwellings of no greater than 18 dwelling units/acre.

CMC-Community Commercial District: Community commercial areas shall be designated to supply daily and occasional shopping needs. Each community commercial area should be encouraged to include a variety merchandise store, one or more supermarkets, a drugstore, restaurants, banks and a large number and variety of other stores. Community commercial areas may be large, may tend to expand across streets, and may be created in small incremental additions. The separation between community commercial areas should be three (3) to five (5) miles. A community commercial area should range in size from fifteen (15) to fifty (50) acres. Community commercial areas should be located at the intersection of either two (2) arterial or major collector streets. Primary access should not be taken off local residential streets.

SC-Support Commercial District: Support commercial areas shall be designated to provide for commercial centers and uses which are oriented toward the freeway-motoring public and/or employment centers. Typical uses would include hotels/motels, restaurants, gasoline service stations, professional offices, laundry and dry-cleaning establishments, banks, drugstores, office supply stores, convenience markets or other professional services. Support commercial areas shall be sized to meet the needs of the motoring public and/or the employment center. Support commercial areas that are intended to provide services to employment centers shall incorporate pedestrian orientation to and from the employment areas into their design.

PCP-Professional Commerce Park District: This district has been identified as an area for accommodating the management, research, design, marketing and production needs of those professional-commerce enterprises which comply with the performance standards of the applicable sections of this code for the abatement of all obnoxious, detrimental or other generally unacceptable characteristics including ugliness of physical and natural properties; and for the encouraged use of those contemporary, modern and futuristic design techniques which yield compatibility of one area to another as well as special beauty. Further, in the interest of general community welfare, it is recognized that the community should be beautiful as well as financially prosperous, spacious as well as efficient, physically balanced as well as regulated. This district shall not be used indiscriminately to permit any use which might violate the general welfare of the community; but that it shall be restricted and confined to only those integrated professional-commerce uses which produce net gain to the community in both aesthetic and material quality.

WR-Warehouse Retail: *(Proposed new district) Warehouse Retail areas shall be designated to provide areas for mixed use development of lighter industrial uses and the more intensive service, retail, and wholesale commercial uses. Allowable uses include research and development; light distribution; wholesale or retail sale of industrial supplies, building equipment and materials, home furnishings and home improvement; car dealerships; restaurants; and convenience stores.*

BP-Business Park District: Business park areas shall be designated to provide desirable areas protected by performance, design and use controls regarding lot size, building size, appearance, land coverage, parking and loading facilities, noise, dust, fumes, internal circulation and other environmental and functional issues for a variety of office, research and development, warehouse and distribution, and light assembly and manufacturing uses. Included within this category is a limited range of commercial uses located and designed to service the business park area. Business park areas should be encouraged to be planned as a unit with compatibility of design, building materials, and landscaping acting as a unifying theme. Access to business park areas should be off of arterial and/or collector roadways. Primary access should not be taken off of local residential streets.

LI - Light Industrial District: Light industrial areas shall be designated to provide areas for most light industrial, and warehouse and distribution facilities. It is of special concern to the city that there be an adequate variety of sizes and locations of light industrial parcels. Appropriate buffering as prescribed by the zoning ordinance shall be established between light industrial areas and other uses, in particular, residential uses. Access to light industrial areas should be off of arterial and/or collector

Notice sent to newspapers and property owners

NOTICE OF PUBLIC HEARING

The West Des Moines City Council will hold a public hearing to review a request by the City of West Des Moines for consistency rezoning to zone land consistent with the Comprehensive Plan Land Use designation for land within the corporate limits. These properties generally are located south of the Raccoon River and east of I-35 to the West Des Moines Corporate limits. Also at this meeting, the Council will consider a recommendation from the Plan & Zoning Commission to adopt a Comprehensive Plan amendment to add the Warehouse/Retail zoning district to the compatibility matrix.

This public hearing will be held at the City Council's regularly scheduled meeting on Monday, April 11, 2005, at 5:30 P.M. in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, West Des Moines, Iowa.

Comments may be given in person before the Council during the public hearing or written comments regarding this request may be submitted prior to the hearing to the Community Development Department, 4200 Mills Civic Parkway, Suite 2D, PO Box 65320, West Des Moines, IA, 50265-0320. If you have any questions regarding this request, please contact **Kara Tragesser** or **Naomi Larson**, the case planners assigned to this project, at 515-222-3620.

