



Rezoning Petition

Property Owners & Applicant:

Mathew D. Albaugh (Property Owner) represented by Brian R. Campbell with Campbell Engineering & Surveying, Inc. (Applicant Representative)

Request:

Comprehensive Plan and Zoning Map Amendment

Legal Description:

The West 20 Acres of the South Half (S ½) of the Southwest Quarter (SW ¼) of Section 16, Township 81 North, Range 23 West of the 5th P.M., Polk County, Iowa, except highway.

General Location:

The subject property is approximately 17.95-acres and is located at the northeast corner of the NE 142nd Avenue and NE 38th Street intersection in Elkhart Township. (Attachment 'A').

Existing Future Land Use Map Classification:

Agricultural (Attachment 'B')

Proposed Future Land Use Map Classification:

Estate Residential

Existing Zoning:

"AG" Agricultural District (Attachment 'C')

Proposed Zoning:

"ER" Estate Residential District

Surrounding Zoning:

North - "ER" Estate Residential District

East – "AG" Agricultural District

South – "AG" Agricultural District

West – "AG" Agricultural District

GENERAL COMMENTS:

The applicant is requesting a Comprehensive Plan Amendment and Zoning Map Amendment to change the Future Land Use Map classification from Agricultural to Estate Residential and to change the Zoning Map from "AG" Agricultural District to "ER" Estate Residential District for the subject property. The property is generally located at the northeast corner of the NE 142nd Avenue and NE 38th Street intersection within the SW ¼, SW ¼, of Section 16 of Township 81 North, Range 23 West of the 5th P.M. (Elkhart Township). The subject property is currently an unplatted parcel and consists of one (1) tax parcel totaling approximately 17.95 acres.

The site is located approximately one (1) mile northwest of the City of Elkhart corporate limits. Notification was provided to a city representative for Elkhart. No comments have been received to date. Surrounding properties to the south, east, and west are zoned "AG" Agricultural District and primarily utilized in row crop production along with existing homesteads. The property adjacent to the north was rezoned from "AG" Agricultural District to "ER" Estate Residential District in 2013 and had been originally included within the Final Plat of Charlton Subdivision that was recorded in 1974. The properties that were rezoned were re-platted in 2014 to create four (4) residential lots within White Oak Timber Estates. See *Attachment 'A'* for a vicinity map of the subject property and surrounding area.

The subject property has historically been utilized for agricultural production and continues to be used for that purpose today. There are two (2) existing farm entrances that provide access from the west and access from the south. The southern frontage of the property is approximately 617-feet along NE 142nd Avenue. The western frontage of the property is approximately 1,275-feet along NE 38th Street. The Applicant purchased the property in 2012 and they also own the approximately 52-acres of land adjacent to the west across NE 38th Street.

The applicant has submitted a subdivision proposal for five (5) single-family residential lots along with the rezoning application included as *Attachment 'D'*. The written description for the request references the intent to create lots for future development for their children and states that, "This 18-acre property is surrounded by residential properties and is undesirable for farming due to being small and not contiguous with other large farmed parcels." The proposal identifies lots that are greater than the three (3) acre minimum size requirement in the "ER" Estate Residential District. The required lot width is 225-feet of frontage along a public street. Creation of the proposed development will require approval of this Rezoning Petition, followed by a Major Preliminary Plat and a Major Final Plat. The subdivision plat will need to be prepared and certified by a licensed engineer. Further review will be required at that time.

ZONING BACKGROUND:

Throughout the history of zoning in Polk County, the subject property has maintained an agricultural zoning designation. In 1961 and in 1973 the property was zoned A-1 Agricultural district. In 1990, the property was zoned "AG" Agricultural district. In the most recent Zoning Ordinance update, in 2007, the property retained the previously established zoning classification as Agricultural within the "AG" Agricultural District. The zoning of the subject property has remained unchanged with the intent to protect prime farmland. The subject property is located within the Northeast Area of the Polk 2030 Comprehensive Plan, which notes that there is a strong desire to protect prime farmland and maintain large-scale agricultural activities within the

Northeast Area. Since agriculture is the primary land use in Agricultural areas, agricultural practices should be protected to the fullest extent possible. The preference in the Northeast Area is to concentrate new housing within and close to cities and is further supported by the limitations of rural water services.

