



## Rezoning Petition

### **Petitioner:**

Otto Farms, Inc. (Contract Buyer), represented by Norm Olson, 1687 NE 56<sup>th</sup> Street, Pleasant Hill, IA 50327, with consent from BRE Investments, LLC (Property Owner), and being represented by Mark Dickinson with Nyemaster Law Firm, 700 Walnut Street, Suite #1600, Des Moines, IA 50309

### **Request:**

Comprehensive Plan and Zoning Map Amendments

### **Subject Property Legal Description:**

The NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  lying North of the South line of the Railway Right-of-Way, except beginning at the Northwest corner, thence South 382 feet, thence East 50 feet, thence Northeast 402.7 feet, West to the Point of Beginning, all in Section 35, Township 79 North, Range 23 West of the 5<sup>th</sup> P.M., in Polk County, Iowa, and;

Tract "A" of the Plat of Survey recorded in Book 7207 Page 945 being Lot 5 of the Official Plat of the NW  $\frac{1}{4}$  of Section 35, Township 79 North, Range 23 West of the 5<sup>th</sup> P.M. and part of the West  $\frac{1}{2}$  of the abandoned C.R.I. & P. Railroad in Section 35, Township 79 North, Range 23 West of the 5<sup>th</sup> P.M., Polk County, Iowa, and;

Lot 8 of the Official Plat of the NW  $\frac{1}{4}$  of Section 35, Township 79 North, Range 23 West of the 5<sup>th</sup> P.M., Polk County, Iowa; and

The West 50 feet of the former C.R.I. & P. Railroad Right-of-Way in the NW  $\frac{1}{4}$  of Section 35, Township 79 North, Range 23 West of the 5<sup>th</sup> P.M., lying East and adjacent to Lot 8 of the Official Plat of the NW  $\frac{1}{4}$  of Section 35, Township 79 North, Range 23 West of the 5<sup>th</sup> P.M., Polk County, Iowa.

### **General Location (Attachment 'A'):**

1687 NE 56<sup>th</sup> Street, Pleasant Hill, IA 50327. Approximately 45.44 acres being located within part of the NW  $\frac{1}{4}$ , and part of the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$ , all within Section 35 of Township 79 North, Range 23 West of the 5<sup>th</sup> P.M. (Clay Township).

The subject property is located adjacent to the corporate limits of the City of Pleasant Hill to the south, west, and east. The property is bordered to the east by the Highway 65 bypass, and is adjacent to NE 56<sup>th</sup> Street to the west. The subject property is located approximately one-half ( $\frac{1}{2}$ ) mile north of the intersection of NE 56<sup>th</sup> Street and NE University Avenue (Hwy 163) within Pleasant Hill.