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Clyde E. Evans, AICP
Community Development Director

Published March 30, 2005, in the Indianola Record Herald
Published March 25, 2005, in the Polk County Press Citizen

Prepared by: KTragesser, 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-003277-2016) TO AMEND THE COMPREHENSIVE PLAN LAND USE MAP FOR THE PURPOSE OF CHANGING THE LAND USE DESIGNATION OF A PORTION OF THE PROPERTIES LOCATED 2480, 2580, 2640, AND 2720 SE 11TH STREET FROM MEDIUM DENSITY RESIDENTIAL TO LOW DENSITY RESIDENTIAL

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, Munro et. al., George Heddinger, Melvin Rosario, and Bryan Boisen have requested approval for a Comprehensive Plan Amendment to amend the Comprehensive Plan Land Use Plan to change the land use designation of a portion of the property located at 2480, 2580, 2640, and 2720 SE 11th Street from Medium Density Residential (MD) to Low Density Residential (LD) and legally described as follows and as illustrated in Exhibit B:

Legal Description

See Exhibit A

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 December 5, 2016, the Plan and Zoning Commission did recommend the City Council approve the Comprehensive Plan Amendment;

WHEREAS, on December 12, 2016, the 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 meeting are adopted.

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

PASSED AND ADOPTED on _____, 2016.

_____
Steve 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 December 12, 2016, by the following vote:

ATTEST:

_____
Ryan Jacobson
City Clerk

Exhibit A
Legal Description

The East 272 feet of Lot 4 Fairmont Estates; and

The East 321 feet of Lot 5 Fairmont Estates; and

The East 324 feet of Lot 6 Fairmont Estates, all being official plats now in and forming a part of the City of West Des Moines, Polk County, Iowa

And

The East 335 feet or the following described property: -EX HEDDINGER PLAT 1- & -EX N 300F S 330F E 300F W 345F- N 1/2 NE 1/4 SE 1/4 SEC 27-78-25; and

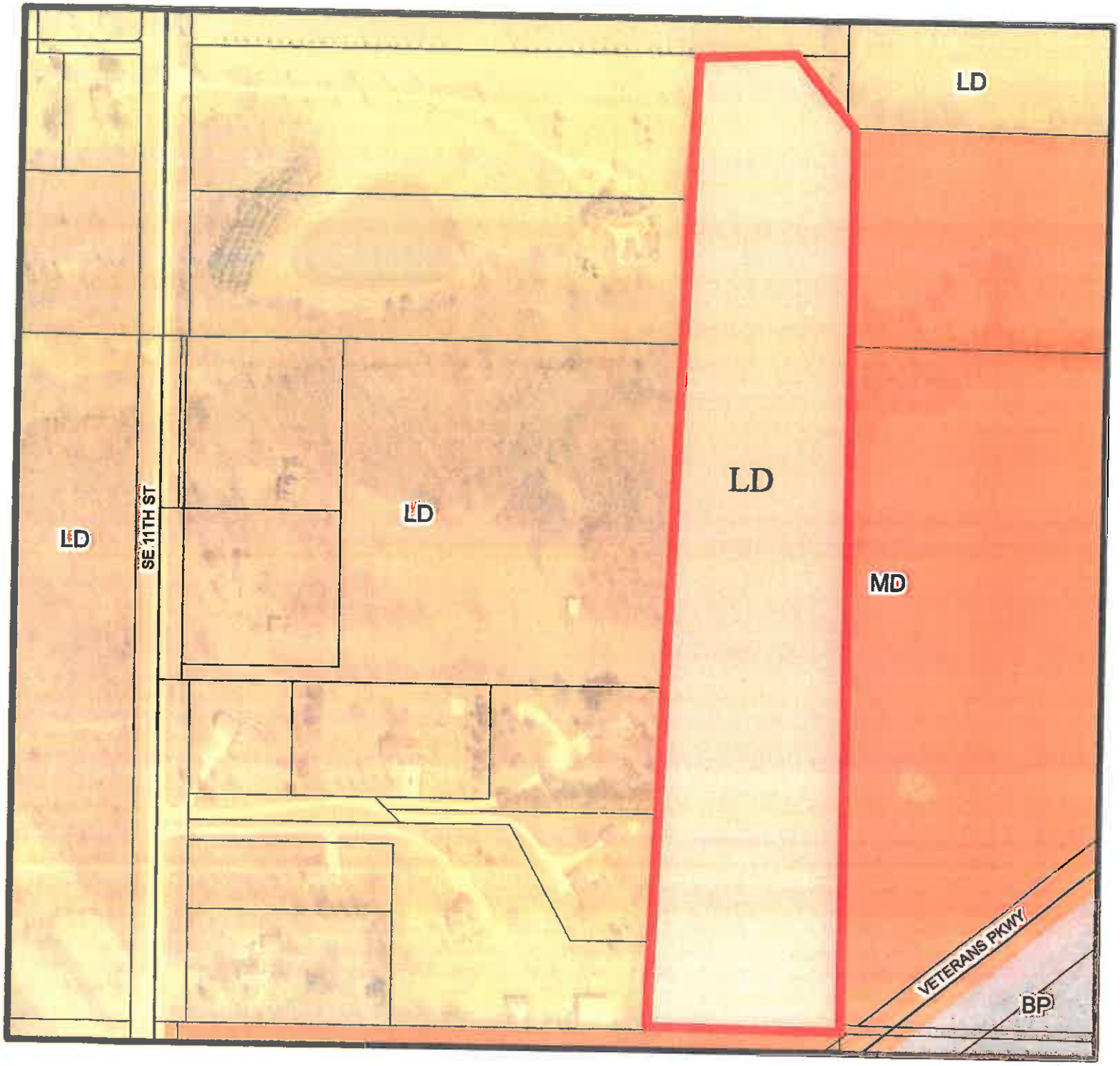
The East 334 feet of the following described property: N 245.08F MEAS ON E LN E 320.80F LOT 3 BLUE RIDGE HEIGHTS; and

