

Polk County Zoning Commission  
Monday, February 28, 2022  
Staff Report



**Rezoning Petition**

**Property Owner & Applicant:**

Steven Klein, P.O. Box 1123, Johnston, IA 50131

**Request:**

Comprehensive Plan and Zoning Map Amendment

**Legal Description:**

An Irregular tract of ground located in the NW  $\frac{1}{4}$  of Section 4, also being a part of Lots 4 and 5 of the Official Plat of the NW  $\frac{1}{4}$  of Section 4, all in Township 79 North, Range 24 West of the 5th P.M., Polk County, Iowa, more particularly described as follows;

Commencing at the Southeast corner of the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of said Section 4; thence  $N0^{\circ}16'46''E$ , along the Easterly line of said SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 4, a distance of 921.73 feet; thence  $N89^{\circ}43'14''W$ , 65.00 feet to a point on the Westerly Right-of-way of NW 26th Street, as it is presently established, said point also being the Point of Beginning; thence  $N90^{\circ}00'00''W$  737.35 feet; thence  $N40^{\circ}06'20''W$ , 806.96 feet; thence  $N00^{\circ}25'46''E$ , 300.00 feet to the North line of said Lot 4; thence  $N89^{\circ}25'46''E$  along the North line of said Lot 4 and 5, a distance of 1259.55 feet to the Westerly Right-of-way line of said NW 26th Street; thence  $S0^{\circ}16'46''W$  along said line, a distance of 926.76 feet to the Point of Beginning, containing 23.009 acres, more or less, and subject to any easement or restrictions of record.

**General Location:**

The subject property is addressed as 2977 NW 66<sup>th</sup> Avenue, Des Moines, and is located North of NW 66<sup>th</sup> Avenue, and between NW Toni Drive and NW 26<sup>th</sup> Street. The area of the subject property that is proposed to be rezoned is located approximately 950-feet north of the intersection of NW 26<sup>th</sup> Street and NW 66<sup>th</sup> Avenue (Attachment 'A')

**Existing Future Land Use Map Classification:**

Neighborhood Commercial (Attachment 'B')

**Proposed Future Land Use Map Classification:**

Agricultural

**Existing Zoning:**

"NB" Neighborhood Business District (with conditions) (Attachment 'C')

**Proposed Zoning:**

"AG" Agricultural Districts (with no conditions)

**Surrounding Zoning:**

**North** - "AG" Agricultural District

**East** – "AG" Agricultural District

**South** – "NB" Neighborhood Business District and "AG" Agricultural District

**West** – "AG" Agricultural District

**GENERAL COMMENTS:**

The applicant is requesting a Comprehensive Plan Amendment and Zoning Map Amendment for a 23.009-acre rezoning area, which is a part of a larger 73.48-acre subject property, to change the Future Land Use Map classification from Neighborhood Commercial to Agricultural, and to change the Zoning Map from "NB" Neighborhood Business District (with conditions) to "AG" Agricultural District (without conditions). The subject property is addressed as 2977 NW 66<sup>th</sup> Avenue, Des Moines. The portion of the property which is proposed to be rezoned and reclassified is generally located at the northeast corner of the encompassing parcel, and is approximately 950-feet north of the intersection of NW 26<sup>th</sup> Street and NW 66<sup>th</sup> Avenue.

The area proposed to be rezoned and reclassified is approximately 0.6-miles east of the Des Moines River and the City of Johnston corporate boundary, and 1-mile south of the City of Ankeny corporate boundary. Surrounding land to the north, east, and west are zoned "AG" Agricultural District, and are classified as Agricultural on the Future Land Use Map. The properties to the south are conditionally zoned "NB" Neighborhood Business District, and are classified as Neighborhood Commercial on the Future Land Use Map. Adjacent land to the north, east, and west are primarily undeveloped and utilized as agricultural land. The properties to the south are commercial in nature, and feature a self-storage facility and a vacant commercial building that was previously used as a car wash. See *Attachment 'A'* for a vicinity map of the subject property and surrounding area.

The application for the rezoning and future land use reclassification as provided by the property owner has been included with this report as *Attachment 'D'*. In summary, the applicant no longer intends to develop the property commercially, and intends for the area to be preserved as open space surrounding Fisher Lake, which is located directly west of the rezoning area on the subject property.