**Existing Future Land Use Map Classification:**

Open Space

**Proposed Future Land Use Map Classification:**

Agricultural

**Existing Zoning:**

“MDR” Medium Density Residential District

**Proposed Zoning:**

“AG” Agricultural District

**Surrounding Zoning:**

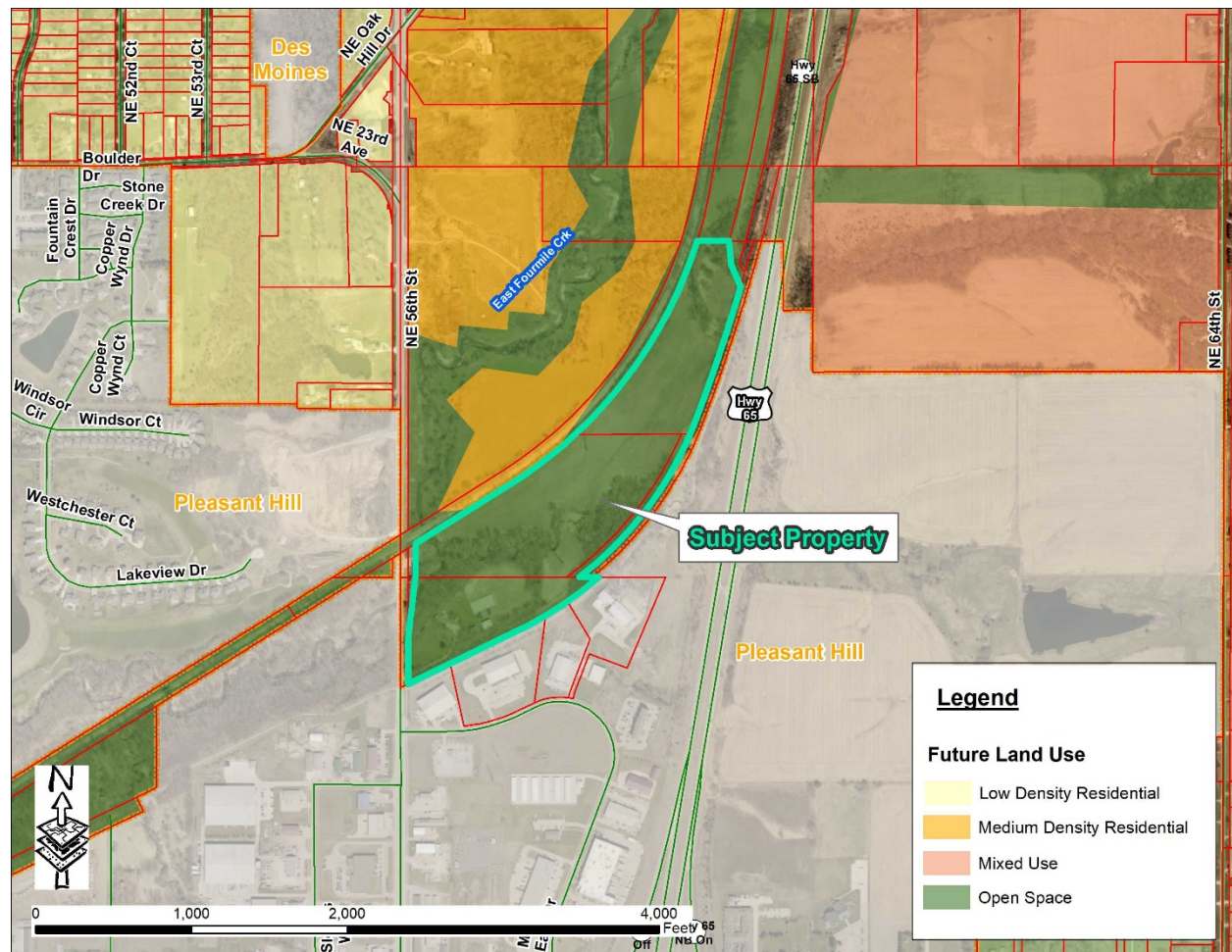
**North** – “MDR” Medium Density Residential District