STAFF REVIEW:

Natural Resources

The subject property is not located within a mapped floodplain, nor does it contain other mapped environmental hazards or features. An existing drainageway extends across the northwest corner of the property surrounded by a cluster of woodlands and a second drainageway exists near the eastern boundary of the property. Both drainageways are classified as Riverine within the National Wetlands Inventory. There is a high elevation of approximately 982 feet along the southwestern portion of the property, and a low elevation of approximately 944 feet along the northwest portion of the rezoning area within an existing drainageway. Stormwater naturally flows across the property toward the drainageways along the northern and eastern property boundaries. In review of the web soil survey provided by USDA and NRCS and the location of existing crop land as identified by the Polk County Assessor the land encompasses 21.81 acres with an average CSR2 (Corn Suitability Rating) of 87.35. Iowa State University Extension notes that the “perfect corn producing” soil gets a rating of 100. A CSR2 rating this high on a scale of 0-100 identifies a high potential for soil productivity and is considered prime farmland.

Roads/Utilities

The subject property has an existing entrance onto NE 38th Street, a paved, two-lane, County maintained roadway. A second entrance is located onto NE 142nd Avenue, a gravel, two-lane, County maintained roadway. The speed limit for NW 38th Street is 55 mph with a 2016 Annual Average Daily Traffic (AADT) count of 500 vehicles. The AADT for NE 142nd Avenue is 35 vehicles. Any future development of the property would require individual on-site septic systems. Water service is provided by Des Moines Water Works. There are two (2) four (4) inch water mains located on the east side of NW 38th Street and along the north side of NE 142nd Avenue. Any future development is required to be served by public water. Private wells would not be permitted.

Public Testimony

Staff mailed eight (8) public notification letters to adjacent property owners located within a 500-foot radius of the subject property. As of the end of business on January 19, 2022, County staff have received two (2) testimony in opposition of the Rezoning Petition and zero (0) testimony in support of the Rezoning Petition. Notice of the request and Zoning Commission public hearing was also published in the newspaper as required. See *Attachment 'E'* for the testimony received from surrounding property owners.

Comprehensive Plan Discussion

The subject property is located within the Northeast Area, as identified in the Polk County 2030 Comprehensive Plan. The properties to the south, east, and west of the subject property are similarly designated as Agricultural. The property adjacent to the north is designated as Estate Residential classification following a rezoning approval for 30.78-acres of land in 2012. The

approval recommendation for the referenced request was based on the following distinguishing characteristics:

- The subject property was included in the Charlton Subdivision platted in 1974 along with the Estate Residential classified properties directly adjacent to the north.
- The largest area of the subject property is considered marginal agricultural land with preservation and protection of natural features. The land consists of a drainageway, mature woodlands, a large pond, steep terrain and an easement for an overhead transmission line.
- The proposal identified less residential density than what was potentially possible within the “ER” Estate Residential District designation.
- Due to the nature, size, and configuration of the proposed lots there was an option to utilize part of the land as pasture in accordance with the Zoning Ordinance requirements.

The property included in this rezoning had two (2) existing development rights prior to the zoning change from “AG” to “ER”. Following rezoning approval, the properties adjacent to the north were developed in 2014 through the White Oak Timber Estates subdivision plat creating a total of four (4) single-family residential lots ranging in size from 4.59-acres to 7.08-acres whereas, three (3) acres is the minimum lot size requirement for the “ER” Estate Residential District.

A viable option for the applicant would be to complete an “AG” Cluster Development subdivision plat utilizing the subject property and the nearly 52-acres of “AG” zoned land located adjacent to the west that is already owned by the applicant. There is one (1) development right from this property that could be utilized along with one (1) development right on the subject property to create two (2) lots on the subject property and preserve 95% of the remaining land as open space between the two existing parcels. This process would allow for the creation of two (2) lots without converting all of the prime farm land into residential lots at maximum density and without rezoning.