**ZONING BACKGROUND:**

The subject property was conditionally rezoned from the "AG" Agricultural District to the "LB" Light Business District in January of 2005. The Board of Supervisors approved the rezoning with the conditions that 1) It will be used for Office and Warehouse uses only; 2) There will be no outside storage; 3) The maximum building height will be 40-feet; 4) The lowest floor of any building will be 1-foot above the 100-year base flood elevation; and 5) Evergreen and pine trees will be planted on the north property line. There will be 2-rows of trees 6-feet in height. The conditions of the rezoning were identical to those issued to an additional 7-acres of property which is located south of the subject property, with the three separate parcels being addressed

as 6654, 6674, and 6706 NW 26<sup>th</sup> Street. Two of those properties have been developed, with a mini-storage development featuring seven (7) buildings, and a second commercial building that was built to serve as a carwash but is currently vacant.

The Polk County Board of Adjustment has approved two (2) conditional use permits for outdoor commercial amusement and other special events on the larger subject property. The first Conditional Use Permit was granted in September of 2002 with Docket #02/1202, and permitted a miniature golf business on the southern portion of the property adjacent to NW 66<sup>th</sup> Avenue, as well as permitted various special events for a five (5) year period. In September of 2008 with Docket #08/108, the previous Conditional Use Permit was repealed and replaced with the addition and amendment of the conditions of approval, notably allowing outdoor commercial amusement and special events to take place on the subject property until such time that Steven Klein, the current property owner, no longer owns the property. The Conditional Use Permits that were previously granted will not be affected by the proposed rezoning area, as they are located further to the south and west on the larger subject property.

### **STAFF REVIEW:**

#### **Natural Resources**

The subject property contains Fisher Lake, which is a mapped wetland, but is primarily located outside of the rezoning area. The northwestern portion of the rezoning area is included in mapped floodplain in the AE, or 1% Annual Chance Flood Hazard Zone, and is a natural drainageway towards Fisher Lake. The rezoning area features little topographic change, with only 6-feet of topographic change between the high-point of 810-feet above sea level to the low-point of 804-feet above seal level within the Fisher Lake area. Due to the subject property and surrounding property being low lying and within the floodplain of the Des Moines River, the area is flood prone beyond the mapped floodplain. During major flood events, such as the event which took place in the Spring of 2008, a majority of the subject property can become inundated with floodwaters.

#### **Roads/Utilities**

The rezoning area has 909.9 feet of frontage along NW 26<sup>th</sup> Street, and a gravel field entrance at the northeastern corner. Water service would come from a 12-inch Des Moines Water Works water main, which is located on the eastern side of NW 26<sup>th</sup> Street. There is no public sanitary sewer in the vicinity. All existing and future development in this area relies on private on-site septic systems for wastewater treatment.

#### **Public Testimony**

Staff mailed nineteen (19) public notification letters to adjacent property owners located within a 500-foot radius of the subject property. As of February 23, 2023, Staff has received one (1) letter of support, and one (1) letter in opposition of the request. Notice of the request and Zoning Commission public hearing was also published in the newspaper as required.

#### **Comprehensive Plan Discussion**

The subject property is located within the North Central Area, as identified in the Polk County 2030 Comprehensive Plan. Key issues identified during the development of the Northeast Area

Plan relate to the desire to protect prime farmland and the conflicts and trade-offs between farmland protection and Ankeny's continued growth, while including issues with economic development and the need for land for industrial and business park expansion. The following are applicable goals and policies of the Comprehensive Plan:

North Central Area Goals:

*Environmental Quality Goal – Polk County will conserve unique natural areas and wildlife habitat, air and water quality, and will work to expand and enhance trails, greenways, and park resources throughout the County.*

*Agricultural Land Protection Goal – Polk County will practice stewardship of its agricultural resources and lifestyle, including preserving prime agricultural soils, protecting agricultural practices, and maintaining rural character in the North Central Area*

*Respect for Property Owners Goal – Polk County will respect the individual decisions and values of private property owners in setting land use policy and regulation.*