**South** – City of Pleasant Hill (I-2 Light Industrial District)

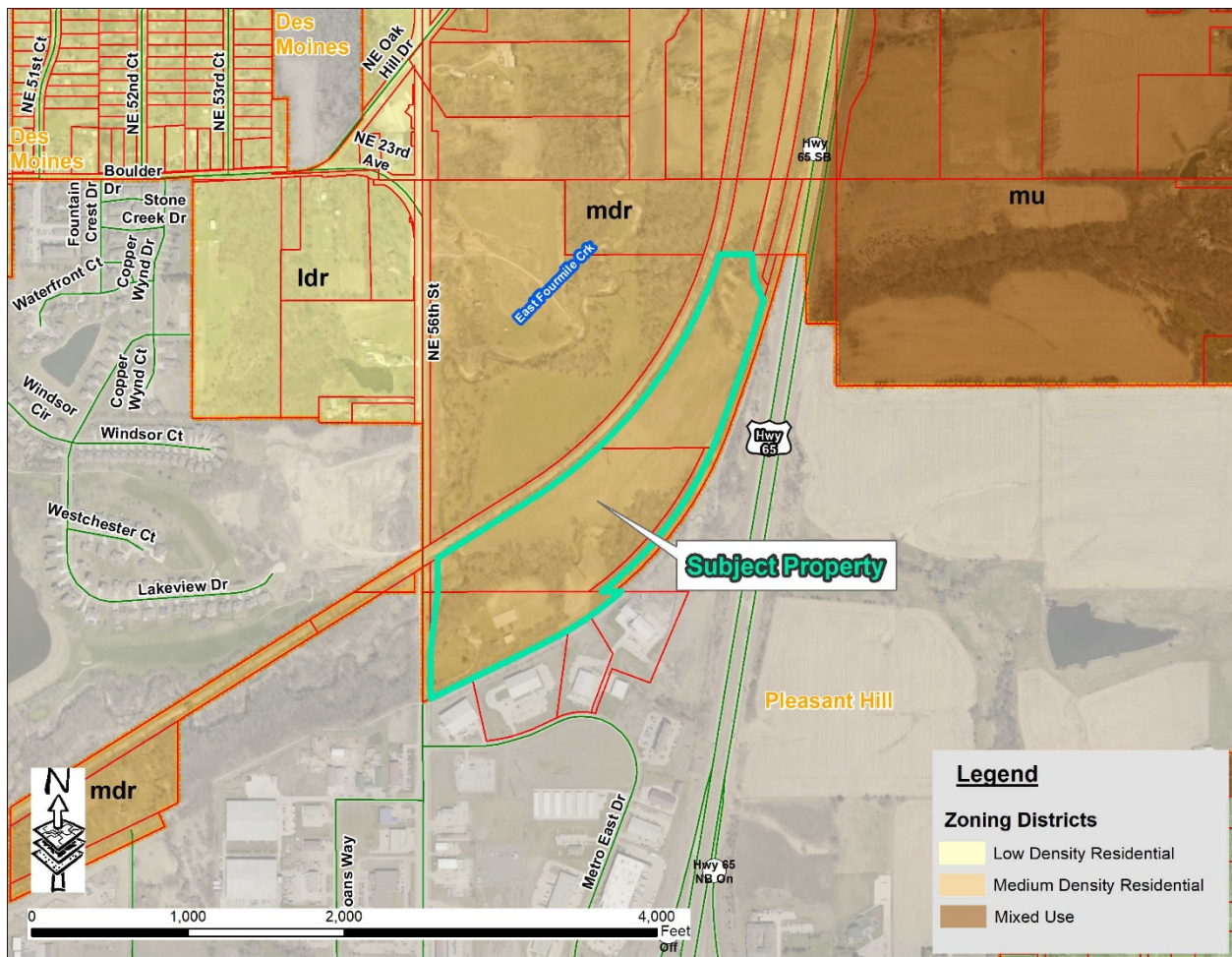
**East** – Hwy 65 Bypass / City of Pleasant Hill (A-1 Agricultural District)

**West** – City of Pleasant Hill, owned by Polk County Conservation (R-4 Planned Unit Development)

**Existing Future Land Use**



## Existing Zoning



## GENERAL COMMENTS

The Petitioner is requesting a Comprehensive Plan Amendment and Zoning Map Amendment to change the Future Land Use Map classification from Open Space to Agricultural, and to change the Zoning Map from the “MDR” Medium Density Residential District to the “AG” Agricultural District for the subject property. The submitted application provided by the petitioner can be found as *Attachment ‘B’* to this report. The request would downzone the property from Medium Density Residential to Agricultural. The application states the intent of the request is to align the property’s zoning with its current and future agricultural use(s). Staff has been in contact with the petitioner/contract buyer for several months regarding a seasonal lavender farm and gift shop that has been established on the property. This use, particularly the retail gift shop, are not permitted under the property’s current Medium Density Residential zoning. However, after gathering additional information about the business staff determined the use would be allowed under the Zoning Ordinance use definition of Agri-Tourism, which requires a rezoning to an agricultural designation as well as a Conditional Use Permit from the Board of Adjustment and approval of a site plan by staff. In communication with the owners, they desire to continue and possibly expand the lavender farm, retail shop and associated uses of the property by the public, and have submitted this request to begin the process of legitimizing this use.

