



Date October 3, 2022

RESOLUTION HOLDING HEARING ON REQUEST FROM GENEVA SHOEMAKER (OWNER) TO AMEND PLANDSM TO REVISE THE FUTURE LAND USE DESIGNATION AND TO REZONE A PORTION OF THE PROPERTY LOCATED AT 4970 SOUTHEAST 24TH COURT

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 1, 2022, its members voted 13 - 0 in support of a motion finding the requested rezoning for a portion of the Property located at 4970 Southeast 24th Court is not in conformance with the existing PlanDSM future land use designation of Low Density Residential; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 1, 2022 its members voted 13 - 0 in support of a motion to recommend **APPROVAL** of a request from Geneva Shoemaker (Owner), to amend the PlanDSM: Creating Our Tomorrow future land use designation for a portion of the Property located at 4970 Southeast 24th Court from Low Density Residential to Public/Semi-Public and to rezone the Property from “N2b” Neighborhood District to Limited “P2” Public, Civic, and Institutional District to allow subdivision of two existing cell towers from the remainder of the property subject to the following conditions:

1. The 50.32-foot by 323.44-foot access area to be located between the future cell tower parcels shall remain a part of the larger undeveloped parcel until such time the property is subdivided in accordance with a Large Scale Development Plan and subdivision plat regulations.
2. An access easement from East Titus Avenue to each of the cell tower parcels shall be provided until such time the access area is dedicated as public right-of-way.
3. Any new development shall be constructed in accordance with an approved Large Scale Development Plan and subdivision plat; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 1, 2022, its members determined the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan as amended; and

WHEREAS, the portion of the Property subject to the comprehensive plan amendment and proposed rezoning is legally described as follows:

The North 1/2 of the West 1/2 of the West 1/2 of the NE 1/4 of the NW 1/4; and the North 1/2 of the East 1/2 of the West 1/2 of the NE 1/4 of the NW 1/4 ;and the North 13 Acres of the East 1/2 of the NE 1/4 of the NW 1/4 all in section 25, Township 78 North, Range 24 West of the 5th P.M. Polk County, Iowa except that part beginning at the NW corner of the NE 1/4 of the NW 1/4 of Section 25 , thence South 663 feet; thence East along the South line of the NW 1/4 of the NE 1/4 of the NW 1/4 of section 25, 264.00. feet; thence North 379.0 feet; thence N 88 degrees



Roll Call Number

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54 minutes East , 610.00 feet; thence North 272 feet to the North Line of the NE 1/4 of the NW 1/4 of said section 25; thence West 874.00 feet to the point of beginning.

WHEREAS, on September 12, 2022, by Roll Call No. 22-1417, it was duly resolved by the City Council that the request for approval of the proposed amendment and rezoning be set down for hearing on October 3, 2022, at 5:00 p.m., at the City Council Chambers; and

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

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

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

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the proposed amendment and rezoning are hereby overruled, and the hearing is closed.
2. The proposed amendment to PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the Property from Low Density Residential to Public/Semi-Public is hereby approved.
3. The proposed rezoning of the Property, as legally described above, from “N2b” Neighborhood District to Limited “P2” Public, Civic and Institutional District, to allow the parceling off of two existing cell towers from the residential property, subject to the conditions set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT.

SECOND BY _____.



Roll Call Number

.....

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Date October 3, 2022

FORM APPROVED:

/s/ Gary D. Goudelock Jr.
Gary D. Goudelock Jr.
Assistant City Attorney

(ZONG-2022-000068)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			

CERTIFICATE

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

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

Mayor

City Clerk

Date October 3, 2022

Agenda Item 101

Roll Call # _____

September 6, 2022

Communication from the City Plan and Zoning Commission advising that at their September 1, 2022 meeting, the following action was taken regarding a request from Geneva Sue Shoemaker (owner) to rezone approximately 2.8 acres of the northeastern portion of the property located at 4970 Southeast 24th Court from “N2b” Neighborhood District to “P2” Public, Civic and Institutional District, to allow parceling of two existing cell towers from the residential property.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dan Drendel	X			
Leah Rudolphi	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Chris Draper	X			
Todd Garner	X			
Johnny Alcivar	X			
Justyn Lewis				X
Carolyn Jenison	X			
William Page	X			
Andrew Lorentzen	X			
Emily Webb	X			

APPROVAL of Part A) The requested rezoning be found not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of the request to amend PlanDSM future land use designation from Low Density Residential to Public/Semi-Public and remain Low Density Residential for the remainder of the property.

