

Agenda

Polk County Board of Adjustment
Tuesday, February 19, 2019 - 7:00 P.M.
Polk County Public Works Department, Planning & Development Division
5885 NE 14th Street, Des Moines, IA.

- A) Roll Call - Bonnie Thorn, Michael McCoy, Ron Fisher, Paul Kruse and David Kinsley
- B) Acceptance of the Minutes from the Tuesday, January 22, 2019 meeting
- C) Opening Statement
- D) Unfinished Business – None
- E) Consent Public Hearing Items – New Business

Items listed on the Consent Public Hearing Items portion of the agenda will not be individually discussed and will be considered for approval in accordance with the recommendation in the staff report unless an individual present or member of the Board requests that the Item be removed from the Consent Public Hearing Items portion agenda and separately considered under the Discussion Public Hearing Items portion of the agenda.

Item 1 19/7658 Variance Appeal Application

Request by Easterseals (Property Owner), represented by McClure Engineering Company for a building separation Variance to reduce building separation for a new office from 30 feet to approximately 23 feet in one location and to approximately 22 feet in another location. The subject property is located at 401 NE 66th Avenue, Des Moines, Section 2 of Saylor Township.

- F) Discussion Public Hearing Items - New Business

Item 1 19/7646 Conditional Use Permit Application

Request by Chris Gorman (Property Owner) for a Conditional Use Permit to allow an Agri-Tourism use at the subject property of 5987 NE 88th Street, Altoona. The subject property is located within Section 9 of Beaver Township.

Item 2 19/7647 Variance Appeal Application

Request by Blake Nicolay and Mark Breon (Owner Representatives) of Northwest Respiratory Services LLC for a paving and curbing variance to allow an existing driveway consisting of a crushed rock base without curbing to be utilized for egress purposes to the rear of the property. The subject property is located at 2726 NE Norwood Lane, Des Moines, Section 19 of Delaware Township.

Item 3 19/7648 Variance Appeal Application

Request by Karl Anderson (Property Owner) for a front setback Variance to reduce the northern front setback from 50 feet to 38 feet to allow the construction of a single-family dwelling. The subject property is located at 6425 NE Rising Sun Drive, Pleasant Hill, Section 2 of Fourmile Township.

- G) Communications/Discussion Items
- H) Zoning Administrator Report
- I) Adjournment.

The information identified on this agenda may be obtained in accessible formats by qualified persons with a disability. To receive more information or to request an accommodation to participate in a meeting, hearing, service, program, or activity conducted by this department, please contact the Polk County Public Works Department, Planning and Development Division, 5885 N.E. 14th Street, Des Moines, Iowa 50313, 515-286-3705.

POLK COUNTY BOARD OF ADJUSTMENT

The Zoning Board of Adjustment has the power under Iowa law and the Polk County Zoning Ordinance to hear requests and make decisions on matters such as Variances from the regulations in the Zoning Ordinance, Conditional Use Permits and Appeals of the decisions of County staff in the administration of the Zoning Ordinance.

MEETING PROCEDURE:

The Board members receive copies of the agenda and staff recommendations before the meeting. Copies of the agenda and staff recommendations are available to the public.

The Board is required to base its decision on each case upon the criteria established by law for the type of relief sought by the applicant. The criteria is identified in the written staff report. All speakers at the public hearing are requested to focus their comments upon those facts that demonstrate whether or not the criteria has been satisfied.

Items listed on the Consent Public Hearing Items portion of the agenda will not be individually discussed and will be considered for approval in accordance with the recommendation in the staff report unless an individual present or member of the Board requests that the Item be removed from the Consent Public Hearing Items portion agenda and separately considered under the Discussion Public Hearing Items portion of the agenda.

All speakers are requested to speak from the podium and to start their presentation by giving their name and address. After a County staff representative introduces the item, the applicant or a representative is allowed to speak first to present their request. Anyone else present in support of the appeal will then each be allowed to present their comments, followed by anyone in opposition to the appeal who will then be allowed to present their comments. The applicant/representative will then be allowed time for rebuttal or other closing comments. The hearing will then be closed to public comment and the Board will make a verbal decision.

The Board has 5 members. It takes the affirmative vote of at least 3 members to grant any appeal or request, regardless of the number of members actually present at any meeting. If 3 or fewer members of the Board are present when the Chair calls an Item, the applicant may request that the Item be continued until the next monthly meeting to have the opportunity to present the matter to a full Board. The request should be made as soon as the Chair calls the Item and before the staff report is given. The Board has discretion to grant or deny any such request. If a continuance is granted, there is no guarantee that more members of the Board will be present at the next meeting.

Following the meeting, any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, officer, department, board, or bureau of the County, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board of Adjustment.

Docket Number: 19/7658

Appellant: Easterseal Society Adults of Iowa, 401 NE 66th Avenue, Des Moines, IA 50313

Appellant's Representative: McClure Engineering Co., 1360 NE 121st Street, Clive, IA 50325

Appeal: Requesting a Variance to allow a new office building to be less than 30 feet from surrounding, existing buildings (approximately 23.1 feet from the northeastern building and approximately 22.5 feet from the southern building), at the subject property of 401 NE 66th Avenue, Des Moines, Iowa 50313.

Appeal Given:

- *The existing separation between the current building and the southern building are closer now compared to what the separation of the proposed building and the southern building is.*
- *The Easter Seals site is a campus type environment and the variance should not be affecting the surrounding properties as they are all owned by one individual and will most likely remain that way.*
- *There is possibility that the building to the north may be removed in the future.*

A survey of the property, provided by the Appellant's representative, which shows the existing building separation is attached as Attachment 'A' and a site plan that shows the proposed building separation with the new office building is attached as Attachment 'B'.

Background

The subject property is zoned "MDR" Medium Density Residential District and includes three (3) properties that total approximately 79.5 acres. The property is described as part of the NE ¼, SW ¼, of Section 2 in Saylor Township. The Variance is requested for the northernmost property that has frontage onto NE 66th Avenue. A vicinity map is attached as Exhibit 'C'. Through a Minor Site Plan, the property owner has requested to demolish two (2) existing buildings and to construct an office building in their place. The existing buildings are approximately 34.4 feet from the northeastern structure and approximately 14.3 feet from the southern structure. The proposal is to reduce the building separation from the northern structure to approximately 23.1 feet and to increase the southern separation to approximately 22.5 feet.

To allow the construction of the new office building, the Appellant prepared and submitted a Minor Site Plan. Through the Minor Site Plan review process, it was discovered that the proposed building separation does not comply with the non-residential minimum building separation of 30 feet.

The property is a campus style development for the Easterseal Society with numerous buildings that have been constructed over the last 70 years. This construction timing has produced building locations that may not comply with current standards. These non-compliant circumstances may

remain, however new construction is required to comply with current standards. Polk County Building Division staff have been consulted and the proposed distance between the proposed office building and the surrounding buildings does not warrant rated exterior walls for this construction type.

Summary of Request

The Appellant is planning to construct an office building on the subject property, replacing two (2) existing structures. The office building is proposed to be approximately 23.1 feet from an existing building to the northeast and approximately 22.5 feet from an existing building to the south. The minimum separation for non-residential structures in the “MDR” Medium Density Residential District zone is 30 feet.

The Polk County Zoning Ordinance, *Article 6: Bulk and Use Standards, Division 5: Non-Residential Bulk Standards, Table 6.9 Table of Nonresidential Bulk Standards*, indicates in part, the minimum building spacing in the “MDR” Medium Density Residential District zone is 30 feet.

A Variance is requested due to the future office building construction, which is planned to be located closer than 30 feet to two (2) existing buildings.

Natural Resources

The area that is proposed for development is relatively flat and is already fully developed. The subject property lies adjacent to Margo Frankel Woods, a State Park located directly west of the subject property. Margo Frankel Woods park includes woodlands and several drainage ways. The woodland areas in the adjacent park continue onto the subject property, mainly in the northern and southern portions of the property, which are not proposed to be affected by the future construction activities. There is no designated floodplain on this property.

Roads/Utilities

Access to the property from NE 66th Avenue will not change with the proposed development. Water service is provided by Des Moines Water Works and sanitary sewer is provided by Polk County.

Recommendation

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed.

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district, which makes it impossible to place a use permitted in the district on the property?
 - Yes. The existing development of the property with numerous buildings constructed throughout the last 70 years, is an unusual campus-style development in the “MDR” Medium Density Residential District zone. The Appellant is proposing the replacement of two (2) existing buildings, which do not currently meet the existing building separation requirements, however the proposed office building will comply

with all other Zoning and Building Code requirements. The internal location of the proposed construction is buffered by mature woodlands from NE 66th Avenue to the north, from Highway 415 to the west by Margo Frankel Woods and by other buildings and distance to the east and south. The unusual development style of the property, the replacement of existing buildings that also do not comply with the separation requirements and the isolation of the internal redevelopment provide special conditions that apply to this property and not to others in the same zoning district.

- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)

Yes. An Outdoor Institutional use, specifically a support office use, is permitted within the “MDR” Medium Density Residential District subject to appropriate site plan and building permit approvals.

- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

Yes. The requested Variance is internal to the site. The minimum required setbacks from the surrounding property lines are all met and exceeded. Further, the new office building is buffered by existing buildings, vegetation and distance and should have minimal impact on adjacent property owners.

- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The replacement of two (2) existing structures which do not comply with the building separation requirements are existing conditions and not a result of the actions of the Appellant.

- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The granting of the requested variance supports the intent of these provisions.

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the Variance request to reduce the minimum building separation from 30 feet to approximately 23.1 feet to the building northeast of the future office building and to approximately 22.5 feet from the south façade of the future office, pursuant to the following condition of approval.

- 1) This Variance is subject to final approval of the Minor Site Plan, which was originally

submitted in January of 2019 as Plan Case CSP-2019-07631. This Variance does not provide any allowance or predisposed approval of variances resulting from future Site Plans for the partial or full redevelopment of this site, addressed as 401 NE 66th Avenue.



N Baseline St

NW 4th

NW 67th Pl

NW 2nd St

Hwy 415 Hwy

NW 66th Ave

Subject Property
401 NE 66th Avenue

NE 66th Ave

Unknown St

NE Sawyer Ln

NE 64th Ave

NE 63rd Pl

NE 8th Ct

NE 9th Ct



Docket Number: #19/7646

Applicant: Chris Gorman (property owner), 5987 NE 88th Street, Altoona, IA 50009, represented by Bart Turk of Civil Engineering Consultants, Inc., 2400 86th Street, Suite 12, Des Moines, IA 50322

Request: Approval of a Conditional Use Permit for the Agri-Tourism use of a pick-your-own produce garden and produce sales use at the subject property of 5987 NE 88th Street, Altoona. *

* Note – The original request included additional Agri-Tourism uses such as a corn maze, as well as asked for approval of Special Events at the subject property. The public notice mailed to surrounding property owners included the full original request. The applicant has since revised the request to eliminate these additional uses, and is only requesting approval of the Agri-Tourism use of a pick-your-own produce garden and produce sales use.

Subject Property / Surrounding Land Uses:

The subject property is approximately 10.71 acres in size and is legally described as Parcel G from the plat of survey recorded in Book 10296, Page 917 in the Office of the Polk County Recorder, being a Part of the SW¹/₄ of the NW¹/₄, Section 9 of Township 79 North, Range 22 West of the 5th P.M. (Beaver Township). The property is rectangular shaped having approximately 390 feet of frontage to the west along NE 88th Street, and roughly 1,200 feet of depth. The property is zoned “AT” Agricultural Transition District. The Polk County Zoning Ordinance permits Agri-Tourism uses within the Agricultural Transition District upon the granting of a Conditional Use Permit by the Polk County Board of Adjustment.

The subject property is located approximately one-half (½) mile south of Interstate 80, where NE 88th Street intersects with NE 62nd Avenue. The property is approximately one (1) mile east of the corporate limits of the City of Altoona where they extend east to 14th Avenue NE or what is NE 80th Street within unincorporated Polk County. See *Attachment A* at the end of this report for a vicinity map of the subject property. Surrounding land is primarily agricultural in use and zoning, particularly to the north and east of the subject property. Immediately south of the property are a few rural acreages, between four (4) and five (5) acres in size each, and containing single-family homes. These properties are also zoned agriculturally. Immediately surrounding the subject property to the north, south and east is farmland held in a family trust, related to the applicant. Staff understands that some of the applicant’s produce is grown on this adjacent family-owned land.

History

The applicant first contact staff in the Summer of 2018 requesting permission to install a permanent freestanding sign at the property for Upstream Gardens. Through discussions, staff learned the applicant operates the business known as Upstream Gardens, which includes a seasonal pick-your-own fruits and vegetables garden and sales use at the subject property as well as sales at local farmers markets. The pick-your-own produce use has been operational since approximately 2014. During initial contact with the applicant, staff made him aware of the requirements under which temporary farm stands are permitted in unincorporated Polk County. Those requirements include six (6) months or less of operation per year, limits on the amount and type of signage, and setbacks from the stand and parking areas to the public right-of-way. Through further discussions staff determined the existing use met the definition of a temporary farm stand at that time, yet informed the applicant that a Conditional Use Permit would be required for future expansions or any special events, such as weddings or other gatherings. The owner expressed a desire to hold future events

and expand the pick-your-own produce garden and sales use, and therefore stated he would likely make application for a Conditional Use Permit prior to opening for the 2019 season. In the Fall of 2018, following these initial discussions, the applicant held a special event at the property. Once made aware of the event, staff reached out to the applicant to reiterate that events are not permitted without a valid Conditional Use Permit. The applicant apologized for his misunderstanding and again expressed that he would be submitting a Conditional Use application in the coming months. At this time, that application has been submitted to the Board of Adjustment for consideration.

Application Details / Discussion:

The Polk County Zoning Ordinance defines Agri-Tourism uses as, “Uses associated directly to growing operations include the growing of fruits, vegetables, flowers, and combinations thereof and raising of livestock on a site or adjacent property.” The section further defines the use as, “Activities planned or provided on an agricultural property that are accessory and/or share reasonable linkages with agricultural crop and livestock production and/or related agricultural processes occurring on the agricultural property that are intended for the general public education and participation.” The applicant is requesting approval of a pick-your-own produce garden, involving outdoor growing of seasonal fruits and vegetables with public access to the property to pick and purchase the items. In addition to offering a pick-your-own produce option, the owner also sells some pre-picked produce as well as homemade honey. The applicant has also communicated he would like to hold occasional agriculture educational events at the property. The applicant is involved in beekeeping, and a potential event would involve a demonstration on apiary techniques and practices, for example. If small in scale and infrequent, staff would consider these educational events to be a permitted agricultural use of the property, so long as there is adequate onsite parking and all other conditions of this Permit are met. If they become large in scale and/or are held frequently, they may require an amendment to this Conditional Use Permit. Ultimately, it depends upon their scale and impact upon surrounding properties and the character of the area.

The original application also requested approval of additional Agri-Tourism uses, including a corn maze and other outdoor activities, as well as special events, such as outdoor gatherings and weddings. As explained at the beginning of this report, the applicant has since modified the request to remove these additional uses, and is only seeking approval of the Agri-Tourism use of a pick-your-own produce garden and sales operation. The applicant initially requested to withdraw the entire request after deciding not to pursue the special events. However, staff informed him that the continuation of the existing pick-your-own produce garden and sales use itself requires a Conditional Use Permit due to the proposed months of operation, degree of public access, and the potential for future expansion. The Conditional Use process benefits both the applicant and Polk County by legitimizing the use and setting limits and conditions on its operation. The applicant would have the option to requesting future amendments to the Permit. Approval would also allow the applicant to install a permanent sign as originally requested.

If approved, the applicant is required to gain approval of a site plan for the property through the County’s sketch plan review process. The applicant’s engineer has prepared a draft sketch plan, which can be found at the end of this report as *Attachment B*. Once the sketch plan has been approved, the applicant will be required to obtain a Site Improvement Permit to complete the improvements as identified on the plan. As *Attachment B* shows, only the front, western half of the approximately 10-acre subject property is utilized for the proposed use. The subject property contains an existing single-family dwelling and detached garage, as well as two (2) additional accessory buildings and an accessory greenhouse structure. The requested pick-your-own produce use is proposed as an entirely outdoor use, as identified by the garden plots and outdoor areas on

the sketch plan. The applicant has stated there may be a temporary trailer onsite to process sales, but there will be no public access allowed within any permanent or temporary structures on the property. Any allowance of public access within buildings on the property would require an amended Conditional Use Permit and substantial improvements to the property and buildings to ensure compliance with commercial building codes.

The applicant has communicated that the proposed Agri-Tourism use operates during the months of May thru October, with varying hours, but not exceeding 9am to 7pm daily. The applicant estimates an average of approximately four (4) to five (5) customers per day based upon prior year's sales. The sketch plan shows nine (9) off-street parking stalls, including one (1) stall reserved for handicapped accessibility. The proposed gravel surfacing for the stalls and circulation area is allowed due to the Ag zoning of the property and an estimated traffic volume below 49 vehicles per day. The single handicapped accessible stall is required to be paved. The plan also identifies an area for a future freestanding monument sign near the property entrance. The Zoning Ordinance allows signage for single-tenant commercial properties based upon building frontage. However, the proposed use does not allow for any public building access, and the site contains a dwelling and a few accessory structures with limited frontage. Staff has included as a recommended condition of approval the allowance of one (1) freestanding sign not to exceed 32 square feet in size, and no wall or building signage. This condition will serve the applicant's need for a freestanding sign, while also limiting the total amount and type of signage for the site. The Ordinance also allows temporary or portable signs on a temporary basis up to four (4) times per year, not to exceed 14 consecutive days on any occurrence. All permanent and temporary signs require approval of a sign permit by Polk County Public Works before installation.