Key issues identified during the development of the Northeast Area Plan relate to the desire to protect prime farmland, rural character, and encourage efficient growth patterns to encourage targeted economic investment and specifically recognize rural water service and its limitations. Existing residential zoning in this area of the County is primarily a recognition of established lots and residences specific to the historic village of White Oak and with limited ability for future development.

Applicable general goals and policies of the Comprehensive Plan:

Quality of Life Goal – Policy 2: Respect for Property Owners: Respecting the decisions of individual landowners must be a component of setting land use policies and regulation. Polk County will respect the individual decisions and values of private property owners in setting and administering land use policy and regulation, and will mitigate impacts to property owners’ quality of life when community and private property interests conflict.

Character of Development Goal - Policy 1: Preserve Rural Character: Polk County includes large agricultural areas and vibrant rural communities. Polk County will protect prime farmland and maintain the rural character of non-urbanized areas.

Character of Development Goal - Policy 2: Coordinated Growth Patterns: Staged development and orderly extensions of street and utility infrastructure is necessary to protect neighborhood, community, and landscape character. Polk County and local governments will work to align City and County land use plans and discourage sprawl, protect social/economic/natural resources, and encourage controlled, orderly growth of cities.

Agriculture Goal - Policy 1: Agricultural Land Protection: Large tracts of prime soils are critical to maintaining agricultural practices in Polk County. The County will encourage stewardship of prime agricultural soils and will continue to protect areas most suitable for agricultural production, by encouraging more compact growth in and around municipalities and through development regulations that protect agricultural activities.

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.

Northeast Area – Farmland Protection Goal: Polk County will preserve the Northeast Area’s high quality farmland and protect the agricultural practices necessary to retain farming as the primary land use in the area.

Northeast Area – Rural Protection Goal: Polk County will protect the rural character of Northeast Area landscapes and communities by directing growth to municipalities and discouraging significant municipal expansion.

Northeast Area – Rural Infrastructure Goal: Polk County will encourage efficient growth patterns to encourage targeted economic investment in the Northeast Area’s rural water system, telecommunications system, wastewater systems, and emergency response and law enforcement systems.

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. The Polk 2050 Comprehensive Plan Update is currently under study and information reviewed for this area of the county has not been formalized or finalized at this point in time. The historic village of White Oak is included for further analysis as part of the historic village review.

Comprehensive Plan Analysis

The Polk 2030 Comprehensive Plan designated the subject property as Agricultural in an effort to preserve large agricultural areas and protect prime farmland in non-urbanized areas. This area of the County has primarily been classified and zoned for agricultural use therefore recognizing the importance of protecting prime farmland. This designation is likely due to the size of the parcels, the proximity to adjacent agricultural land and farming uses such as row crops. Little new