*Growth Patterns Goal – Polk County will align City and County land use plans to discourage sprawl, protect social/ economic/natural resources, and encourage controlled, orderly growth of North Central cities.*

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.*

*Agriculture Goal - Policy 3: Rural Protection: Polk County will protect the rural character of agricultural landscapes and communities by directing non-agricultural growth to municipalities, discouraging municipal expansion into productive farming areas, and allowing rural communities to remain economically sustainable.*

*Environmental Quality Goal - Policy 1: Protect Natural and Recreational Areas: Existing natural areas, unique natural places, and recreational assets are essential to environmental quality. Polk County will protect, through appropriate land use regulation and incentives, unique natural and wildlife areas, parks, wetlands, and recreational amenities.*

*Water Quality Goal - Policy 2: Protect Natural Infrastructure: Risks to surface water quality, risks from flooding, and risks to many natural areas can be avoided or mitigated by protecting and investing in the County's natural infrastructure. Polk County will protect streams, waterways, and floodplains in land use decisions and by directing appropriate investment to enhance the County's natural infrastructure.*

*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.*

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

### **Comprehensive Plan Analysis**

The Polk 2030 Comprehensive Plan has multiple goals focusing on the preservation of agricultural land, open space, and environmentally sensitive areas. The applicant is proposing to reclassify the subject property to a future land use classification which is less intrusive to natural lands than the current Neighborhood Commercial classification. Due to what we know to be a flood prone area, further development of that parcel would be in conflict with general Comprehensive Plan goals of protection of natural areas and protection of natural infrastructure. Furthermore, with the agricultural land protection goals set forth by the comprehensive plan, reclassification of the subject property to the Agricultural designation would not be in conflict with the Polk 2030 Comprehensive Plan.

### **RECOMMENDATION:**

Staff recommends approval of the 2030 Polk County Comprehensive Plan Map Amendment from the Neighborhood Business Classification to the Agricultural Classification, and recommends approval of the Zoning Map Amendment from the "NB" Neighborhood Business District (with conditions) to the "AG" Agricultural District (without conditions) for the above described property.

The recommendation for approval is based upon the fact that the request is in harmony with the spirit, intent, goals and policies of the Polk County 2030 Comprehensive Plan. The recommendation for approval of the Zoning Map Amendment is based upon the following: a) The request is in accordance with the Comprehensive Plan; b) Approval supports the public,

health, safety and welfare of County residents by aligning the property's zoning classification with its current, intended and most likely future use(s); and c) Rezoning the property to agricultural is compatible with adjacent properties to the north, east, and west, and the rezoning area is features environmental constraints which limit its ability for future development.