Natural Resources / Environmental

The property is not located within a floodplain, nor does it contain other environmental constraints. The property is primarily dedicated to fruit and vegetable as well as traditional row crop production. The topography of the site is relatively flat.

Roads / Utilities

The single-family dwelling on the subject property utilizes an existing onsite wastewater treatment system as identified on the sketch plan *Attachment B*. Rural water service to the property is provided by Des Moines Water Works. NE 88th Street is a hard-surfaced two-lane local roadway maintained by Polk County. NE 88th Street connects south to NE 46th Avenue and NE 38th Avenue, and north to NE 62nd Avenue just south of Interstate 80.

Analysis

The Board of Adjustment in reviewing an application for a Conditional Use permit shall consider the proposal in terms of:

1. Existing zoning and land use in the vicinity of the uses.

The subject property and surrounding area are zoned "AT" Agricultural Transition District. The majority of surrounding land is farmland dedicated to row crop production. There are approximately six (6) rural acreages with single-family homes located south of the subject property, primarily along the east side of NE 88th Street. Further north and east of the subject property is continued farmland zoned "AG" Agricultural District.

2. **Planned and proposed public and private development, which may be adversely affected by the proposed use.**

There are no major public or private developments planned in the area.

3. **Whether and to what extent the proposed use, at the particular location for which it is suggested, is necessary or desirable to provide a development which is in the interest of the public convenience or which will contribute to the general welfare of the area or Polk County.**

The proposed use provides local benefits in terms of rural Agri-Tourism, agricultural learning and a supply of locally sourced produce.

4. **Whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity and on the public health, safety and welfare in general.**

The use in its present form has been operating since approximately 2014 according to the applicant, with minimal to no negative impacts upon surrounding properties or the general welfare of County residents. The applicant revised the original request to exclude any additional Agri-Tourism or Special Events uses. Staff's recommendation for approval at the end of this report contains several conditions of approval aimed at limiting any adverse effects upon adjacent properties and the welfare of County residents.

Findings

The application shall be denied if the Board of Adjustment finds any of the following:

- a. **The application and record fail to establish compliance with the standard made applicable to the proposed development by the provision of this Ordinance.**

The proposed pick-your-own produce garden and sales use fits within the Agri-Tourism use category. It is considered accessory to the established agricultural use of fruit and vegetable production on the same property. The use is permitted upon the granting of a Conditional Use Permit by the Polk County Board of Adjustment.

- b. **The proposed use, developed in the proposed manner, and at the proposed location, would be inconsistent with the standards pursuant to the provisions of this Ordinance.**

Subject to staff's recommended conditions of approval and the future approval of a sketch plan and associated site improvements, the use will be in compliance with the standards and provisions of the Ordinance.

- c. **The adverse impacts on the overall public health, safety and welfare are not balanced by the public or private benefits of the proposal. The Board of Adjustment shall include in this balance, any proposals of the applicant and any conditions that it might impose on the development, pursuant to the provisions of this Ordinance, to ameliorate problems associated with the development.**

See staff's recommended conditions of approval. Any adverse impacts are mitigated by the requirements of the Ordinance and staff's recommended conditions of approval.

In addition, no application for a Conditional Use Permit shall be approved unless the Board of Adjustment specifically finds the proposed conditional use appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

A. The proposed use is not in harmony with the general purpose, goals, objectives, and standards of the following:

- 1. Polk County Comprehensive Plan:** The proposal is consistent with the goals and policies of the 2030 Polk County Comprehensive Plan.
- 2. Polk County Zoning Ordinance:** The Ordinance allows the use pending approval of this Conditional Use Permit by the Board of Adjustment, and pending approval of a sketch plan by staff.
- 3. Other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County:** None.

B. The proposed location of the use is not consistent with policies or provisions of the following:

- 1. Comprehensive Plan:** The proposed use is consistent with the goals and policies of the 2030 Polk County Comprehensive Plan.
- 2. Polk County Zoning Ordinance:** The proposed use is allowed upon approval of the Conditional Use Permit by the Polk County Board of Adjustment. Other applicable provisions of the Ordinance will be addressed by the requirement for an approved sketch plan and associated site improvements.
- 3. Other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County:** None.

C. The proposed use at the proposed location results in a substantial or undue adverse effect on any of the following either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Comprehensive Plan, this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County or other governmental agency having jurisdiction to guide growth and development:

- 1. Adjacent property:** Properties directly adjacent are owned by the applicant's family trust and are in agricultural production. Other nearby properties are agricultural in nature as well. The nearest residence is located approximately 600 feet south of the subject property. The recommended conditions of approval limit the months and hours of operation so as not to create an undue disturbance upon nearby properties.
- 2. Character of the neighborhood:** The primary use(s) of the property will continue to be a combination of residential and agricultural. The proposed Agri-Tourism use is accessory and its commercial aspects are limited in nature.
- 3. Traffic conditions:** The property fronts NE 88th Street, which is classified as a local

roadway. The latest available Iowa DOT traffic data from 2016 indicates this stretch of NE 88th Street has an annual average daily traffic count of 80 vehicles. Based upon past year's sales, the applicant estimates there are on average 4.3 customers per day during operational times of the proposed use.

4. **Parking:** Parking within the public right-of-way along NE 88th Street is prohibited. The applicant is required to provide onsite parking for customers as depicted on *Attachment B* to this report.
5. **Public improvements:** No impact upon future public improvements is anticipated.
6. **Public sites or rights-of-way:** No impact upon public sites or adjacent rights-of-way is anticipated.
7. **Other matters affecting the public health, safety, and general welfare:** None

D. The proposed use in the proposed area is not adequately served by or imposes an undue burden on any of the following.

1. **Public improvements:** Adequate for proposed use.
2. **Public facilities:** Adequate for proposed use. Onsite parking, including a handicapped accessible parking stall is required.
3. **Public utilities:** Adequate for proposed use.
4. **Public services:** Adequate for proposed use.