Part C) Approval of the request to rezone the subject property from “N2b” Neighborhood District to Limited “P2” Public, Civic, and Institutional District subject to following conditions:

- 1) The 50.32-foot by 323.44-foot access area to be located between the future cell tower parcels shall remain a part of the larger undeveloped parcel until such time the property is subdivided in accordance with a Large-Scale Development Plan and subdivision plat regulations.
- 2) An access easement from East Titus Avenue to each of the cell tower parcels shall be provided until such time the access area is dedicated as public right-of-way.
- 3) Any new development shall be constructed in accordance with an approved Large Scale Development Plan and subdivision plat.

Written Responses

3 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the request to amend PlanDSM future land use designation from Low Density Residential to Public/Semi-Public and remain Low Density Residential for the remainder of the property.

Part C) Staff recommends approval of the request to rezone the subject property from "N2b" Neighborhood District to Limited "P2" Public, Civic, and Institutional District subject to following conditions:

- 1) The 50.32-foot by 323.44-foot access area to be located between the future cell tower parcels shall remain a part of the larger undeveloped parcel until such time the property is subdivided in accordance with a Large-Scale Development Plan and subdivision plat regulations.
- 2) An access easement from East Titus Avenue to each of the cell tower parcels shall be provided until such time the access area is dedicated as public right-of-way.
- 3) Any new development shall be constructed in accordance with an approved Large Scale Development Plan and subdivision plat.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to rezone approximately 2.8 acres of the subject property to allow subdivision of two existing cell towers from the remainder of the property, which would remain residentially zoned.

Any future construction or site improvements would be subject to compliance with the Large Scale Development Plan and future subdivision Plat.

2. **Size of Site:** The subject property measures 15 acres in area.
3. **Existing Zoning (site):** “N2b” Neighborhood District.
4. **Existing Land Use (site):** The subject property consists of one parcel with a one-household dwelling to the western portion of the property and two existing cell tower sites in the northeast corner of the lot. The central portion of the property is used for agriculture with the remaining area dedicated to forested open space.

5. Adjacent Land Use and Zoning:

North – “P1”, Use is a public park.

South – “N2b”; Uses are one-household residential.

East – “PUD”; Uses are one-household residential.

West – “N2b”; Uses are one-household residential.

6. **General Neighborhood/Area Land Uses:** The subject property is located north of Easter Lake Drive and west of southeast 26th Court. The property consists of a one-household dwelling, two existing cell tower sites, and undeveloped open space. A one-household residential subdivision adjoins the property to the east with one-household dwellings to the south and Easter Lake Park adjoining to the north. Additional undeveloped open space adjoins the property along the west.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Easter Lake Area Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on August 12, 2022, and by mailing of the Final Agenda on August 22, 2022. Additionally, separate notifications of the hearing for this specific item were mailed on June 12, 2022 (20 days prior to the public hearing) and August 22, 2022 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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

The applicant is required to conduct neighborhood outreach. They will be available to provide a summary of that outreach during the public hearing.

8. **Relevant Zoning History:** On December 16, 2009, by Docket No. ZON2009-00155, the Zoning Board of Adjustment approved a request granting an amended Conditional Use Permit with conditions for a 140-foot tall stealth monopole communications tower stating that the adverse visual impact of the tower would be minimized through careful design, siting, landscape screening and camouflaging techniques. Furthermore, the visual impact of the tower will be minimized by the existing surrounding tree canopy. By allowing the tower to be 140 feet tall, additional communications carriers can co-locate on the tower, thus reducing the need for additional towers in the area.

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Creating Our Tomorrow:** The applicant has requested the subject property be rezoned to “P2” Public, Civic, and Institutional District to allow subdivision of two existing cell towers to separate them from the remainder of the property, which would remain residentially zoned. The subject property is currently designated “Low Density Residential”. Plan DSM describes this designation as follows:

Low Density Residential:

Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre.

The applicant is proposing to rezone the subject area from “N2b” District to “P2” District. For the proposed rezoning to “N2b” District to be in conformance with PlanDSM, the future land use designation must be amended to “Public/Semi-Public. PlanDSM describes this designation as follows:

Public/Semi-Public:

Areas that are mostly open to public use or public access. May include government facilities, schools, hospitals, libraries, and community facilities.