**Attachments:**

*Attachment A:* Vicinity Map

*Attachment B:* Future Land Use Map

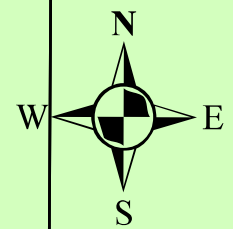
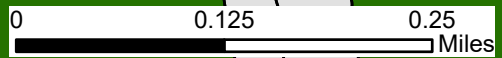
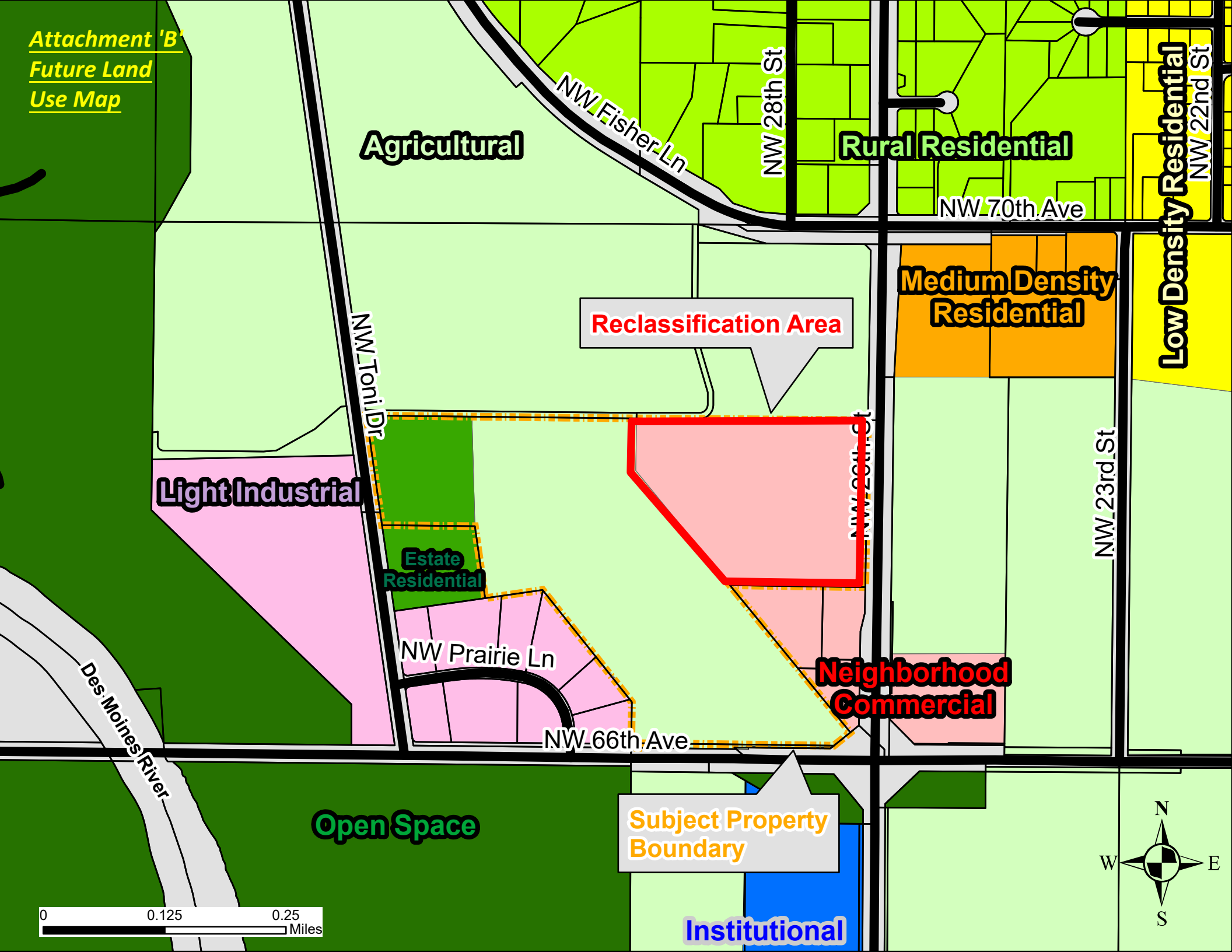
*Attachment C:* Zoning Map