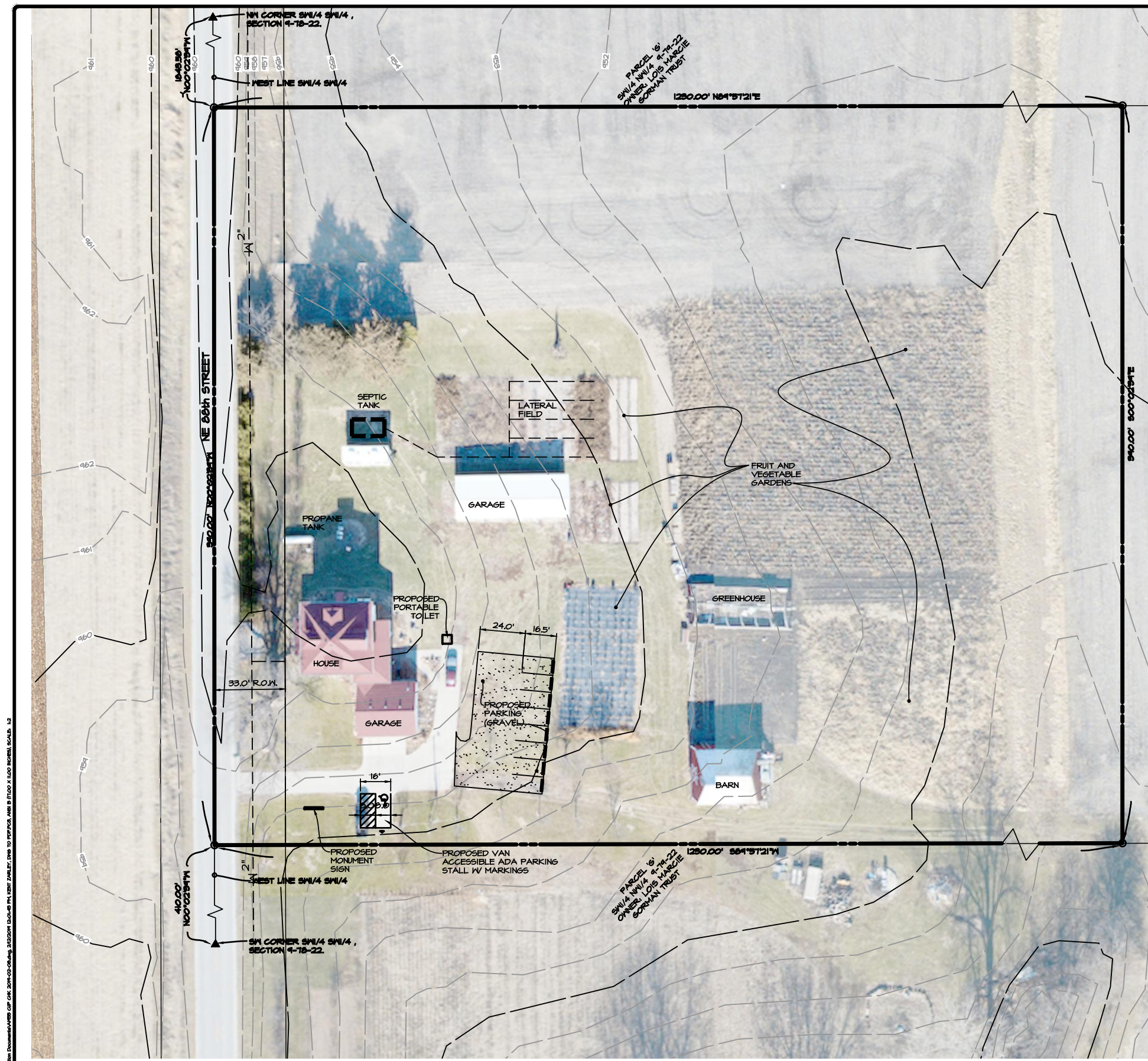
Recommendation

Staff recommends approval of the requested Conditional Use Permit for the Agri-Tourism use of a pick-your-own produce garden and produce sales use, more commonly known as Upstream Gardens, at the subject property of 5987 NE 88th Street, Altoona. Approval is subject to the following conditions:

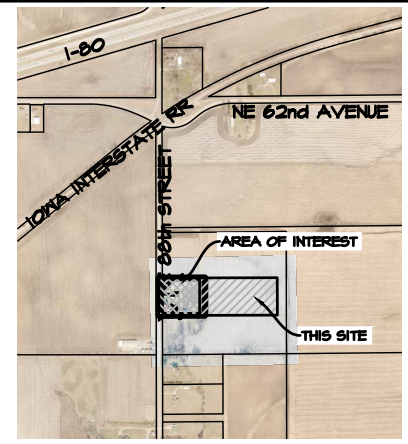
1. The Conditional Use Permit applies only to the applicant and current property owner, Chris Gorman. Any future change in ownership requires a new or updated Conditional Use Permit to reestablish this or another permitted Agri-Tourism use. The Conditional Use Permit applies only to the subject property of 5987 NE 88th Street, Altoona, being approximately 10.71 acres in size and legally described as Parcel G from the plat of survey recorded in Book 10296, Page 917 in the Office of the Polk County Recorder. This Permit acknowledges that some of the produce production and pick-your-own aspect of the operation may occur on the horseshoe shaped property surrounding the subject property to the north, south and east, owned by the Lois Marie Gorman Land Trust (District Parcel: 140/00069/002/000).
2. If the agricultural use of the property ceases for any reason, then the accessory Agri-Tourism use of produce sales approved under this Conditional Use Permit is no longer valid.

3. The applicant is required to finalize the proposed sketch plan with staff. Following approval, the applicant shall obtain a Site Improvement Permit and complete the identified site improvements on the approved sketch plan.
4. The pick-your-own produce garden and produce sales use may only operate between the months of May and October, and between the hours of 9am to 7pm daily.
5. The use shall comply with all Polk County Environmental Health regulations.
6. All parking and loading/unloading shall take place onsite and not within the public right-of-way. If street parking, traffic concerns, and/or a lack of onsite parking become an issue, Polk County can require additional improvements or an amended Conditional Use Permit to address these concerns.
7. This approval permits outdoor use of the property by the public. No public access to any existing or future buildings or structures, temporary or permanent, is permitted. No future public access to buildings or structures is permitted without a rehearing and amendment to this Conditional Use Permit and an updated commercial site plan for the property.
8. The use is permitted one (1) freestanding sign, not to exceed 32 square feet in area. No wall/building signs are permitted. Temporary signage may be allowed per the Zoning Ordinance Requirements. All signs require an approved permit prior to installation.
9. A trash receptacle(s) shall be located at convenient locations on the property. All trash and debris shall be removed from the premises periodically, and adjoining right-of-way and surrounding properties shall be kept clear of trash and debris from the subject property.
10. Any modifications to the use of the subject property relative to this approval, included but not limited to, expanded Agri-Tourism uses, the addition of Special Events, public access to buildings/structures, etc., requires a re-hearing and amendment to the Conditional Use Permit.

Q:\A-FILES\A-1900\A1955_C3D Drawings\Construction Documents\A1955 CUP CHK 2019-02-08.dwg, 2/12/2019 12:01:43 PM, kzarley, 1,2



Attachment B



OWNER / APPLICANT
 CHRISTOPHER A. GORMAN
 5487 NE 88TH STREET
 ALTOONA, IA 50004-4616
 515-481-7777

PROJECT MANAGER
 BART TURK P.L.A.
 CIVIL ENGINEERING CONSULTANTS, INC.
 2400 86th STREET, UNIT 12
 DES MOINES, IOWA 50322
 CONTACT PH: 515-276-4884, EXT. 216
 EMAIL: TURK@CECLAC.COM

LEGAL DESCRIPTION
 PARCEL 6 BOOK 10246 PAGE 417, BEGINNING 410 FEET NORTH OF THE SW CORNER, THENCE NORTH 390.00 FEET, THENCE EAST 1230.00 FEET, THENCE SOUTH 390.00 FEET, THENCE WEST 1230.00 FEET TO POINT OF BEGINNING, 5/16 OF THE NW/4 LESS 0.3 ACRES ROAD IN SECTION 4-14-22.

TOTAL LAND AREA
 TOTAL SITE
 466,527 SQ. FT. = 10.71 ACRES INCLUDING R.O.M. EASEMENT.

ZONING
 AT - AGRICULTURAL TRANSITION DISTRICT

GENERAL USE
 AGRI - TOURISM

UTILITIES
 WATER SUPPLY: DES MOINES WATER WORKS.
 SANITARY SEWER: ON-SITE SEPTIC AND LATERALS.

PARKING
 TOTAL PROPOSED PARKING STALLS: 9 INCLUDING 1 ADA STALL.

FLOOD ZONE CLASSIFICATION
 ZONE 'C' ACCORDING TO FEMA FLOOD INSURANCE RATE MAP, COMMUNITY-PANEL NUMBER 160401040B, EFFECTIVE DATE: MARCH 1, 1984.

UTILITY CONTACTS
 DES MOINES WATER WORKS PH 515-285-1824
 JANA HODGES HOUSES@DMWW.COM
 GREG MLYNAR MLYNAR@DMWW.COM
 POLK COUNTY PUBLIC WORKS PH 515-286-3705
 KURT BAILEY KURT.BAILEY@POLKCOUNTYIA.GOV
 MIDAMERICAN ELEC & GAS PH 515-282-8621
 NORT TRENTMANN NETRENTMANN@MIDAMERICAN.COM
 MEDACOM COMM. CORP. PH 515-248-2252
 PAUL HAY PHAY@MEDACOM.COM
 CENTURYLINK LOCAL NETWORK PH 809-664-8040
 THOMAS STURMER THOMAS.STURMER@CENTURYLINK.COM

- GENERAL NOTES**
- ALL DIMENSIONS ARE TO PROPERTY LINES.
 - CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT UTILITIES OR STRUCTURES AT SITE. IT SHALL BE CONTRACTOR'S RESPONSIBILITY TO NOTIFY OWNERS OF UTILITIES OR STRUCTURES CONCERNED BEFORE STARTING WORK. CONTRACTOR SHALL NOTIFY PROPER UTILITY IMMEDIATELY UPON BREAKING OR DAMAGING ANY UTILITY LINE OR APPURTENANCE OR INTERRUPTION OF SERVICE. HE SHALL NOTIFY PROPER UTILITY INVOLVED, IF EXISTING UTILITY LINES ARE ENCOUNTERED IN CONFLICT WITH NEW CONSTRUCTION, CONTRACTOR SHALL NOTIFY ENGINEER SO THAT CONFLICT MAY BE RESOLVED.
 - NEW DRIVE APPROACH INSTALLATIONS TO BE INSPECTED BY POLK COUNTY PUBLIC WORKS, MINIMUM 24 HOUR NOTICE.
 - ALL DEBRIS SPILLED ON COUNTY R.O.M. AND ADJOINING PROPERTY SHALL BE REMOVED BY OWNER/CONTRACTOR IN TIMELY FASHION.
 - ALL SITEWORK, SOODING AND LANDSCAPING SHALL BE IN ACCORDANCE WITH POLK COUNTY STANDARD SPECIFICATIONS UNLESS SPECIFIED OTHERWISE.
 - POLK COUNTY GRANT PERMIT WILL BE REQUIRED FOR WORK WITHIN PUBLIC RIGHT-OF-WAY. A POLK COUNTY ENTRANCE PERMIT WILL BE REQUIRED FOR FUTURE ACCESS ONTO NE 88th STREET.
 - SIGN PERMIT IS REQUIRED BEFORE SIGNS ARE INSTALLED.
 - MONTHS OF OPERATION: MAY-OCTOBER.
 - HOURS OF OPERATION: 6:00 AM - 6:00 PM.