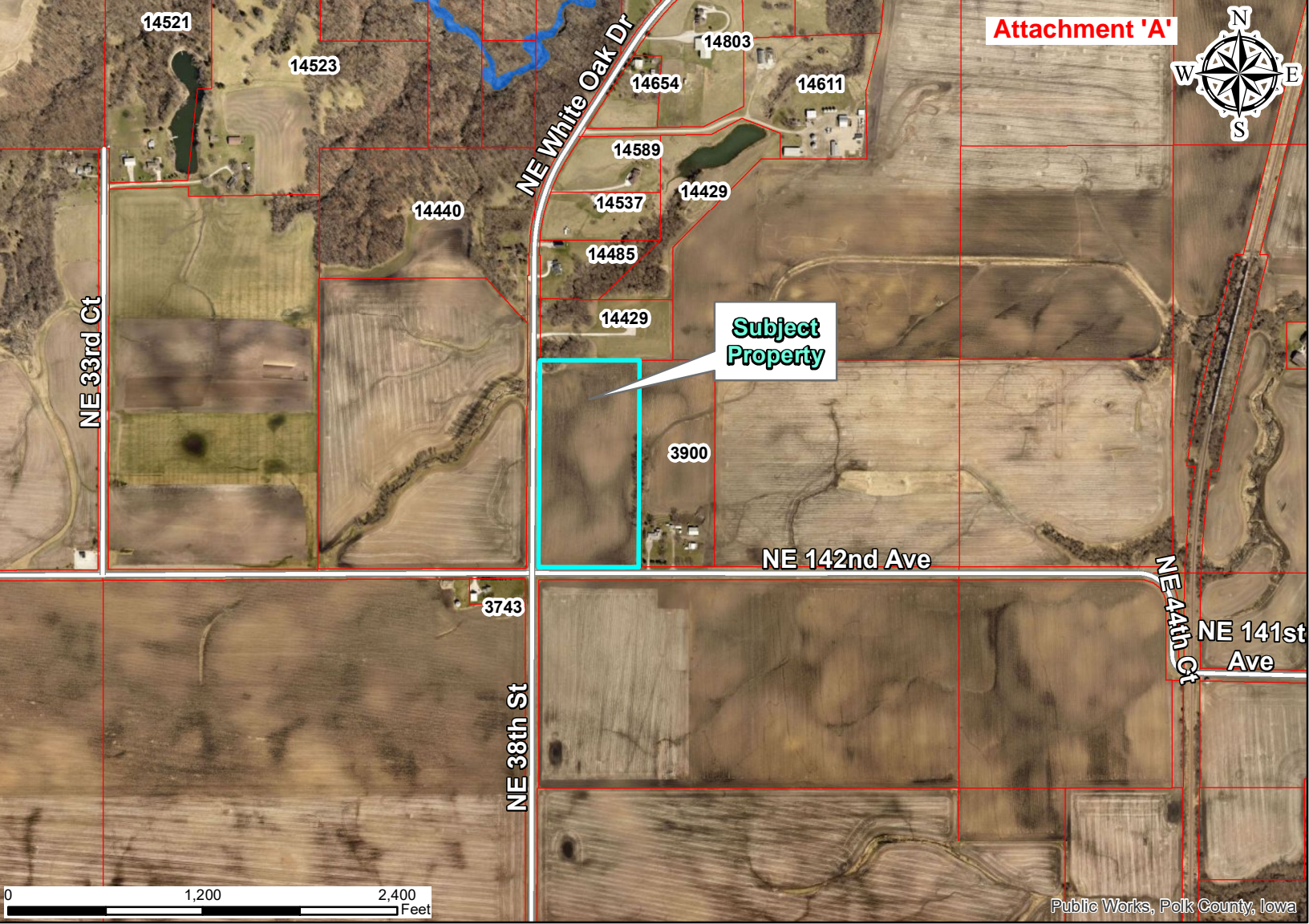
residential development is anticipated in this area, although small residential clusters may be allowed under some circumstances in areas not well-suited for farming. The contiguous Estate Residential classification for residences located to the north, within the historic village of White Oak, are especially attractive for those seeking land for new residential development. The location proximate to protected woodlands offering scenic views along with rural estate lots in the vicinity make this a desirable parcel for new residences. Although Elkhart has not provided comment, the City of Elkhart's Future Land Use Map has identified the rezoning area as being located outside of their future plans for expansion of the City limits.

RECOMMENDATION:

Staff recommends denial of the 2030 Polk County Comprehensive Plan Map Amendment from the Agricultural Classification to the Estate Residential Classification and recommends denial of the Zoning Map Amendment from the "AG" Agricultural District to the "ER" Estate Residential District for the subject property.

The recommendation for denial of the Comprehensive Plan Amendment is based upon the fact that the request is not in harmony with the spirit, intent, goals and policies of the Polk County 2030 Comprehensive Plan. The recommendation of denial of the requested Zoning Map Amendment is based upon the following: a) The request is not in accordance with the Comprehensive Plan; b) Approval does not support the public, health, safety and welfare of County residents, as the request promotes the conversion of prime agricultural land to residential development in an area with limited rural infrastructure; and, c) There is nothing unique about the subject property that makes it substantially different from surrounding properties to warrant a change from its present "AG" Agricultural District classification. Furthermore, approval of the request would likely prompt additional rezoning requests in the area and promote further subdivision and development that is not supported by the County's Comprehensive Plan.