*Attachment D:* Application



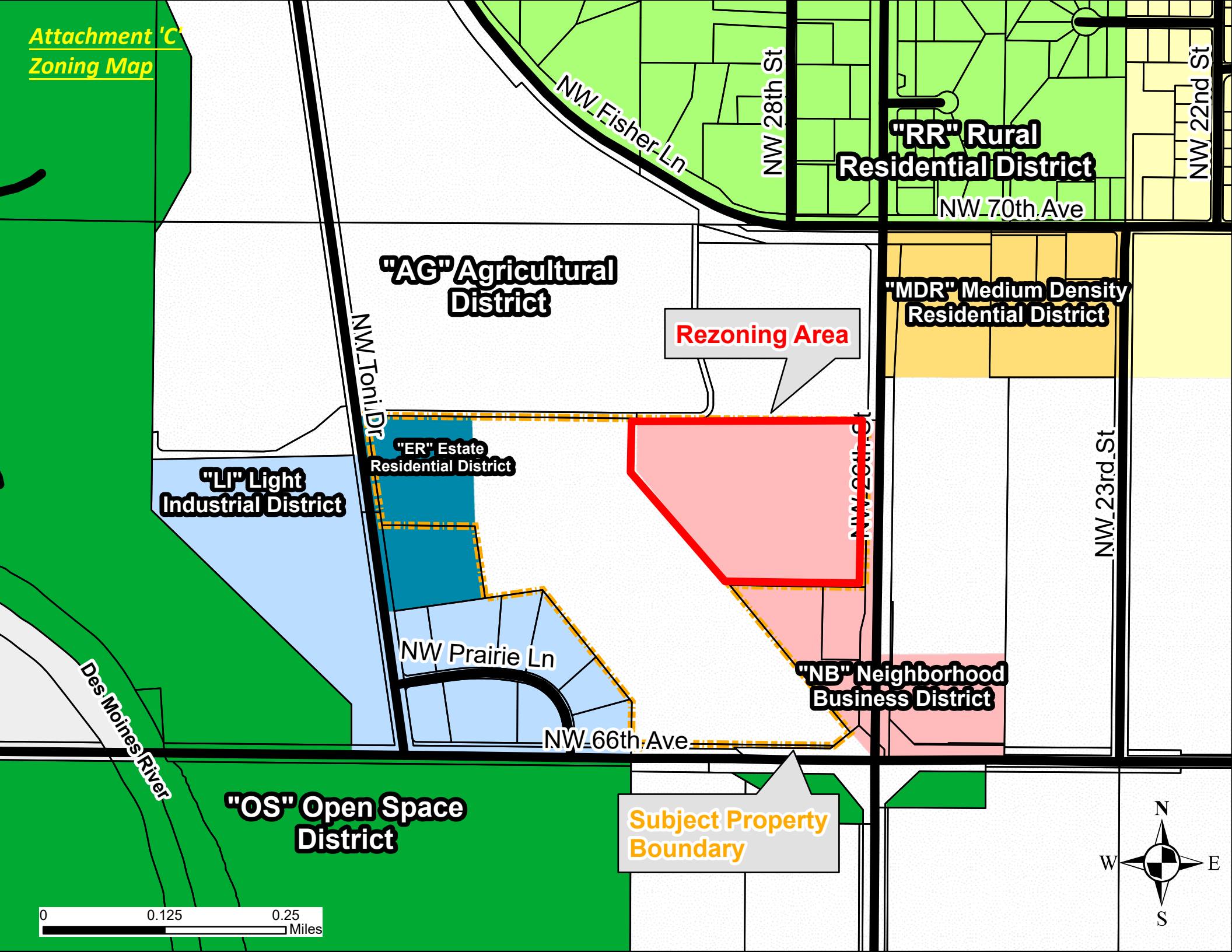


Attachment 'B'  
Future Land  
Use Map





**Attachment 'C'**  
**Zoning Map**



**Attachment 'D'**

**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. AG-NB-LB With Conditions - Office/Warehouse 2. AG  
Current Future Land Use Classification Proposed Future Land Use Classification
- 3. AG-NB-LB-With Conditions 4. AG  
Current Zoning District Proposed Zoning District

(time stamp)  
Official Use Only

5. Subject Property Address: NW 26<sup>th</sup> - 50513

6. District and Parcel Number: 270/00108-003-005

7. Subject Property Legal Description (attach if necessary): See Enclosed Exhibit A

8. Filing Fee: - \$438.00 - CK# 1176

9. Applicant(s) Information:

Steve Klein  
Applicant (Print Name)

[Signature]  
Signature

12-30-21  
date

Steve Klein  
Interest in Property (owner, renter, perspective buyer, etc.)

PertHMaster@GMail.com  
Email

P.O. 1123 Johnston IA 50131  
Address, City, State and Zip

515-778-0205  
Phone

[Symbol]  
Fax

10. Applicant(s) Representative:

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

Applicant Representative (Print Name)

Firm or Business Name

Address, City, State and Zip

Email

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)

Steve Klein  
(Print Name)

Steve Klein  
Signature

12-30-21  
date

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
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.

① Remove NB Zoning  
NOT Sure Why Polk County ReZoned This Parcel TO NB  
It Meets NONE OF THE NB Standards See Exhibit B

② Remove From CB With Conditions.

Entire Parcel # 270/00109-003-005 Has Been  
Designated For USE AS Fish Lake Wildlife Preservation  
And Rezone  
Will No Longer Need or Want Other Zoning Will  
Remain AS AG

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

Forms available online <http://www.polkcountyia.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	