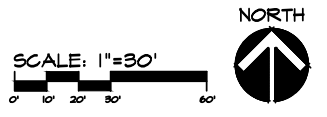
CERTIFICATIONS

I HEREBY CERTIFY THAT THE PORTION OF THIS TECHNICAL SUBMISSION DESCRIBED BELOW WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF IOWA.

BY: BART A. TURK, IOWA REG. NO. 274
 LANDSCAPE ARCHITECT
 NO. 274
 MY LICENSE RENEWAL DATE IS: JUNE 30, 2014
 PAGES OR SHEETS COVERED BY THIS SEAL: 1 OF 1

LEGEND

- | | | | |
|-----------|--|-----------|----------------------------|
| — — — — — | PROPERTY BOUNDARY | — — — — — | EXISTING / PROPOSED |
| — — — — — | SECTION LINES | — — — — — | 5" x 5" STORM SEWER & SIZE |
| — — — — — | LOT LINES | — — — — — | SANITARY SEWER & SIZE |
| — — — — — | CENTERLINE | — — — — — | WATER MAIN & SIZE |
| ▲ | FOUND SECTION CORNER | ○ | MANHOLE |
| △ | SET SECTION CORNER (3/4" I.R. WYTELON CAP #1844 UNLESS OTHERWISE NOTED) | ● | STORM INTAKE |
| ● | FOUND PROPERTY CORNER | ▽ | FIRE HYDRANT VALVE |
| ○ | SET PROPERTY CORNER (3/4" I.R. WYTELON CAP #1844 UNLESS OTHERWISE NOTED) | △ | F.E.S. |
| D. | DEEDED DISTANCE | — — — — — | EXISTING CONTOURS |
| M. | MEASURED DISTANCE | — — — — — | PROPOSED CONTOURS |
| P. | PREVIOUSLY RECORDED DISTANCE | — — — — — | SILT FENCE |
| I.R. | IRON ROD | — — — — — | SOIL BORING LOCATION |
| I.P. | IRON PIPE | — — — — — | TRANSFORMER PAD |
| P.O.B. | POINT OF BEGINNING | — — — — — | STREET LIGHT POLE |
| 123 | ADDRESS | | |
| B.S.L. | BUILDING SETBACK LINE | | |



Civil Engineering Consultants, Inc.
 2400 86th Street, Unit 12, Des Moines, Iowa, 50322
 515.276.4884 - Fax: 515.276.7084 - mail@cecilac.com

CEC

DATE:	REVISIONS	COMMENTS
FEB. 12, 2014	1	
	2	
	3	
	4	
	5	
	6	

DESIGNED BY: BAK
 DRAWN BY: KRZ

UPSTREAM GARDENS
 5487 NE 88th STREET, ALTOONA, IA 50004

SITE PLAN

19

Docket Number: 19/7647

Appellants: Blake Nicolay and Mark Breon (owner representatives) with WJM LLC and Northwest Respiratory Services LLC, 2735 NE 46th Ave, Des Moines, IA 50313

Appeal: “We are requesting a variance in the timeline to pave and curb the access drive, located at the aforementioned property, due to costs already incurred in regards to the overall site improvement. Total costs for site improvements over the first 2 years were over \$200,000 for the building and grounds and are indicated in the attached document. We are applying for the variance due to the financial burden that was initially incurred when taking possession of the property. Paving and curbing of the existing turn around on the former adjacent property that is currently gravel will add additional costs that at this time we are unprepared to assume. We are seeking this extension to mitigate the immediate impact it has on our ability to do business out of this location. We would like to request a five-year extension to pave and curb the access drive at this location. Thank you for your consideration.”

Background

The subject property is located at 2735 NE 46th Avenue, Des Moines, and is located within part of the NE ¼ NE ¼ of Section 19 in Delaware Township. The property is approximately 3.43 acres in size and is zoned “NB” Neighborhood Business District. The property has approximately 155 feet of frontage along NE 46th Avenue. The property is located approximately ¼ mile north of the City of Des Moines corporate limits and approximately ¾ mile south of the City of Ankeny.

This area of unincorporated Polk County is zoned “NB” Neighborhood Business District and “MU” Mixed Use District throughout this approximately ½-mile stretch of the NE 46th Avenue corridor. Surrounding properties include a mixture of residential and commercial uses. Properties adjacent to the north are zoned “NB” Neighborhood Business District and developed with commercial uses. Adjacent properties to the west are zoned “NB” Neighborhood Business District with an existing auto service business along with a property zoned “LDR” Low Density Residential District with an existing residence. Adjacent to the east and to the south of the subject property is an established residential neighborhood with approximately 27 existing residential homes located along NE Norwood Lane. The adjacent residential lots vary in size from 4 acres to just under 8,000 square feet. The Appellants own the property adjacent to the south, addressed as 2726 NE Norwood Lane and zoned residentially. NE Norwood Lane terminates southwest of the subject property creating a dead end.

The subject property contains an existing one story, 4,576 square foot office and service building, originally constructed in 1987. According to County records, the property and building were originally occupied by Dyna Kleen pressure washer sale and service. Building permit records dating from 1987 indicate that a 50-foot by 91-foot pole building was constructed with the following stipulations:

- Driveway must be 18’ in width.
- All customer, employee parking, and drives must be concrete or asphalt material.
- Landscape material is required in front of building.
- Sign permit must be obtained.
- Buffering requirements must be met according to Article 18 of the Polk County Zoning Ordinance.

The subject property has an existing septic system located adjacent to the south of the building and concrete pad. The property was created as an approximately 150-foot by 750-foot strip of land that at one time was used as railroad right-of-way. The Appellants purchased the above-described property along with vacant Lots 69 & 70 of Douglas Acres Plat Number Eight located adjacent to the south on December 21, 2016. The current use of the property is for a medical oxygen company. They load and unload oxygen cylinders from their trucks and deliver the oxygen to private residents and skilled nursing facilities.

An existing private drive is located south of the existing building and drainageway. It is composed of gravel and provides egress to the northern portion of the property. This drive had been constructed and utilized by previous owners and tenants without approval from Polk County. The portion of the property where the drive is located had been zoned “LDR” Low Density Residential District and included the two vacant lots mentioned above. The Polk County Subdivision Ordinance requires the following: Access to a commercial, office, institutional or industrial development must not be through a residential street. The subject property would need to be zoned for commercial use in order to allow egress for the adjacent property. The Appellants were notified through the site plan process that the egress gravel drive was non-compliant. Per staff recommendation, the Appellants requested to rezone the northern 1.42 acres of the two residential lots from “LDR” to “NB” to utilize this area for commercial purposes. The Board of Supervisors approved the rezoning request on May 1, 2018. The Appellants then worked with Bishop Engineering to complete a plat of survey in order to tie the rezoned portion of the southern parcel to the northern parcel. The plat of survey was recorded on January 18, 2019. The plat of survey creates the configuration of the parcel as it exists today.

The narrowness of the paving adjacent to the south of the building creates a need for additional access width to allow room for their large delivery trucks to safely enter and exit the site. The location of the drainageway and the position of the building limits the accessible options on the site. The existing gravel access drive is necessary for their current operations in order to fully circulate between the front of the site and the back of the building where packaging takes place. The Polk County Zoning Ordinance requires that this access drive be paved and curbed.

Appellants Blake Nikolay and Mark Breon, owner representatives, have communicated to staff their intention to redevelop the site in the future. They are requesting a five (5) year extension for the paving and curbing of the existing gravel driveway utilized for egress on site. *Attachment A* at the end of this report shows the existing layout of the property, and identifies the existing gravel driveway. *Attachment B* provides an aerial image of the site as it exists today. Any future occupancy/redevelopment of the site first requires review and approval of a commercial site plan to establish a new use and conformance with current site improvement standards, to include items such as paving, landscaping and storm water detention.

Staff mailed out 22 notices regarding the request, including the date and time of the public hearing, to surrounding property owners within the 250-foot notification boundary. To-date staff has received one (1) response in opposition of the appeal.