Rezoning to the “AG” Agricultural District would prevent any additional residential development of the property beyond the one (1) exiting residence. However, in communication with both Polk



County and the City of Pleasant Hill, located directly adjacent to the property, the site has very limited potential for future development/redevelopment. The property has limited frontage/access, areas of mapped floodplain and other environmental features, an existing electrical transmission line, and a general unique configuration and layout of the parcels that make up the subject property, which does not lend the site to ease of redevelopment. The subject property is comprised of four (4) separate tax parcels stretching to the north and east from NE 56<sup>th</sup> Street. The developed portion of the property is located in the southwest corner near NE 56<sup>th</sup> Street, including the main driveway, residence and accessory structures. The existing residence was constructed in 1967 according to County records. The property also contains a 20' x 32' detached garage (constructed in 1967), a 16' x 42' accessory barn (constructed in 1976) and a 45' x 60 accessory shed (constructed in 1991). The property also appears to contain an additional accessory building recently constructed on the property without permits. The lavender gift shop is located within the 16' x 42' building just southeast of the residence. The contract buyers have also established an outdoor lavender growing area just east of the residence. The remainder of the property to the north and east is utilized in row crop production, and contains areas of natural resources including woodlands and floodplain along a draingeway that flows into East Fourmile Creek where it crosses within the northwest corner of the property near NE 56<sup>th</sup> Street.

### **Surrounding Area and Land Use**

Reference *Attachment A* for a vicinity map of the subject property and surrounding area. The property is bordered by the corporate limits of Pleasant Hill to the south, west and east, and is also bordered by abandoned railroad right-of-way and the Highway 65 bypass to the east. Existing light industrial development within the City of Pleasant Hill is located directly to the south within the Metro East Business Park. The regional Gay Lea Wilson recreational trail is also located to the south between the subject property boundary and the adjacent industrial park. Directly west of the property, lying west of NE 56<sup>th</sup> Street is a parcel located within the City of Pleasant Hill but owned by Polk County Conservation. The property contains a segment of East Fourmile Creek, including floodplain and woodlands. Further to the west and north is the existing Copper Creek development within the City of Pleasant Hill. The subject property is bordered to the north, and partially to the west, by an existing Iowa Interstate railroad line. The next property to the north and west is a large, approximately 53-acre parcel within unincorporated Polk County. This property is addressed as 2155 NE 56<sup>th</sup> Street, is zoned Medium Density Residential and contains an existing residence. The majority of this adjacent property is encumbered by East Fourmile Creek and adjacent floodplain that flows through the property.

### **STAFF REVIEW**

#### **Property History**

The subject property is presently zoned "MDR" Medium Density Residential District. Prior to the adoption of the current Zoning Ordinance and Map in 2007 the property was zoned Suburban District, which was a large lot residential zoning classification. It appears the use of the property has changed very little over time. It has primarily been used agriculturally, with additional areas of natural features, including floodplain, drainage and woodlands. The property has contained various accessory and agricultural structures over time, both prior to, and after the construction of the current residence on the property in approximately 1967.

#### **Roads/Access/Utilities**

The property has approximately 850 feet of frontage to the west onto NE 56<sup>th</sup> Street, which is a paved two-lane minor arterial roadway. NE 56<sup>th</sup> Street provides access south to University

Avenue (Hwy 163) within the City of Pleasant Hill, and also provides access north through unincorporated Polk County, the City of Des Moines and eventually connects with 8<sup>th</sup> Street SW within the City of Altoona. The subject property is bordered to the north and partially to the west by an existing Iowa Interstate railroad line, and is bordered to the east by an abandoned railroad right-of-way, community trail and the Highway 65 bypass. The property is served by an existing driveway entrance to the west accessing NE 56<sup>th</sup> Street.

Water service is available through Des Moines Water Works. Current available mapping shows there is an existing 12-inch (12") water main along NE 56<sup>th</sup> Street adjacent to the southern edge of the property. The existing residence on the property is served by an onsite septic system located north and east of the dwelling.

### **Environmental**

The topography of the subject property varies, ranging from a high elevation of approximately 860 feet in the area of the existing house and accessory buildings to a low point of approximately 820 feet directly north of the house along the drainageway that feeds into East Fourmile Creek in the northwest corner of the property near NE 56<sup>th</sup> Street. The north and northeastern portion of the site is primarily utilized for row crops and is relatively flat with some sloping topography moving west towards the drainageway and intersection with East Fourmile Creek. The property contains an area of Zone 'A' 1% Annual Chance Floodplain along the drainageway and connection to East Fourmile Creek in the northwest part of the property near NE 56<sup>th</sup> Street. The property also contains a significant area of woodlands along the drainageway that cuts through the middle of the site.