The East 377 feet of the following described property: PARCEL B BEG SE COR THN W 182.12F N 352.67F W 396.14F N20F E 579.51F S 371.44F TO POB LOT 1 & PARCEL C BEG SE COR THN W 673.97F N 371.44F W 579.51F N20F E 619.94F SE 255.5F E 154F NE 250.76F E 335.54F S 416.64F TO POB LOT 2 BLUE RIDGE HEIGHTS REPLT

All in and forming a part of the City of West Des Moines, Polk County, Iowa

EXHIBIT B

Munro et.al. Rezoning
Proposed Land Use



Prepared by: K Tragesser, Development Services, P.O. 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

ORDINANCE NO.

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP AND THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, BY AMENDING TITLE 9: ZONING, CHAPTER 4: ZONING DISTRICTS AND MAP

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

SECTION 1. AMENDMENT: The Zoning Map of the City of West Des Moines, Iowa, is hereby amended by changing the zoning of a portion of the properties located at 2480, 2580, 2640, and 2720 SE 11th Street from Residential Medium Density (RM-8) to Residential Estate (RE-1A) as legally described below and as illustrated in Exhibit B;

Legal Description

SEE EXHIBIT A

SECTION 2. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase or part of this 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 3. VIOLATIONS AND PENALITIES. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in title 1, Chapter 4, Section 1 and Section 2 of the City Code of the City of West Des Moines, Iowa.

SECTION 4. 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 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Approved and passed by the City Council on the ____ day of _____, 2016

_____
Steven K. Gaer, Mayor

ATTEST:

_____

Ryan T. Jacobson
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____ _____, 2016.

