



**AGENDA**  
**PLANNING AND ZONING MEETING**  
**Norwalk City Hall, 705 North Ave**  
**Monday, June 26, 2017**  
**5:45 P.M.**

1. Call meeting to order at 5:45 P.M.
2. Approval of Agenda
3. Approval of Minutes – June 12, 2017
4. Chairperson – Welcome of Guests
5. Public Comment – 3-minute limit for items not on the agenda (No action taken)
6. New Business
  - a. Public hearing and consideration of a rezoning request to rezone approximately 32 acres of ground north Delaware Street and approximately 800 feet west of Iowa Highway 28 from A-R Agricultural Reserve to M-1 General Industrial.
  - b. Request from Diligent Blooming Heights, LLC to approve the Final Plat for Blooming Heights
  - c. Request from Cort Landing, LLC to approve the Final Plat for Cort Landing Plat 2
  - d. Discussion regarding the zoning and future land use designation for the Stark Property east of 50<sup>th</sup> Street near County Line Road
  - e. Update on Cell Tower Moratorium
7. City Council Update – Stephanie Riva, Planning and Zoning Commission Liaison
8. Economic Development Update – Hollie Askey, Economic Development Director
9. Future Business Items
  - a. Platting & Site Plan for Certified Industrial Site
  - b. Sunset Crest Platting & Site Plans
  - c. Sunset Corner Site Plan
  - d. North Shore Preliminary Plat
  - e. Warrior Run Plat 2 Final Plat
  - f. Rolling Green Plat 6 Final Plat
  - g. Farms of Holland Plat 3 Final Plat
  - h. Affordable Housing Research
10. Next Meeting Date: June 26, 2017
11. Adjournment

## **REGULAR NORWALK PLANNING AND ZONING MEETING 06-12-2017**

### **Call to order**

The regular meeting of the Norwalk Planning and Zoning Commission was held at the Norwalk City Hall, 705 North Avenue, Monday, June 12, 2017. The meeting was called to order at 5:45 p.m. by Chairperson Judy McConnell. Those present at roll call were Elizabeth Thompson, Barbara Belizzi, Brandon Foldes, Donna Grant, Jim Huse, John Fraser and Judy McConnell. No one was absent.

Staff present included: Luke Parris, Community Development Director, and Hillarie Ramthun, Community Development Coordinator.

### **Approval of Agenda – 17-46**

Motion by Grant and seconded by Fraser to approve the agenda. Approved 7-0.

### **Approval of Minutes – 17-47**

Motion by Thompson and seconded by Belizzi to approve the minutes from the May 25th, 2017 meeting. Approved 7-0.

Chairperson McConnell welcomed the 4 guests present. With no one wishing to discuss matters not on the agenda, the business portion of the meeting was opened.

### **New Business**

#### **Request from Little Hands Big Dreams Daycare, 730 Main Street, to allow for exterior building lights —17-48**

The City received a request from the Daycare for exterior lighting to ensure the safety of children, parents and staff, especially in the winter months when day light is shorter. The purpose would be to illuminate the sidewalk during hours of pickup/drop-off.

Per City Zoning Ordinance Section 17.60.020(B) (3)(h) states that "All exterior building and site lighting will be downcast in nature and exterior light fixtures must possess sharp, cut-off qualities to prevent off-site glare. Lighting levels from a site cannot exceed one foot-candle at the property line." Following the literal interpretation of the code, no building lights would be allowed on the exterior of any building that is a zero lot line building. In the case of this building, the wall of the building is the property line—zero lot line.

Parris spoke to both Public Works and Chief Staples and both expressed that the only concern was a distracting glare to passing motorists.

Parris showed an example of the fixture that the Daycare would use and since the bulb can be changed, which will change the intensity or direction of the light, the City is not that concerned.

The Commissioners all agreed that there is a dual concern for the motorists and the children/parents and if exterior lighting can be down cast then the request should be approved.

Going forward, the City should begin the process to amend the zoning ordinance to include language regarding zero lot lines and exterior illumination.

A motion was made by Grant to approve the exterior lighting on the building with the appropriate down cast so that there is no encroachment onto the street, seconded by Belizzi. Approved 7-0.

#### **Request from Ryan and Nicole Boyington to approve the Neighborhood Sketch Plan for approximately 14 acres of ground north of existing Twin Lakes Subdivision off of 80<sup>th</sup> Avenue in Warren County —17-49**

The City received a request to develop 14 acres of ground that is outside of the City limits but is within the two mile review area. The City's Future Land Use Map and Plan identifies the area as low density residential with ag/open space along the creek to the north and east of the proposed project. Lots should range from 7,500 square feet to 3 acres for single family homes with direct access to a dedicated street system. A sketch plan was submitted by Ryan and Nicole Boyington in place of an engineer's plan in order to cut cost. The plan identifies driveway access onto 80<sup>th</sup> Avenue and would be split off into three separate drives to provide access to each lot. The plan indicates that each lot would consist of five acres of ground, but roughly two acres or less would be buildable. Boyington indicated that the ground that would be at the back of each lot would be considered non-buildable due to the low grade/elevation and moisture level. The request for the three lots does not match the City's Future Land Use Map and Plan.

McConnell inquired about whether or not this would be part of Twin Lakes?

Parris responded that it would not be part of the Twin Lakes Subdivision.

Grant asked about the City's resistance in approving the request and if it's because it is three lots instead of four.

Parris responded that the request does indicate that the density lots would be very low and the Future Plan Map indicates low density, so it's less dense than what was planned.

McConnell indicated that the Sketch appears very different than the Future Land Use Plan; it may not be a good idea to approve the request.

Foldes and Grant suggest that the land to be developed does not appear to be that different than the Twin Lakes Subdivision to the south.