### **Public Testimony**

A total of 25 property owners were within the required 500-foot notification boundary. These owners were mailed public notices regarding the request, including the date and time of the Zoning Commission public hearing. To-date, two (2) items of public testimony have been received in support, and zero (0) in opposition, of the request. Given the proximity of their corporate limits, Polk County also notified the City of Pleasant Hill, but no official comments on this request have been received to-date. Staff had prior communication with the City regarding the lavender farm and gift shop to see if it was viable for the property to be annexed into the City and permitted under their requirements. While generally supportive of the use, the City was not interested in annexing the property due to its limited development potential and difficulty in serving the property with City utilities.

### **Comprehensive Plan Discussion**

The subject property is located within the Southeast Area, as identified in the Polk County 2030 Comprehensive Plan. The area includes portions of the cities of Pleasant Hill, Altoona, Bondurant, and Des Moines, as well as the cities of Mitchellville and Runnells. The Southeast Area generally lies east of Des Moines along the Highway 65 bypass, south of interstate 80, and is bordered by the County limits with Warren County and the Des Moines River to the south, and by the County limits with Jasper County to the east. The majority of unincorporated land within the Southeast Area is located in Camp Township in the far southeastern portion of the County, and is zoned "RR" Rural Residential and developed with a combination of rural acreages and existing farm ground. The Area also includes a variety of residential zoning along the corporate boundaries of Pleasant Hill, Altoona and Des Moines. Some of these areas are zoned residential as a recognition of historic established neighborhoods and development, while others were reclassified back in

2006-2007 when the Polk 2030 Comprehensive Plan was adopted in an effort to edge match with adjacent jurisdiction's future land use plans.

Key issues identified during the development of the Plan for the Southeast Area include fostering economic growth, a desire to protect open space and natural areas, recognizing conflicts between rural development and agricultural operations, and balancing the pace of growth and urban expansion with landowner's expectations of development under their current zoning.

Applicable goals and policies identified in the 2030 Comprehensive Plan:

*Quality of Life Goal – Policy 1: Social Infrastructure – Having educational and economic opportunities is critical to maintaining a high quality of life. Polk County will promote development patterns and investment that fosters educational and economic opportunities for current and future residents.*

*Economic Growth and Agricultural Goal – Polk County will encourage continued sustainable growth of the County's agricultural land uses through identifying appropriate locations for agricultural and non-agricultural business growth, encouraging innovation in agricultural production and market development, and linking economic investment with the resources that make the investment competitive.*

*Planning Process and Implementation Goal – Policy 3: Zoning Consistency – Regulation is a critical tool to meeting County land use goals, and the County's preferred land use vision. Polk County will update its zoning and land development regulations to encourage an efficient development pattern, fostering compact villages and corridors linking distinct communities.*

*Southeast Area Goal: Conservation & Quality of Life – Polk County will promote development patterns and agricultural practices that conserve agricultural resources in rural areas and natural areas and natural infrastructure throughout the Southeast*

The Comprehensive Plan may be amended from time to time if it can be demonstrated that a real and immediate need exists based upon changing circumstances.

### **Comprehensive Plan Analysis**

Polk County has a significant role and interest in promoting economic development which maintains and grows the County's tax base, while simultaneously supporting consistency in land use regulation which maintains neighborhood character and fosters stability and compatibility between land uses. The County also plays a significant role in protecting prime farmland, ensuring a balance between rural and urban land uses, and fostering an environment that supports value-added agriculture in appropriate areas.