The Zoning Ordinance states that the “P2” District is intended for civic and institutional facilities, such as religious assembly places, cultural or arts centers, community centers, schools, infrastructure, recreational facilities, and other institutional facilities. Infrastructure includes public or private infrastructure, including rail corridors and utility corridors or sites.

Staff believes that the proposal would minimize any adverse impacts when maintained and developed in accordance with all applicable regulations. The existing cell towers would continue to maintain appropriate design requirements and be subject to section 134-4 Wireless Telecommunications Facilities for any substantial changes or new equipment that may be proposed. Staff supports the rezoning of the subject property to “P2” District subject to the zoning conditions outlined in Section III of the Staff Report.

2. **Planning and Design Ordinance:** Any future construction or development of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).

- 3. Traffic/Street System:** The future alignment of East Titus Avenue between cell tower sites will remain available for access until such time the remaining parcel is platted for development in accordance with code. Right-of-way dedication to the City will be needed for any future development to occur.

SUMMARY OF DISCUSSION

Emily Webb asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Francis Boggus made a motion for:

Part A) The requested rezoning be found not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

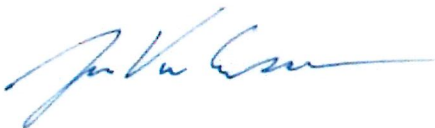
Part B) Approval of the request to amend PlanDSM future land use designation from Low Density Residential to Public/Semi-Public and remain Low Density Residential for the remainder of the property.

Part C) Approval of the request to rezone the subject property from "N2b" Neighborhood District to Limited "P2" Public, Civic, and Institutional District subject to following conditions:

- 1) The 50.32-foot by 323.44-foot access area to be located between the future cell tower parcels shall remain a part of the larger undeveloped parcel until such time the property is subdivided in accordance with a Large-Scale Development Plan and subdivision plat regulations.
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- 3) Any new development shall be constructed in accordance with an approved Large Scale Development Plan and subdivision plat.