Although County staff understands the interest in developing the property further, through review of the specifics of the property and surrounding area, there are no changing circumstances that meet an immediate need for rezoning. It is common for staff to receive several inquiries on a regular basis to rezone agricultural land for the same purposes of creating residential developments. If a precedence is created to rezone agricultural land without proper justification then it will become a very difficult task to manage preservation of prime agricultural land. There are other locations in the County that are designated for future growth and residential development where infrastructure is established to provide public utilities and roadways exist that can accommodate growth in a controlled and orderly manner. There have not been significant changes in this area, nor is the situation so considerably different that a change in the property's current Agricultural classification on the Future Land Use Map or a change to the current "AG" Agricultural District, is warranted.



NE 33rd Ct

NE White Oak Dr

NE 142nd Ave

NE 44th Ct

NE 141st Ave

NE 38th St

14521

14523

14803

14654

14611

14589

14537

14429

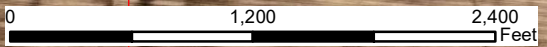
14440

14485

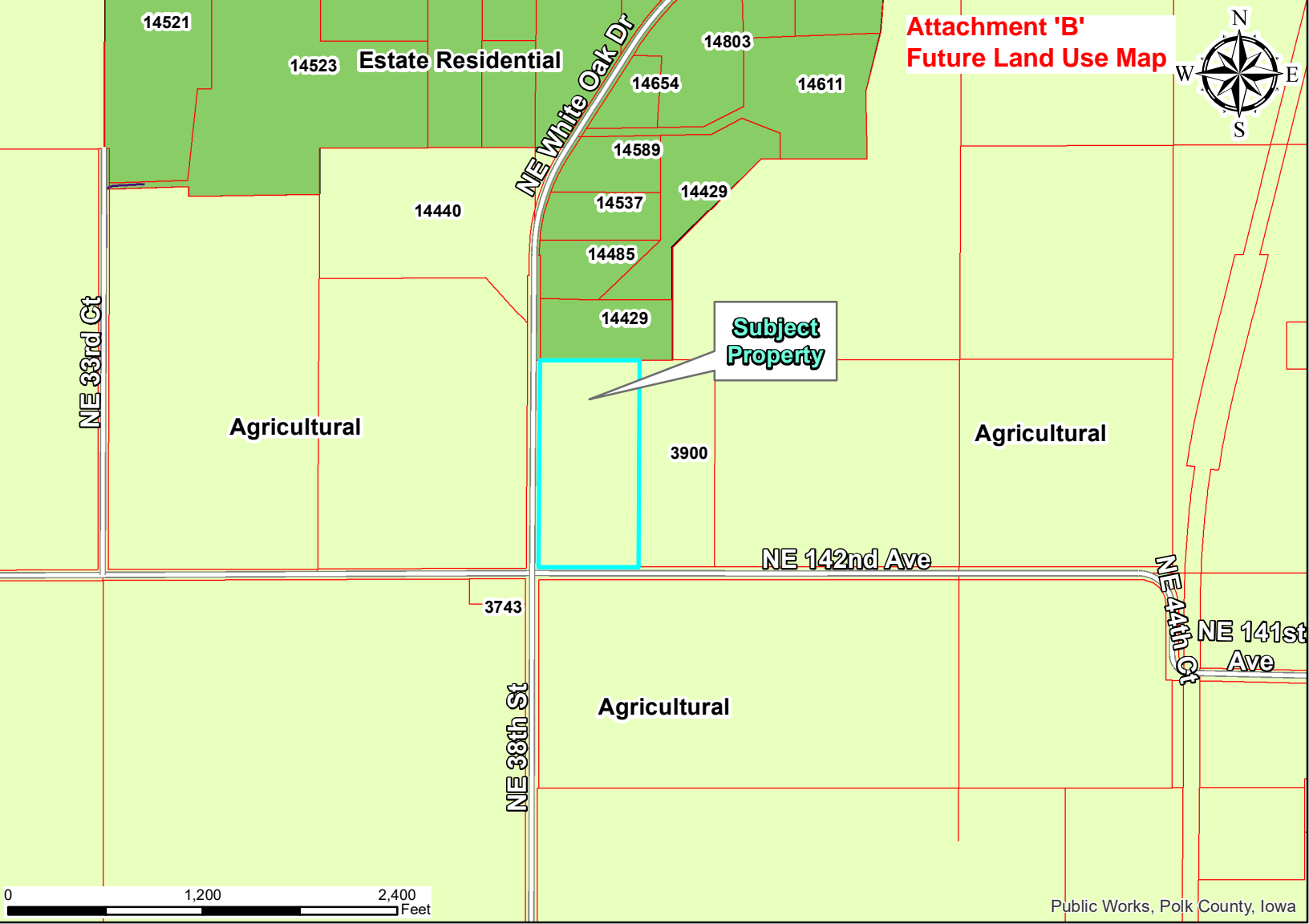
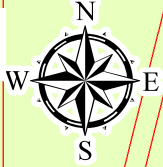
14429