The current Open Space future land use classification and "MDR" Medium Density Residential District zoning of the subject property were established in 2006-2007 with the creation of the Polk 2030 Comprehensive Plan and current version of the Polk County Zoning Ordinance and Map. At that time, the zoning and future land use of unincorporated properties proximate to corporate boundaries throughout the County were updated in an attempt to match them with the future growth plans of adjacent cities. The subject property's Open Space designation on the Future Land Use Map was established due to the location of a drainageway and segment of East Fourmile Creek and adjacent floodplain areas located on the property. The subject property has not realized annexation or redevelopment in the last 15 years under its Medium Density

Residential zoning. As discussed earlier in this report, there are several constraints that limit the future development potential of the subject property. These include floodplain, topography and other natural features, as well as limited accessible frontage, the presence of an electrical transmission line, and a general lack of connectivity to adjacent properties due to the site being bordered by the Highway 65 bypass and an existing railroad. Furthermore, recent conversations with the City of Pleasant Hill have confirmed the City's future land use plan identifies the property as agricultural and rural residential; however, the City has no desire to annex this property due to the characteristics limiting future development, including difficulty in providing future City utility services to the site.

The requested amendments to the Comprehensive Plan and Zoning Map would downzone the property to agricultural to both match its current and likely future use(s) and to facilitate legitimizing an Agri-Tourism use of a lavender farm, gift shop and related activities. The request supports the applicable goals and policies of the Polk County 2030 Comprehensive Plan by realigning the property's zoning designation with its current and proposed future uses. The request also ensures that the property will remain utilized for one (1) single-family residence and agricultural uses, and protects critical environmental resources contained on the property from future development, including woodlands and a drainageway and floodplain within the Fourmile Creek watershed. Additionally, the request provides a path forward for the contract buyers to legitimize their current Agri-Tourism operation. Polk County staff supports the existing operation, but rezoning the property is the necessary first step in assisting the owners with legitimizing the operation and supporting a value-added agricultural enterprise within the County.