Motion passed: 13-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh





1 inch = 159 feet









Google



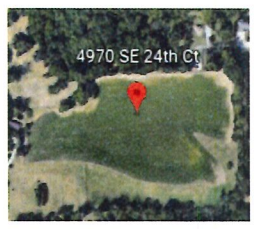
61

PLAT OF SURVEY GENEVA SUE SHOEMAKER 4970 SE 24TH CT



POLK COUNTY
BK-3568 PG-17 ZONES P1 & F

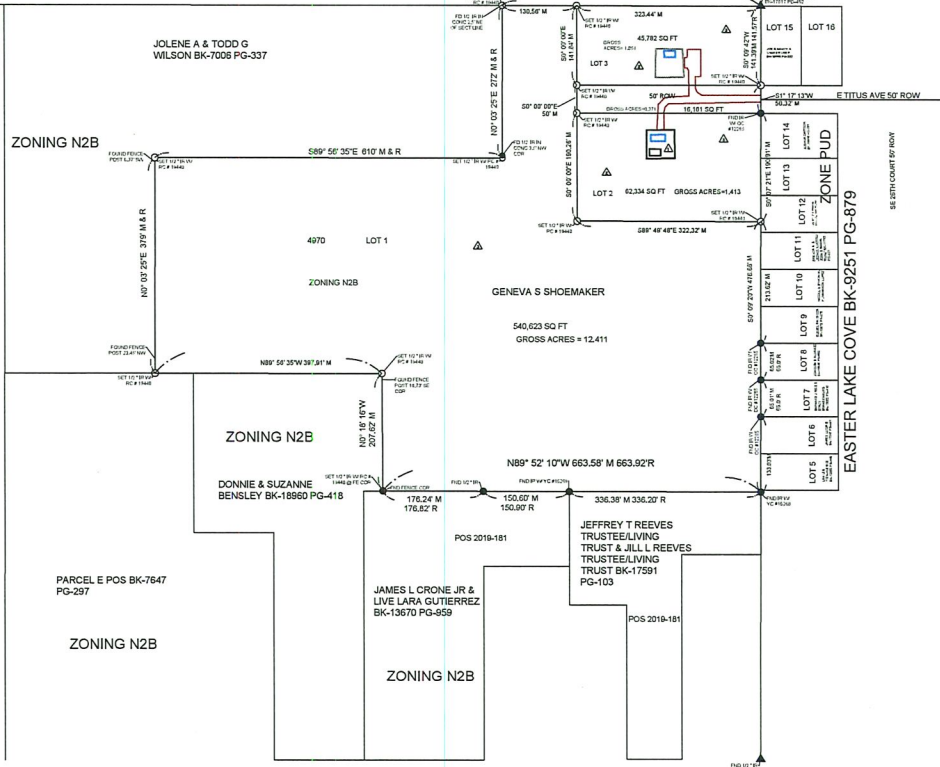
S89° 56' 20" E 2646.60' M



LEGAL DESCRIPTION: The North 1/2 of the West 1/2 of the Northeast 1/4 of the Northwest 1/4 ; and the North 1/2 of the East 1/2 of the West 1/2 of the Northeast 1/4 of the Northwest 1/4 ; and the North 13 Acres of the East 1/2 of the Northeast 1/4 of the Northwest 1/4 all in Section 25, in Township 78, Range 24 West of the 5th P.M., Polk County, Iowa, EXCEPT that part beginning at the Northwest corner of the NW 1/4 of the NE 1/4 of the NW 1/4 of Section 25, 264.0 feet; thence North 379.0 feet; thence N88°54'E 610.0 feet; thence North 272.0 feet to the North line of the NE 1/4 of the NW 1/4 of said Section 25; thence West 874.0 feet to the point of beginning.

- NOTES:
- CELL TOWER IS 140' TALL
 - CURRENT ZONING IS N2B PROPOSED ZONING IS P2
 - TO REZONE CELL TOWER SITES TO MEET REQUIREMENTS

FLOOD HAZARD
PANEL 19153C0365F- ZONE "X" AREA OF MINIMAL FLOOD HAZARD EFFECTIVE 2/1/2019
SUBJECT TO ANY AND ALL EASEMENTS OF RECORD IF ANY, RECORDED OR UNRECORDED



SYMBOLS LEGEND

- R RECORDED DISTANCE
- M MEASURED DISTANCE
- C CALCULATED DISTANCE
- CORNER MONUMENT FOUND
- UNLESS NOTED
- △ SECTION CORNER FOUND
- △ SECTION CORNER SET
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- YC YELLOW CAP
- IR IRON ROD
- IP IRON PIPE
- OC ORANGE CAP
- RC RED CAP

I HEREBY CERTIFY THAT THIS SURVEYING DOCUMENT WAS PREPARED AND THE RELATED WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

PRELIMINARY
MERLIN L. DAVIS, IOWA LIC. NO 19440 DATE _____
MY LICENSE RENEWAL DATE IS DECEMBER 31, 2022.
ADDITIONAL PAGES CERTIFIED (NONE UNLESS INDICATED HERE) 1 OF 1



INDEX

COUNTY: POLK COUNTY
SITE ADDRESS: 4970 SE 24TH CT
CITY: DES MOINES
SECTION: 25 TOWNSHIP: 78 RANGE: 24
ALIQUOT PART: NE 1/4, NW 1/4
PARCEL DESIGNATION: 12007171321000
PROPRIETOR: SUE GENEVA SHOEMAKER
REQUESTED BY: SUE GENEVA SHOEMAKER
SURVEYOR NAME: MERLIN L. DAVIS