Summary of Request

The Polk County Zoning Ordinance, *Article 15: Construction Standard* states in part, “All developments, except conventional single-family and uses which have an average daily traffic count fewer than forty-nine (49) vehicles in the AG, AT, and OS Districts, are required to pave

their drives, parking, loading and display areas. Curbs and/or wheel stops are required in parking areas and curbs are required in paved drive areas. The approach, drive and parking areas for nonresidential uses shall meet a minimum thickness as identified in SUDAS – current edition.” The Appellants propose to utilize an existing gravel drive, and requests a curbing and paving Variance to utilize the gravel drive lieu of improving the access drive with pavement for egress to the rear portion of the property. The Appellants have requested a Variance to this standard with the request that they receive a five (5) year extension to the required paving and curbing of the gravel drive. The remainder of the site will be required to meet the standards outlined in the Polk County Zoning Ordinance. The Appellants have been working with Bishop Engineering on the completion of a site plan for the property. All site improvements will need to be met according to the site plan once approved and all site improvements will be need to be completed prior to issuing the final Certificate of Occupancy.

Natural Resources

The subject property contains mature and understory trees located along the western property line and along the southeastern portion of the property. A drainageway bisects the property running southeasterly and parallel to the far southeastern property line. The gravel driveway crosses the drainageway in two locations directly northwest of the building and southeast of the building. The remainder of the site contains grass areas outside of the existing building, driveways, and parking lot. The site topography is relatively flat, sloping towards the drainageway. Elevations range from a high elevation of approximately 120-feet south centrally to a low elevation of approximately 108-feet within the drainageway. There is no designated floodplain or wetland features on the property.

Roads & Utilities

The property has frontage along NE 46th Avenue, which is classified as a minor arterial. NE 46th Avenue is hard-surfaced and maintained by Polk County. NE Norwood Lane terminates to the south of the subject property adjacent to the southern parcel owned by the Appellants and addressed as 2726 NE Norwood Lane. NE Norwood Lane is a local roadway maintained by Polk County. The existing building is connected to an individual septic system, which is located adjacent to the southeast of the building. Water service is provided by Des Moines Water Works.

Recommendation

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?
Yes. Under the current standards all drive aisles, circulation, parking, and display areas require paving and curbing. Historically, the gravel drive was constructed and utilized by prior owners and tenants without Polk County Approval and the property had been used for storage and access to a commercial business while zoned residentially. The Appellants have taken the initiative to re-zone the non-compliant portion of the property with the driveway and received Board of Supervisor approval on May 1, 2018. The Appellants have also completed a plat of survey and lot tie agreement recorded on January 18, 2019 to attach the previously non-

compliant parcel to their existing commercial parcel. The Appellants have taken steps necessary to come into compliance with the code. The pre-existing nature of the access drive, the circuitous process to bring it into compliance and the site constraints create special conditions on this property that do not generally exist on other “NB” Neighborhood Business District zoned properties.

- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)

Yes. The use is permitted within the “NB” Neighborhood Business District. The Appellants intend to pave and curb the driveway in the near future to comply with the Polk County Zoning Ordinance requirements.

- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

Yes. Approval of the variance promotes redevelopment of this site by initially reducing the associated costs of required paving and curbing. Redevelopment of the property will require improvements that benefit adjacent properties and the surrounding area, including bufferyards and screening/landscaping.

- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The existing condition of the property, which is the result of development/redevelopment of the site over time is not a result of the actions of the Appellants but rather a continuation of non-conformance. The Appellants have taken multiple actions to correct the non-conformity of the associated site conditions.

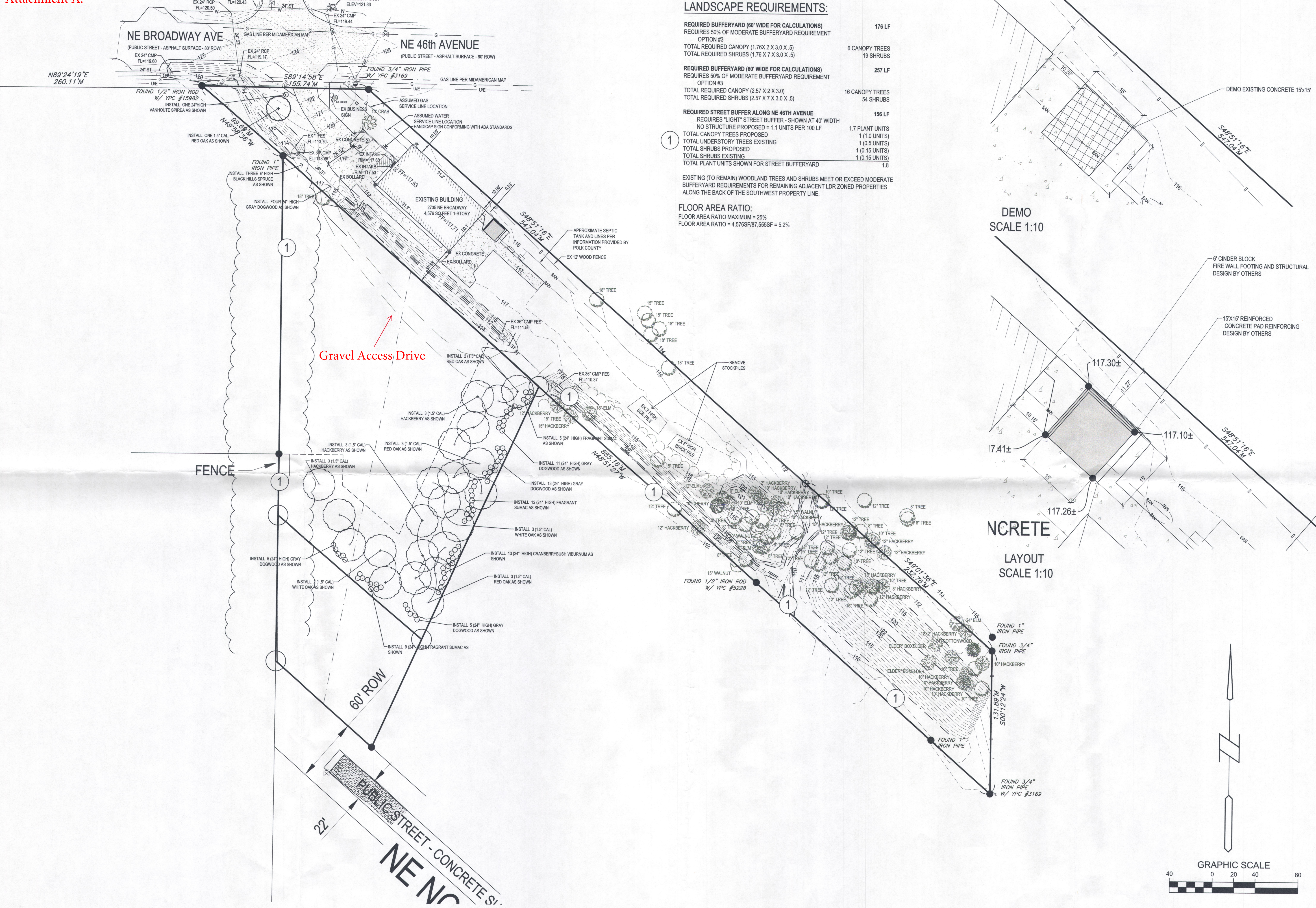
- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The Appellants are required to meet the environmental provisions of the Polk County Zoning Ordinance. No environmental features will be further impacted by this proposal.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested variance, subject to the following conditions:

1. This variance only permits the approximate paving and curbing variations as shown on *Attachment A* to this report, and is subject to the approval of a major site plan and associated improvements.
2. All paving and curbing of the existing gravel drive shall be completed within three (3) years, February 19, 2022.

PUBLIC STREET - ASPHALT SURFACE



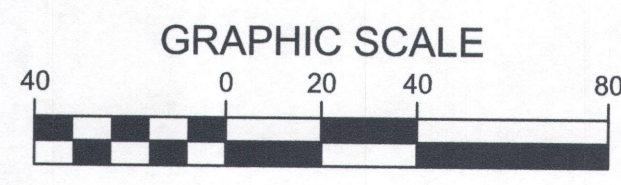
LANDSCAPE REQUIREMENTS:

REQUIRED BUFFERYARD (60' WIDE FOR CALCULATIONS)	176 LF
REQUIRES 50% OF MODERATE BUFFERYARD REQUIREMENT	
OPTION #3	
TOTAL REQUIRED CANOPY (1.76 X 2 X 3.0 X .5)	6 CANOPY TREES
TOTAL REQUIRED SHRUBS (1.76 X 7 X 3.0 X .5)	19 SHRUBS
REQUIRED BUFFERYARD (60' WIDE FOR CALCULATIONS)	257 LF
REQUIRES 50% OF MODERATE BUFFERYARD REQUIREMENT	
OPTION #3	
TOTAL REQUIRED CANOPY (2.57 X 2 X 3.0)	16 CANOPY TREES
TOTAL REQUIRED SHRUBS (2.57 X 7 X 3.0 X .5)	54 SHRUBS
REQUIRED STREET BUFFER ALONG NE 46TH AVENUE	156 LF
REQUIRES "LIGHT" STREET BUFFER - SHOWN AT 40' WIDTH	
NO STRUCTURE PROPOSED = 1.1 UNITS PER 100 LF	
TOTAL CANOPY TREES PROPOSED	1.7 PLANT UNITS
TOTAL UNDERSTORY TREES EXISTING	1 (1.0 UNITS)
TOTAL SHRUBS PROPOSED	1 (0.5 UNITS)
TOTAL SHRUBS EXISTING	1 (0.15 UNITS)
TOTAL PLANT UNITS SHOWN FOR STREET BUFFERYARD	1.8