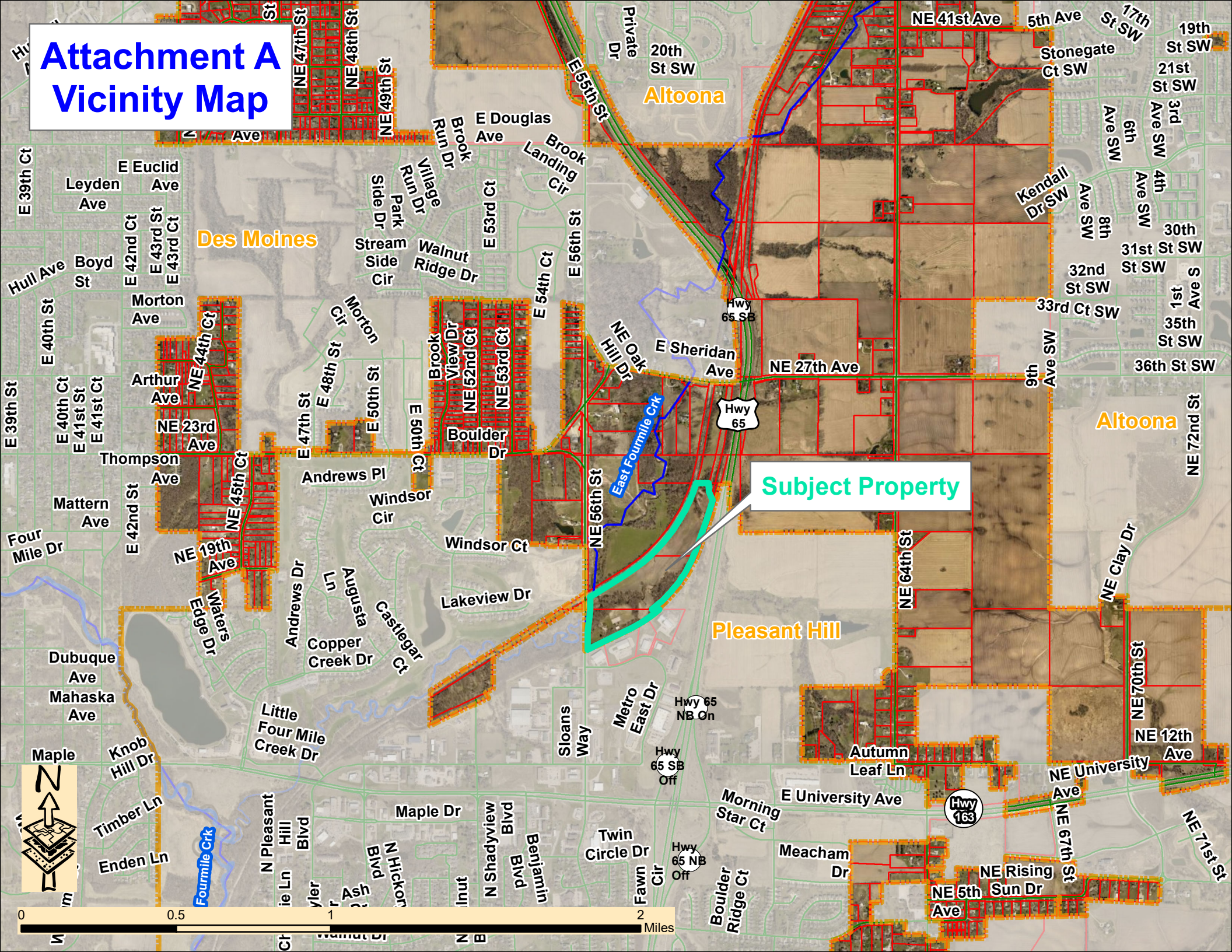
**RECOMMENDATION:**

Staff recommends approval of the requested Comprehensive Plan Amendment and Zoning Map Amendment to change the Future Land Use Map classification from Open Space to Agricultural, and to change the Zoning Map from the "MDR" Medium Density Residential District to the "AG" Agricultural District for the subject property.

The recommendation for approval is based upon the fact that the request is in harmony with the spirit, intent, goals and policies of the Polk County 2030 Comprehensive Plan. The recommendation for approval of the Zoning Map Amendment is based upon the following: a) The request is in accordance with the Comprehensive Plan; b) Approval supports the public, health, safety and welfare of County residents by aligning the property's zoning classification with its current, intended and most likely future use(s); and c) Rezoning the property to agricultural is compatible with adjacent properties to the east, and the rezoning area is differentiated from surrounding properties with different zoning classifications given its unique configuration and multiple constraints which limit its ability for future development/redevelopment, including unique terrain, environmental features, lack of access and connectivity, and lack of ability to serve the site with urban utilities required for future development.



# Attachment A Vicinity Map



Des Moines

Altoona

Altoona

Pleasant Hill

Subject Property

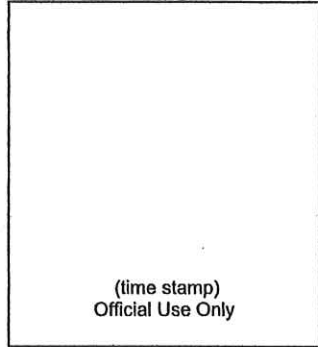


0 0.5 1 2 Miles



**Comprehensive Plan Amendment and Rezoning Application**

A submittal is only a request to have the Comprehensive Plan amendment and/or Zoning Map change reviewed at a public hearing before the Zoning Commission. The Zoning Commission reviews the requested Comprehensive Plan amendment and/or Zoning Map change at a public hearing making a recommendation based on a staff report, applicant presentation, as well as public input. The Zoning Commission recommendation is considered by the Board of Supervisors at a public hearing on the request. Notice of each public hearing is published in the official county newspapers and individual notice will be mailed to all property owners located within 500 feet of the subject property. Requests that are denied shall not come back to the Board of Supervisors for one year. Refunds will not be made once notice has been sent out to adjacent property owners.



Please complete the entire application, submit with fee and review the criteria on page 3.

The undersigned request that the Zoning Commission consider this reclassification.