PROPERTY OWNER INFORMATION

CLIENT: GENEVA SUE SHOEMAKER
BILLING ADDRESS: 3701 DEER RUN ROAD,
STORY CITY, IOWA, 50248
PHONE NUMBER: (515) 975-8531

PROJECT NO:	22135
DRAWING FILE NO:	22135 POS
DESIGNED/REVIEWED BY:	MLD
DRAWN BY:	DR
DATE:	06/24/2022

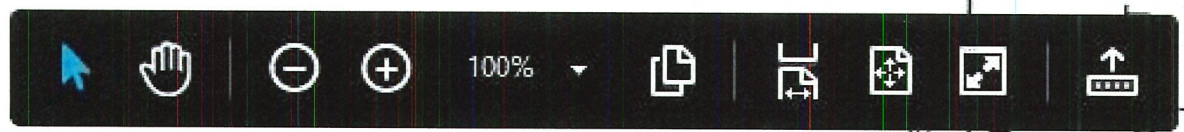
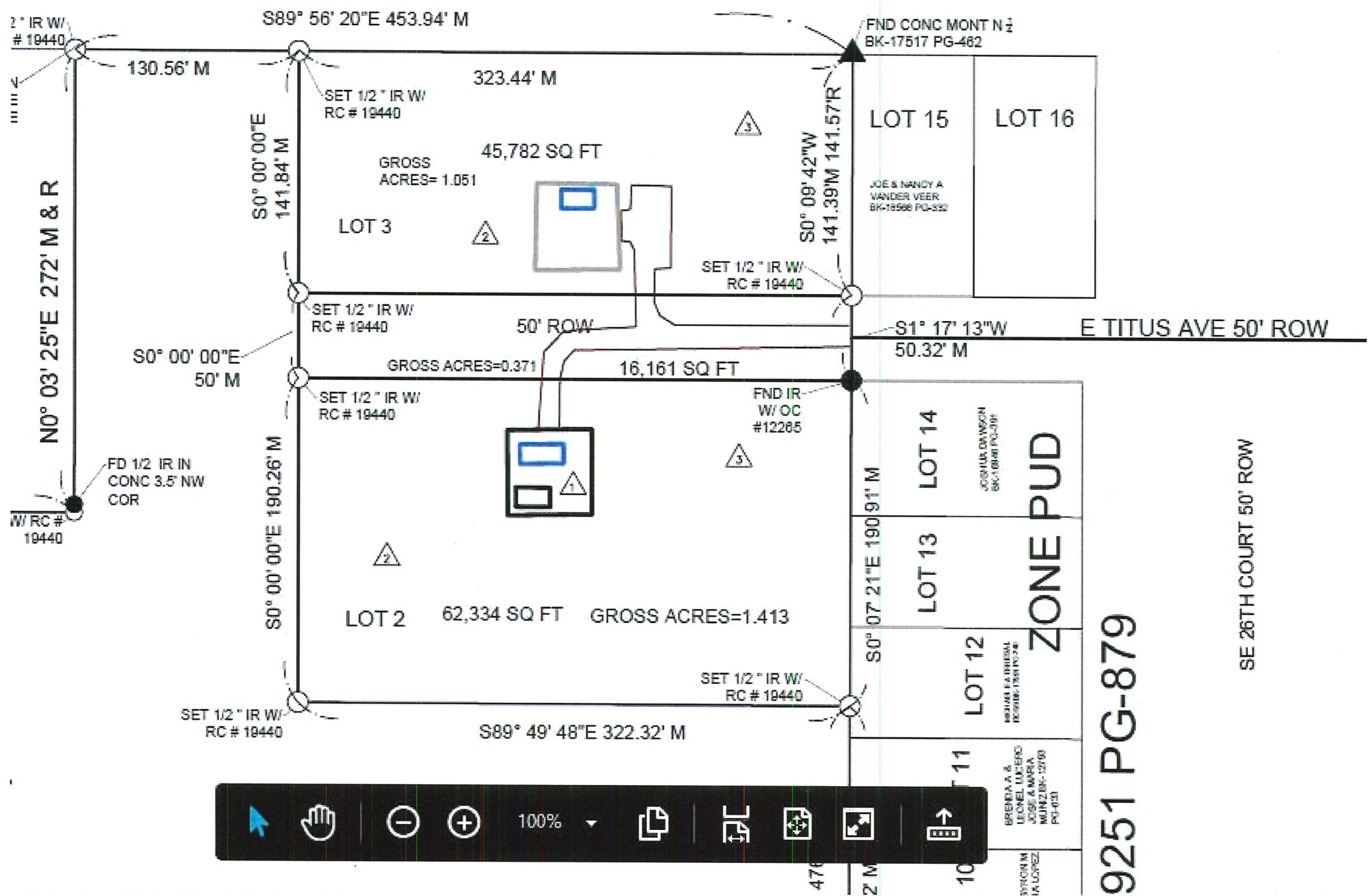
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NO:	2	REVISION DESCRIPTION:	
NO:	3	REVISION DESCRIPTION:	
NO:	4	REVISION DESCRIPTION:	