_____

Ryan T. Jacobson
City Clerk

EXHIBIT A
Legal Description

The East 272 feet of Lot 4 Fairmont Estates; and

The East 321 feet of Lot 5 Fairmont Estates; and

The East 324 feet of Lot 6 Fairmont Estates, all being official plats now in and forming a part of the City of West Des Moines, Polk County, Iowa

And

The East 335 feet or the following described property: -EX HEDDINGER PLAT 1- & -EX N 300F S 330F E 300F W 345F- N 1/2 NE 1/4 SE 1/4 SEC 27-78-25; and

The East 334 feet of the following described property: N 245.08F MEAS ON E LN E 320.80F LOT 3 BLUE RIDGE HEIGHTS; and

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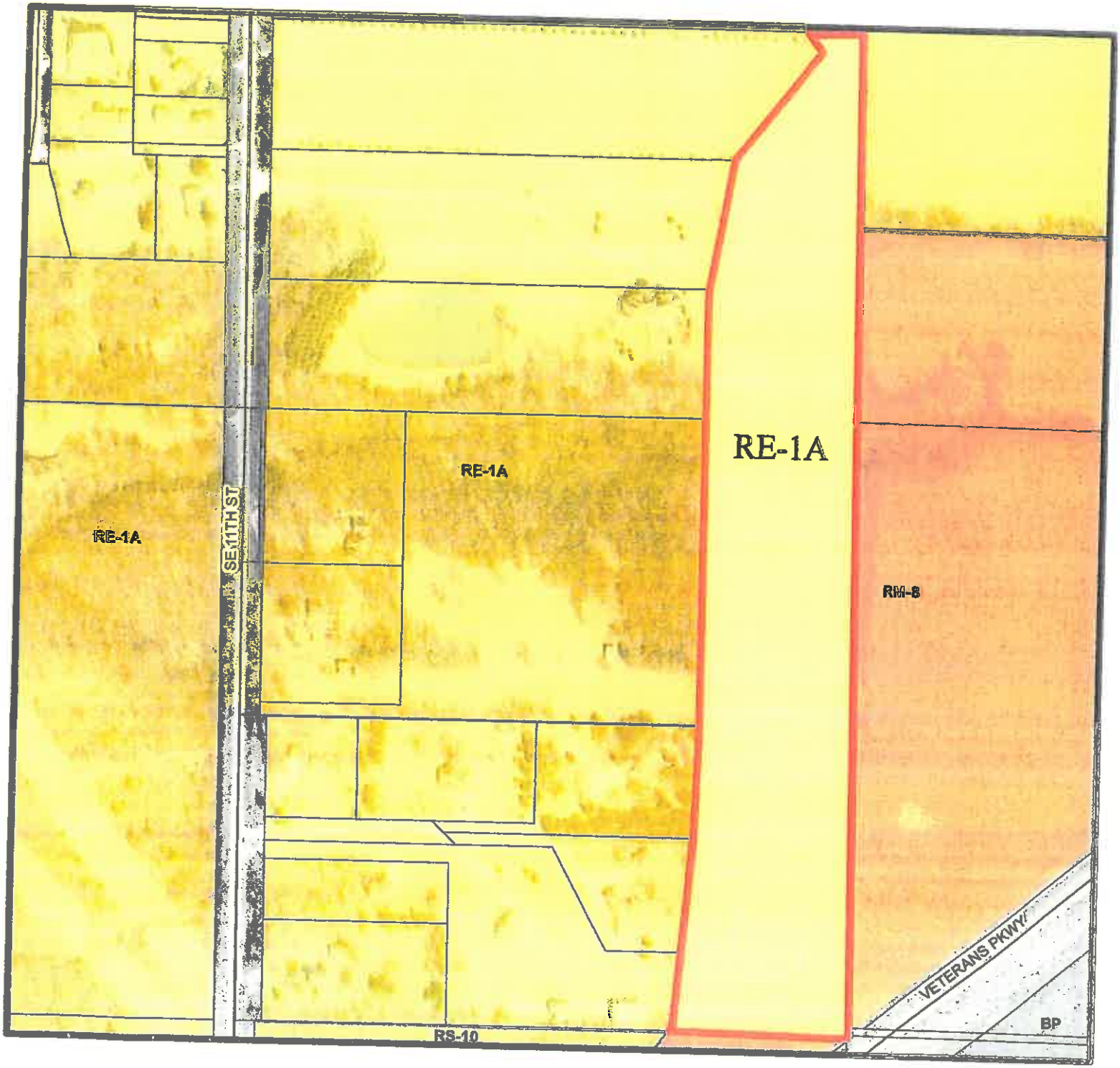
All in and forming a part of the City of West Des Moines, Polk County, Iowa

EXHIBIT B

Munro et.al. Rezoning
Proposed Zoning