3900

3743



Attachment 'B'
Future Land Use Map



**Subject
Property**

14521

14523 Estate Residential

14803

14654

14611

14589

14440

14537

14429

14485

14429

3900

3743

NE 142nd Ave

Agricultural

Agricultural

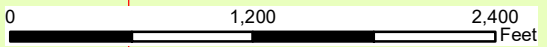
Agricultural

NE 141st Ave

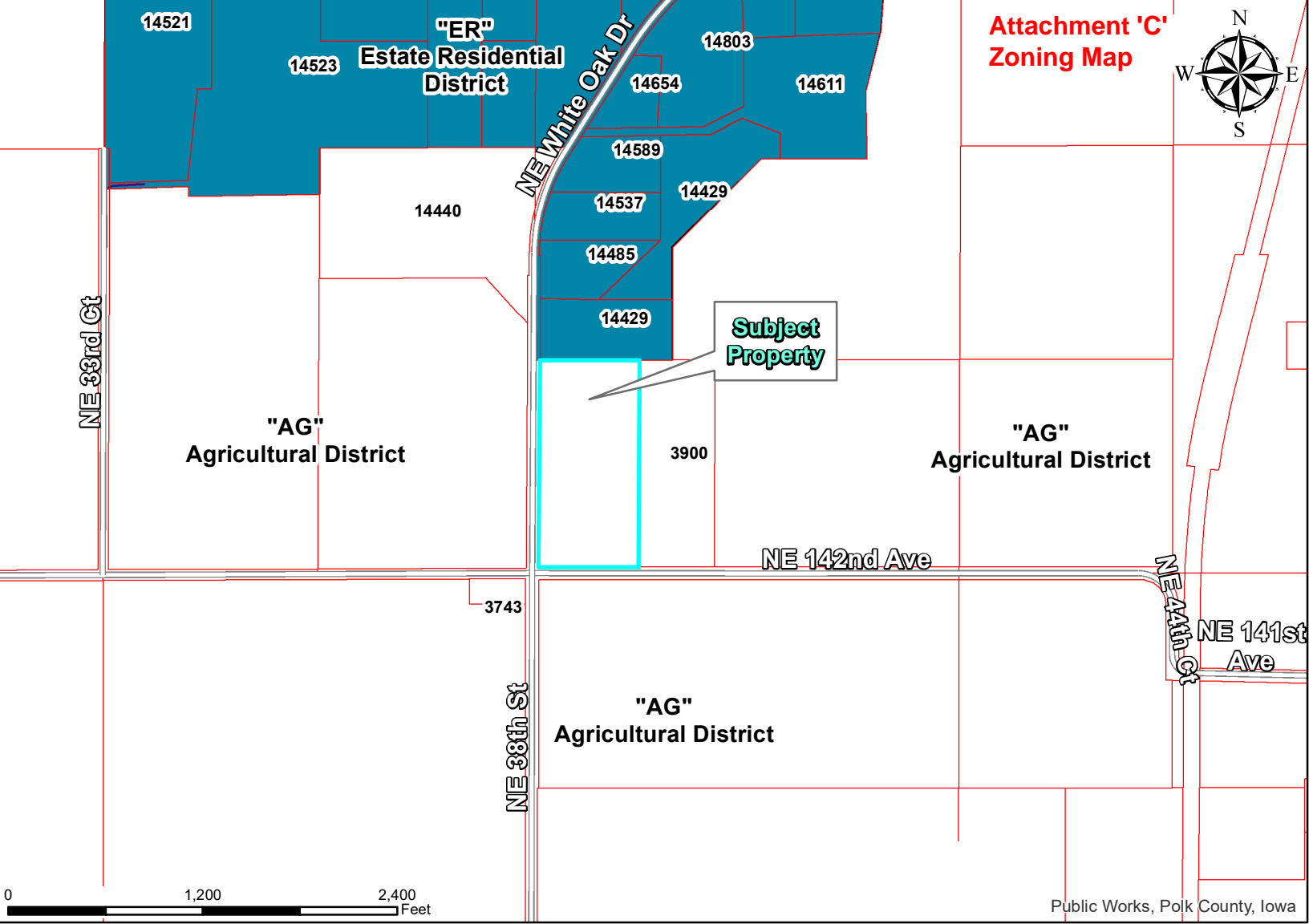
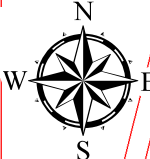
NE 33rd Ct