FLOOR AREA RATIO:
 FLOOR AREA RATIO MAXIMUM = 25%
 FLOOR AREA RATIO = 4,576SF/87,555SF = 5.2%

DEMO
 SCALE 1:10

NCRETE
 LAYOUT
 SCALE 1:10



Bishop Engineering
 "Planning Your Successful Development"
 3501 104th Street
 Des Moines, Iowa 50322-3825
 Phone: (515) 276-0467 Fax: (515) 276-0217
 Civil Engineering & Land Surveying
 Established 1959

2735 NE BROADWAY AVE (NE 46th AVE)
 DES MOINES, IOWA 50317

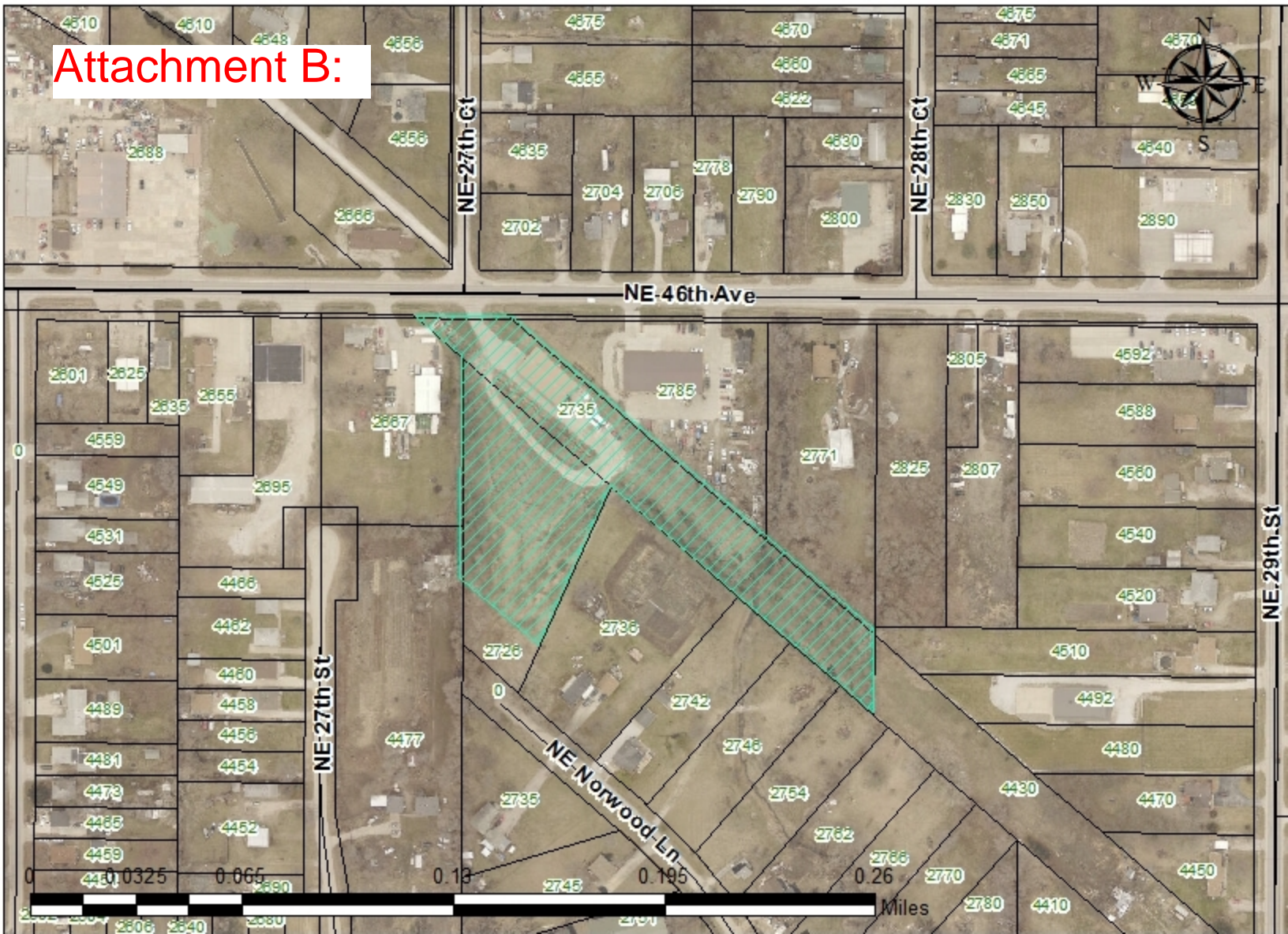
SITE PLAN

REFERENCE NUMBER:	160370
DRAWN BY:	BA
CHECKED BY:	DB
REVISION DATE:	9-30-16 1ST SUBMITTAL 10-20-16 2ND SUBMITTAL 11-7-16 3RD SUBMITTAL 09-04-18 FINAL SUBMITTAL

PROJECT NUMBER:	180140
SHEET NUMBER:	C0.2

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Attachment B:



Docket Number: 19/7648

Appellant: Karl Anderson, 6584 NE Rising Sun Drive, Pleasant Hill, IA 50327

Appeal: Requesting a 12-foot front yard setback Variance (from 50 feet to 38 feet) from the northern property line to construct a future house, at the subject property of 6425 NE Rising Sun Drive, Pleasant Hill, Iowa 50327.

Appeal Given:

The following are the reasons we would like to be granted a variance:

1. *We would like to build a single family home on this property and have been unsuccessful finding a conforming house plan that fits on this small corner lot with these setbacks:*
 - a. *50' setback from the west*
 - b. *50' setback from the south*
 - c. *50' setback from the north*
 - d. *15' setback from the east*
2. *The adjacent property to the east is set back 35'.*
3. *This property is part of the old Township of Rising Sun and many of the homes do not meet the current zoning ordinances.*
4. *I believe that Pleasant Hill will eventually be the governing body of this property and the most restrictive zoning setback that Pleasant Hill has is R90 which is a 35' setback.*

A survey of the property, Exhibit 'A', including the proposed future house, as submitted by the Appellant, is attached.

Background

The subject property is zoned "RR" Rural Residential District and is approximately 0.424 acres (18,480 square feet) in size. A vicinity map is attached as Exhibit 'B'. The property is located within Section 2 of Fourmile Township and is described as Lots 3 and 4 in Block 1 of the Rising Sun subdivision and the northern 8 feet of an adjacent vacated alleyway. The original Rising Sun subdivision was platted in 1866. The subject property is a corner lot with approximately 140 feet of frontage on NE 64th Street to the west and approximately 132 feet of frontage on NE Rising Sun Drive to the north. A property map is attached as Exhibit 'C'. The requested Variance is from the northern property line. Corner lots within Polk County have frontage on two public streets and a front yard setback is required from both street frontages. In this case, the Appellant is requesting to reduce the northern front setback and not the western front setback.

The original house and detached garage on the property were demolished in 2013 through an approved Demolition Permit issued and inspected by Polk County. The surrounding properties are developed with single-family homes to the north, south and to the east. The age of the homes vary from as recent as 2002 to as old as 1928. As stated in the Appeal Request, above, many of the homes that are in close proximity to the subject property currently encroach into the 50-foot front yard

setback. Exhibit 'D' shows the properties that are in close proximity and the 50-foot front setback in red. To the west, across NE 64th Street is a church, Rising Sun Church of Christ. To date, the Rising Sun Church of Christ is the only testimony received and that is in support of the Variance.

The City limits of the City of Pleasant Hill are located directly west of the property and in the general vicinity of the property to the south, north and southeast. The City limits are shown on the attached vicinity map, Exhibit 'B'. City staff have been contacted and the proposed Variance discussed. If the subject property were in the City limits, the likely zoning district would be R1-90 Residential Single Family, which allows a 35-foot front yard setback. Further, corner lots are treated similarly in Pleasant Hill, requiring a front yard setback from both street frontages.

Summary of Request

The Appellant is planning to construct a single family home on the subject property. The house would extend 12 feet into the northern, front setback

The Polk County Zoning Ordinance, *Article 6: Bulk and Use Standards, Division 2: Single-Family Residential Bulk Standards, Table 6.1 Table of Single-Family Bulk Standards*, indicates in part, the minimum front yard setback for a single-family residence located in the "RR" Rural Residential District zone is 50 feet.