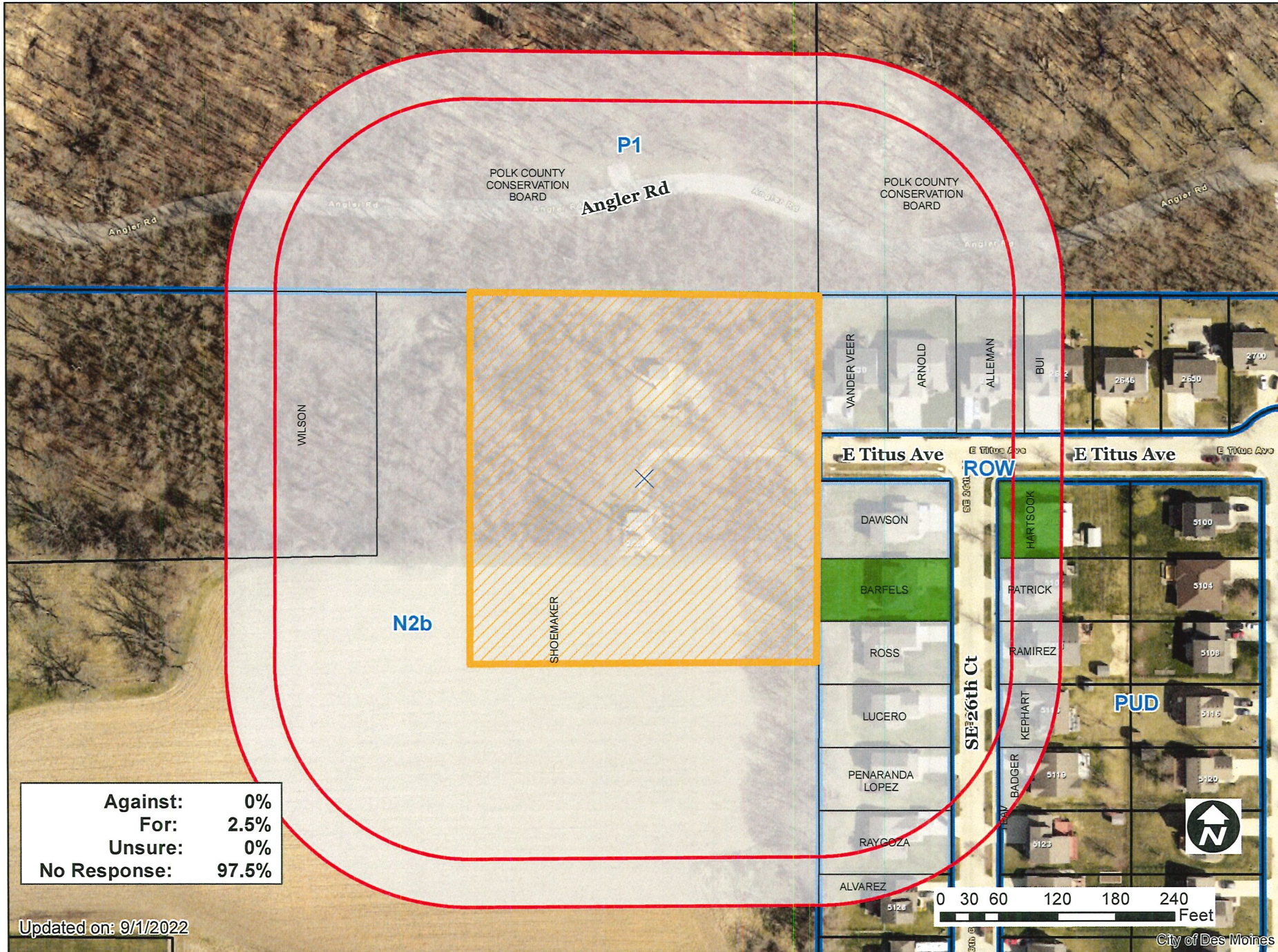
ABACI CONSULTING, INC.
CIVIL ENGINEERING - LAND SURVEYING
3885 SE OWENS BLVD., SUITE 100
DES MOINES, IOWA 50315

GENEVA SUE SHOEMAKER
DES MOINES, POLK COUNTY, IOWA
PLAT OF SURVEY

SHEET:
1 OF 1

Geneva20124AreaAbaci Production\info\comp\Clients\Shoemaker_Geneva_Sue#22135_4970 SE 24th Ct_DSM (2)CADW\22135 BOUNDARY.dwg





Item: ZONG-2022-000068

Date: 28 Aug 2022

tel

Please mark one of the following:

- I am in favor of the request
- I am not in favor of the request

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

AUG 30 2022

Signature: [Handwritten Signature]

Name: John Balfels

Address: 5106 SE 26th Ct, Dsm, 50320

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

Item: ZONG-2022-000068

Date: 8/26/2022

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

AUG 30 2022

Signature: [Handwritten Signature]