NE 38th St

NE 44th Ct



Attachment 'C' Zoning Map



**Subject
Property**

NE 33rd Ct

"AG"
Agricultural District

"AG"
Agricultural District

"AG"
Agricultural District

NE 142nd Ave

NE 41st Ct
NE 141st Ave

NE 38th St

0 1,200 2,400 Feet

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. Agricultural Estate 2. Residential
Current Future Land Use Classification Proposed Future Land Use Classification
- 3. AG - Agricultural 4. ER - Estate Residential
Current Zoning District Proposed Zoning District

(time stamp)
Official Use Only

5. Subject Property Address: N/A - NE corner of NE White Oak Dr. & NE 142nd Ave., Elkhart

6. District and Parcel Number: 210/00212-000-000

7. Subject Property Legal Description (attach if necessary):
The West 20 Acres of the South-half (S 1/2) of the Southwest Quarter (SW 1/4) of Section 16, Township 81 North, Range 23 West of the 5th P.M., Polk County, Iowa, except 2.05 acres subject to road easement; 17.95 net acres remaining.

8. Filing Fee: - \$438.00

9. Applicant(s) Information:

Matthew D. Albaugh
Applicant (Print Name)
Owner

[Signature]
Signature

12-14-21
date

albaugh73@aol.com
Email

Interest in Property (owner, renter, perspective buyer, etc.)
14800 NE White Oak Dr., Elkhart, IA 50073
Address, City, State and Zip

515-202-6963
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:

Brian R. Campbell
Applicant Representative (Print Name)
925 E 1st Street, Ankeny, IA 50021
Address, City, State and Zip

Campbell Engineering & Surveying, Inc.
Firm or Business Name

Brian@cesiowa.com
Email

515-963-4385
Phone Fax

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)

Matt Albaugh
 (Print Name)


 Signature

12/14/21
 date

Benee Albaugh
 (Print Name)


 Signature

12/14/21
 date

 (Print Name)

 Signature

 date

 (Print Name)

 Signature

 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.

The property lies on the NE corner of the intersection and the adjoining properties to the north and east are both uses are classified as residential.
 The adjoining properties to the north are zoned Estate Residential and include a residential parcel and 4 residential lots, which were platted in White Oak Timber Estates.
 This 18 acre property is surrounded by residential properties and is undesirable for farming due to being small and not contiguous with other large farmed parcels.

After talking with our Polk County Supervisor, we are also willing to
disclose we have no intention to develop the land we own west
of this property. Our intention is to save that land for our children
to build on in the future. We also intend to enforce strict covenants
since we reside down the road.

Thank you for your time.