The Polk County Zoning Ordinance, *Article 2: Definitions, Division 3: Words and Terms Defined, Section 1: Word Definitions* defines Lot, Corner as follows:

Lot, Corner. A lot abutting two (2) or more streets at their intersection.

The Polk County Zoning Ordinance, *Article 2: Definitions, Division 2: Words and Terms Defined, Section 1: Word Definitions* defines Lot Line, Front as follows:

Lot Line, Front. In the case of a lot abutting only one (1) street, it is the property line or street right-of-way line separating such lot from such street. In the case of a double frontage lot, each property line or street right-of-way line separating such lot from a street shall be considered to be the front lot line.

A variance is needed due to the future house construction in the front yard setback on the north side of the property.

Natural Resources

The subject property is a relatively flat and is undeveloped. No significant vegetation exists and floodplain is not located on this property.

Roads/Utilities

The subject property will take future access onto NE Rising Sun Drive, which is designated as a Local roadway. NE 64th Street is designated as a two-lane paved Collector road. Water service is provided by Des Moines Water Works. Wastewater will be treated via an onsite septic system.

Recommendation

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed.

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?

Yes. The subject property is the smallest sized residential property within this block of properties and significantly smaller than the current minimum lot size within the “RR” zone, which is 40,000 square feet. The corner lot configuration also limits the buildable area available for the future construction. The size of the property and the large amount of the property that is restricted due to the corner lot configuration provide special conditions that apply to this property and not to others in the same zoning district.

- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)

Yes. A single family house is permitted within the “RR” District subject to appropriate building permit approvals.

- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

Yes. Numerous homes within the vicinity of the subject property also encroach into the 50-foot front yard setback. The proposed setback encroachment will not be significantly different from the surrounding properties and should have minimal impact on adjacent property owners.

- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The corner lot configuration and the size of the property are not a result of the actions of the Appellant.

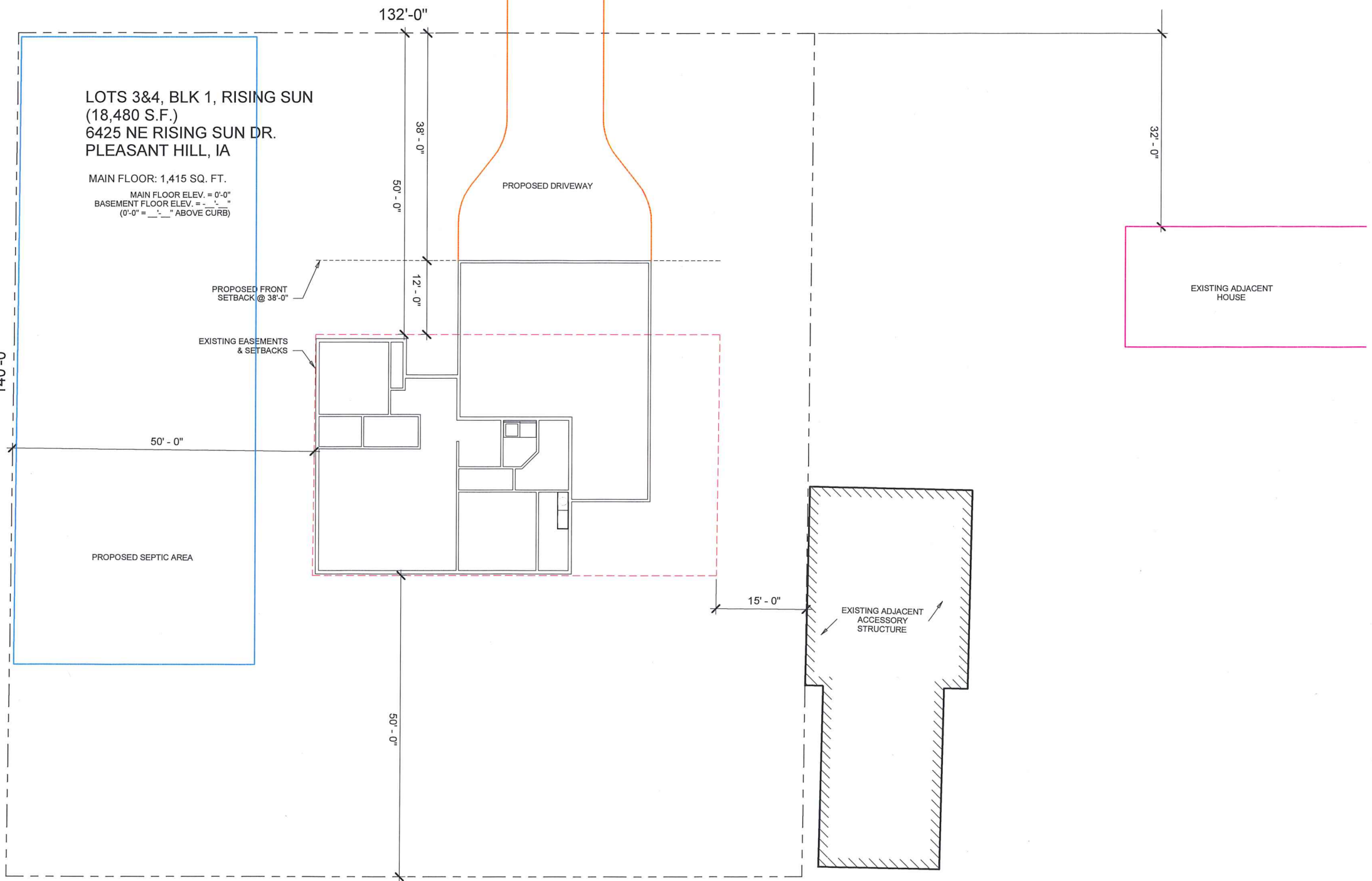
- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The granting of the requested variance supports the intent of these provisions.

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the Variance request to reduce the front yard setback from the northern property line from 50 feet to 38 feet, an approximate 12-foot reduction.

NE RISING SUN DR.

NE 64TH ST.



General Notes

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Note: Do not scale drawings. Verify all dimensions and clearances from architect, structural, MEP and other appropriate drawing or all info. Lay out and coordinate all work prior to installation to provide clearances required for operation, maintenance, codes and verify non-interference with other work. Do not fabricate prior to verification of clearance for all trades.

CLIENT:

Client Name

Client Address

THIS SQUARE APPEARS 1/2"X1/2" ON FULL SIZE SHEETS

NO.	DATE	REVISION

PROJECT NAME:

Anderson Residence

6425 NE Rising Sun Drive
Pleasant Hill, Iowa

DRAWING TITLE:

Site Plan



Pleasant Hill

Pleasant Hill

Subject Property
6425 NE Rising Sun Drive

827
807
787

775
687
677

6450
6440
6420

6460
6480
6425
6445
6465
6475
6478

6420
6430
6460
6478

NE 64th St
NE 64th Ct
NE 65th St

6500
6520
6550
6568
6584

6525
6545
6555
6577
6595
6611
6645

525
505
525

6390
6350
6274
6300
6393
6439
6455
6459
351
6445

6390
6350
6274
6300
6393
6439
6455
6459
351
6445

Meacham Dr

6181 6191
6177 6195

506
6201

Goldfinch Dr
6195

6185
6175
6165

6200
6240

6190
6180
6170

E Oakwood Dr

6213
6241
6265
6297

6185

6214
284
250
214

295
265
235
205

6375

6393

6439
6455
6459

6439
6455
6459

6439
6455
6459



EXHIBIT 'C'

6390



NE Rising Sun Dr

NE 64th St



6420



6440

NE 64th Ct



6460

**Subject Property
6425 NE Rising Sun Drive**



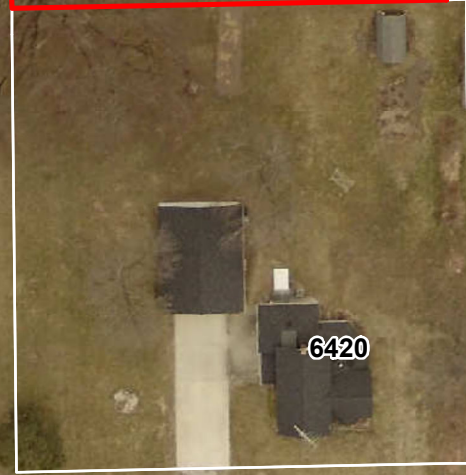
6425



6445



6465



6420



6430

NE 5th Ave



6460



EXHIBIT 'D'

6440

6460

6480

NE 64th Ct

NE Rising Sun Dr

Subject Property
6425 NE Rising Sun Drive

NE 64th St

6425

6445

6465

6475

NE 65th St

6430

6460

6478

NE 5th Ave

Pleasant Hill