- 1. Residential (MDR)      2. Agriculture  
Current Future Land Use      Proposed Future Land Use  
Classification                      Classification
- 3. Medium Density Residential (MDR)      4. Agriculture (Ag)  
Current Zoning District                      Proposed Zoning District

- 5. Subject Property Address: 1687 NE 56<sup>th</sup> St Pleasant Hill, IA - 50327
- 6. District and Parcel Number: 170/00344-004-000, 170/00338-001-00, 170/00335-003-000
- 7. Subject Property Legal Description (attach if necessary): 170/00338-002-004

PLEASE SEE ATTACHED 4 PAGES FOR PARCEL #'S AND THE LEGAL DESCRIPTIONS

8. Filing Fee: - \$438.00

9. Applicant(s) Information:

Otto Farms, Inc.      [Signature]      12-28-2021  
Applicant (Print Name)      Signature      date

OWNER      NORM@NORMOLSON.COM  
Interest in Property (owner, renter, perspective buyer, etc.)      Email

1687 NE 56<sup>th</sup> St Pleasant Hill, IA. 50327      515-401-2613  
Address, City, State and Zip      Phone      Fax

10. Applicant(s) Representative:

If the appeal is going to be represented by someone other than the applicant please provide that information below:

Mark Dickinson      Nyemaster Law Firm  
Applicant Representative (Print Name)      Firm or Business Name

700 Walnut St. Ste # 1600 Des Moines, IA - 50309  
Address, City, State and Zip

mcda@nyemaster.com      515-283-3166  
Email      Phone      Fax

2021 DEC 29 AM 10:50  
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2021-11169  
PR-589-2021

11. Property Owner Consent:

The application must be signed by all the Titleholders, Contract Purchasers, or Option Purchasers of the subject property. The application may also be signed by the Registered Agent for a corporation or other person with similar legal authority to sign for a property owner. (if additional signatures are needed please attach)

<u>OTTO FARMS, INC</u> (Print Name)	<u><i>[Signature]</i></u> Signature	<u>12-27-2021</u> date
<u>NORMAN OLSON</u> (Print Name)	<u><i>[Signature]</i></u> Signature	<u>12-27-2021</u> date
<u>BRK INVESTMENTS</u> (Print Name)	<u><i>[Signature]</i></u> Signature	<u>12/27/2021</u> date
<u>BROO WARREN</u> (Print Name)	<u>OFFICER</u> Signature	<u>12/27/2021</u> date

12. Written description:

Please provide a written description providing specific detail and reasons for the proposed request. (Attach if necessary)  
Optionally attach any additional information including concept plans for the proposed development or use.

*PLEASE SEE ATTACHED*

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Return completed forms to: Polk County Public Works, Planning & Development Division  
 5885 NE 14<sup>th</sup> Street, Des Moines, IA 50313  
 ▪ Phone (515) 286-3705 ▪ Fax (515) 286-3437 ▪  
 email: PublicWorks@polkcountyiowa.gov

Forms available online <http://www.polkcountyiowa.gov/PublicWorks/>  
 Zoning Commission Calendar Zoning Comm Calendar

**A completed application with required information and filing fee must be submitted.  
 Incomplete submittals will not be processed and will be returned to the Applicant.**

OFFICIAL USE ONLY			
Date Received		Received by	
P&Z meeting date		BOS meeting date	
BOS Approved	Y / N	Effective date	



I AM REQUESTING TO BE REZONED AS THE  
PROPERTY AS OF NOW IS ZONED MEDIUM DENSITY  
RESIDENTIAL (MDR) TO AGRICULTURE (AG). THE  
PROPERTY WOULD NOT BE APPROVED FOR MDR  
ZONING ACCORDING TO POLK COUNTY AND THE CITY  
OF PLEASANT HILL. IT'S CURRENT USE IS AGRICULTURE  
IN WHICH MY WIFE KINDRA HAS STARTED A LAVENDER  
BUSINESS FARM WITH ABOUT 1400 PLANTS AND A  
SMALL SHOP. ALSO WE HAVE A COUPLE HORSES AND  
CROP LAND THAT IS BEING FARMED CURRENTLY BY  
JAY! JOE WIESTANDER PLUS PART OF THE FARM IN  
FOREST RESERVE. WE WOULD BE LOOKING TO TURN  
MORE OF THE FARM TO AGRICULTURE USE SINCE  
DEVELOPING IS NOT AN OPTION. MORE WOULD BE  
DEDICATED TOWARDS MORE LAVENDER PLANTS,  
VARIETY OF MORE FLOWERS, ETC.