Return completed forms to: Polk County Public Works, Planning & Development Division
 5885 NE 14th 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	

Evaluation Criteria

The following criteria are used to evaluate a Comprehensive Plan Amendment and Rezoning requests. The written description on page 2 or attached should address as many of the below criteria as possible.

Comprehensive Plan Amendment

The Polk County 2030 Comprehensive Plan lists specific issues which must be addressed prior to amending the plan. Those seeking changes must convince the County that a real and immediate need for change exists. Each amendment request will be evaluated based on the magnitude of the proposed revision, its relationship to the Vision and Goals statements, and the nature of the changing circumstances that have resulted in the request. Proposed changes in the land use should also be evaluated in relation to their impacts on the following:

- 1) Public facilities and services, such as transportation, sewers, water supply, schools and public safety.
- 2) Surrounding properties and neighborhood character.
- 3) Productive farmland and on going agricultural operations.
- 4) Natural resources and open space; historic buildings or structures.
- 5) Proximity to adjacent City plans.

Changes may also be needed to correct errors, meet regional goals, or refine the plan based on more recent specific area or corridor plans.

Rezoning (Zoning Map Amendment)

The Zoning Map may be amended to bring it into conformance with the Comprehensive Plan when the Comprehensive Plan is amended. If the Comprehensive Plan does not merit an amendment, then there shall not be an amendment to the Zoning Map.

One of the following reasons must be demonstrated for approval of a rezoning.

- 1) The Comprehensive Plan has been amended and the Zoning Map needs to be brought into conformance with the revised Plan.
- 2) A mistake was made in the original map. That is to say, an area is, and has been, developing in a manner and purpose different from that for which it was mapped. Since the County may have intended to stop an undesirable land use pattern from spreading, it must be demonstrated that the circumstance is not intentional.
- 3) Changing conditions, such as new roads or utility lines, makes another location more favorable for development than the location originally planned.
- 4) Growth rates have changed, thereby increasing the need for development in the County.

Rezoning Application Concept Plan

Matt Albaugh 12/20/2021

West 20 acres of the S 1/2 of the SW 1/4 of
Section 16-81-23; subject to road easement

Scale 1" = 200'



Jennifer Ellison

From: Holly Twedt <wtwedt@huxcomm.net>
Sent: Tuesday, January 18, 2022 9:09 AM
To: Jennifer Ellison
Subject: Re: Albaugh Rezoning Case #2021-11143

Good morning Jennifer! This email is to notify you that we oppose the Albaugh Rezoning Case #2021-11143.

Sincerely,
Wade & Holly Twedt

On Jan 13, 2022, at 3:28 PM, Jennifer Ellison <Jennifer.Ellison@polkcountyiowa.gov> wrote:

Good Afternoon,

The application along with Zoning Map and Future Land Use Map are attached for your review. Please let me know if you have any questions or concerns.

Best Regards,

Jennifer Ellison || Public Works
Planner || jennifer.ellison@polkcountyiowa.gov
5885 NE 14th Street || Des Moines, IA 50313 || USA
O: 515-286-2280
polkcountyiowa.gov

-----Original Message-----

From: Holly Twedt <wtwedt@huxcomm.net>
Sent: Wednesday, January 12, 2022 6:24 PM
To: Jennifer Ellison <Jennifer.Ellison@polkcountyiowa.gov>
Subject: Albaugh Rezoning Case #2021-11143

Hi Jennifer! We received a letter this week regarding the Albaugh Rezoning Case #2021-11143. We would like to request a copy of the application, including the proposed map amendments.

If you could please send those to us, we would appreciate it. Assume they can be sent electronically? If any questions, please let us know.

Thank you,
Wade & Holly Twedt
Cell #515-229-0877
<Application Rezoning - Albaugh White Oak (12-21-21).pdf><FLUM - Albaugh
Rezoning.pdf><Zoning Map - Albaugh Rezoning.pdf>

Jennifer Ellison

Subject: Case #2021-11143

Kenneth Twedt
14611 NE White Oak Drive
Elkhart, Iowa 50073-9164

Received a response via phone call on Wednesday, January 19th requesting to file their opposition for the Albaugh rezoning request.

Kenneth Twedt (1-19-22)