Name: Tony Hartscock

Address: 5103 SE 26th Ct 50320

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

61

Item: ZONG-2022-000068 Date: _____

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT
SEP 01 2022

Signature: Geneva Shoemaker

Name: Geneva Shoemaker

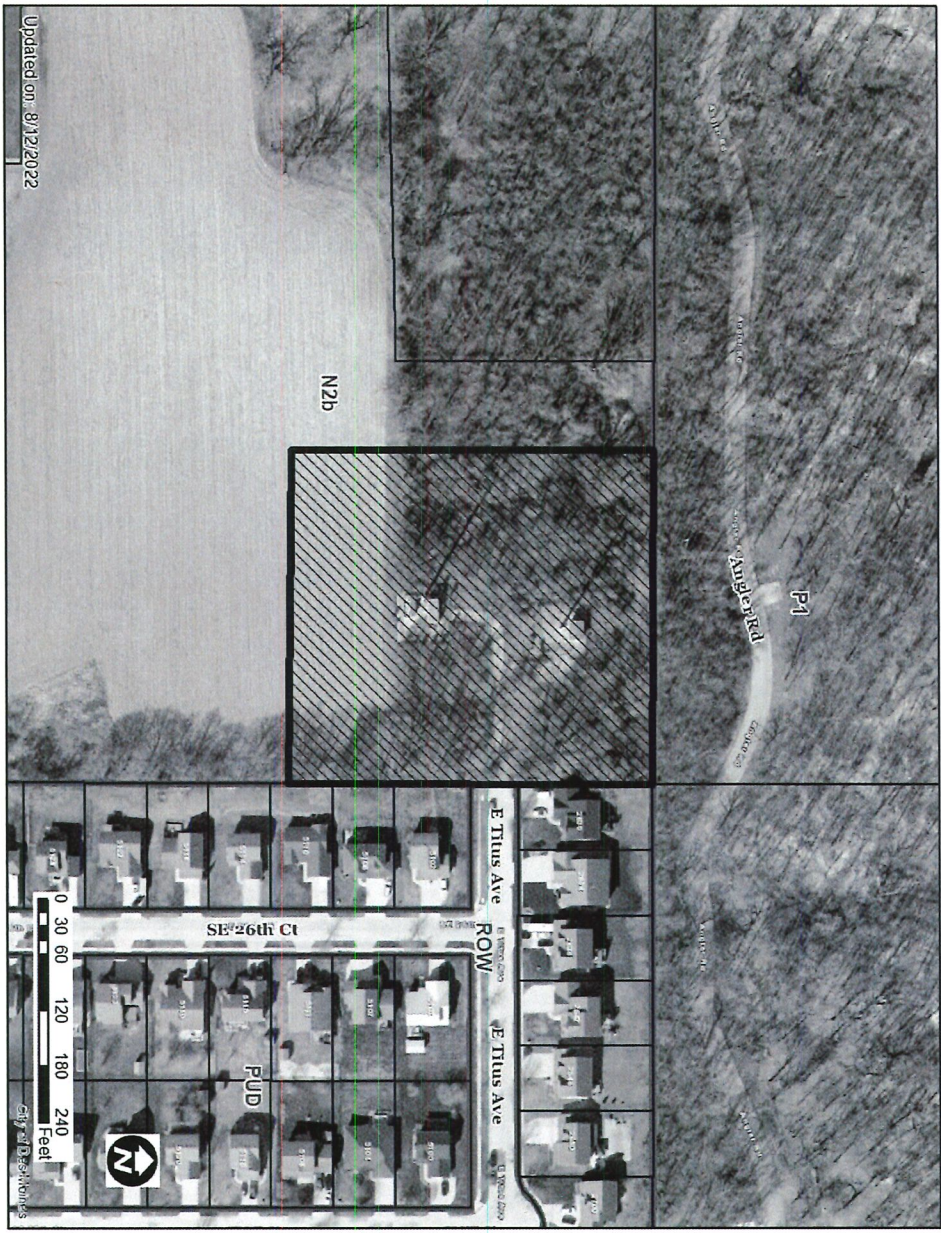
Address: 3701 DEER Rd.
STORY CITY, IA 50248

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

I approve because I want to comply
with the zoning!

Geneva Sue Shoemaker, 4970 Southeast 24th Court

ZONG-2022-000068



1 inch = 131 feet