Belizzi comments on the unique lot and questions how else it could be developed other than the Sketch provided.

Ryan Boyington, 204 SW Oakmont Street Ankeny, IA came forward to explain the request. Mark Kline, 206 NW Benjamin Drive Ankeny, IA also speaks.

Boyington explains the reason for the driveway location and the non-buildable area toward the rear of the proposed lots. Kline shows a map with elevations to help with the explanation of the lower elevation in the non-buildable area. They both explain that no developer will want to bring in the amount of soil that would be required to elevate the ground or make other driveway access areas. The non-buildable area would be left as green space, trees would be left and native grasses would be added.

McConnell spoke to the concern of one driveway to access three lots and how the police or fire department would handle emergencies in that situation, how or where would a firetruck turn around?

Parris was unsure of how the two departments would respond or if it would be okay.

Huse inquired about the County having rules of so many lots per a certain number of acres.

Boyington stated that the County has already approved the Sketch Plan.

Riva commented on flag lots and shared driveways and how they are fine for the original owners but when ownership changes it creates nuisance issues for the City later. She also commented on the fact that a firetruck, once within the driveway(s) with no turnaround, is not ideal.

Boyington asked if the City has an issue with the driveway width, or the access, or the density, or the size of lots?

Parris stated that it doesn't conform to the Comprehensive Plan.

Most of the Commissioners did not find issue with the request.

Foldes stated that it is not in the City at this time and if it were expectations and requirements would need to be followed.

Parris pointed out that the reason for the two mile review area is so the City can review and make recommendations to what is proposed. Parris follows the literal interpretation of the code and therefore, does not give recommendation to the request.

Motion by Foldes and seconded by Belizzi. To approve on the condition that there is more data and research on the non-buildable land area, that there is more detailed information of lot sizes and setbacks that meet the low density plan for a road that could be converted to a city street later, so it could be gravel now but when it's annexed it can be easily converted to a street.

Approved 6-1.

#### **Request from Diligent Orchard Hills, LLC to approve the Final Plat for Orchard Trail Plat 5 —17-50**

The Preliminary Plat was originally approved in 2016 and this will complete the final portion of the Orchard Trail Development. This Final Plat would create 33 single-family lots along Rellim Drive and Rellim Circle and will connect Sycamore Drive through the neighborhood to assist with the traffic flow from the additional vehicles.

Commissioners all agreed the Final Plat and through street will benefit the area.

Motion by Huse and seconded by Thompson. Approved 7-0

#### **Discussion of Koethe ground annexation proposal request-**

70 acres purchased east of Norwalk, the property owner would like to have it annexed into Norwalk. An annexation agreement still needs to be finalized with an adjacent property, Bedwell Gardens, so as not to create an "island" which would not allowed. Staff proposed that Koethe provide a more detailed idea on the proposed use of the ground. Staff reviewed what Koethe submitted and suggested a Future Land Use Plan amendment as part of the annexation process.

#### **Discussion of Planning and Zoning Commission meeting time-**

The Planning and Zoning Commission can vote at any time to adjust the regular meeting time, the previously voted on time was 5:45 p.m. Now with different Commissioners on the Board, it was brought to the table to discuss if there was a need to for adjustment. All Commissioners were in favor of keeping the 5:45 p.m. start time.

**Future Business Items-**

Platting and site plan for Certified Industrial Site  
Blooming Heights Final Plat  
North Shore Preliminary Plat  
Warrior Run Plat 2 Final Plat  
Rolling Green Plat 6 Final Plat  
Farms of Holland Plat 3 Final Plat  
Cort Landing Plat 2 Final Plat  
Affordable Housing Research

**Next meeting Date – June 26, 2017.**

**Adjournment – 17-45**

*Motion by Fraser and seconded by Huse to adjourn the meeting at 6:51 p.m. Approved 7 -0.*

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Judy McConnell, Vice Chairperson

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Luke Parris, City Planner



**PLANNING & ZONING COMMISSION  
AGENDA STATEMENT**

**Item No. 6A**  
**For Meeting of 06.26.2017**

**ITEM TITLE:** Public hearing and consideration of a rezoning request to rezone approximately 32 acres of ground north Delaware Street and approximately 800 feet west of Iowa Highway 28 from A-R Agricultural Reserve to M-1 General Industrial.

**CONTACT PERSON:** Luke Parris, AICP – Community Development Director

**SUMMARY EXPLANATION:**

In 2014, the City worked with the Iowa Economic Development Authority to have 55 acres of ground identified as a Certified Industrial Site. The Ancell/Knox property that was certified is located on the southend of town at the northwest corner of Delaware Street and Iowa Highway 28. After the site was certified with the state, the City annexed the ground. When ground is annexed into the City it defaults to the City's A-R Agricultural Reserve zoning district.

In late 2016 and early 2017, the City was contacted by representatives from Windsor Windows & Doors about the potential location of a window manufacturing facility in Norwalk at the certified site. Windsor Windows & Doors acquired 27 acres of the certified site for their facility and the City zoned the area to M-1 General Industrial in May 2017. At the time, the remainder of the Certified Site was left as A-R Agricultural Reserve, though the City's future land use plan does identify the area for future industrial growth.

During the Windsor Windows & Doors project, the City applied for and received \$845,000 from the Iowa DOT's RISE program. This grant was to pave Delaware Street from the intersection of Iowa Highway 28 through the area in front of Windsor Windows & Doors and extend west to area in front of the undeveloped Certified Site. This provided the City with a paved access to the remainder of the Certified Site, making the area more development ready. As part of the RISE grant, the Iowa DOT requires that adjacent project ground be zoned for industrial use. Therefore, for the City to proceed with the paving project, a rezoning of the remainder of the Certified Site needs to be considered.

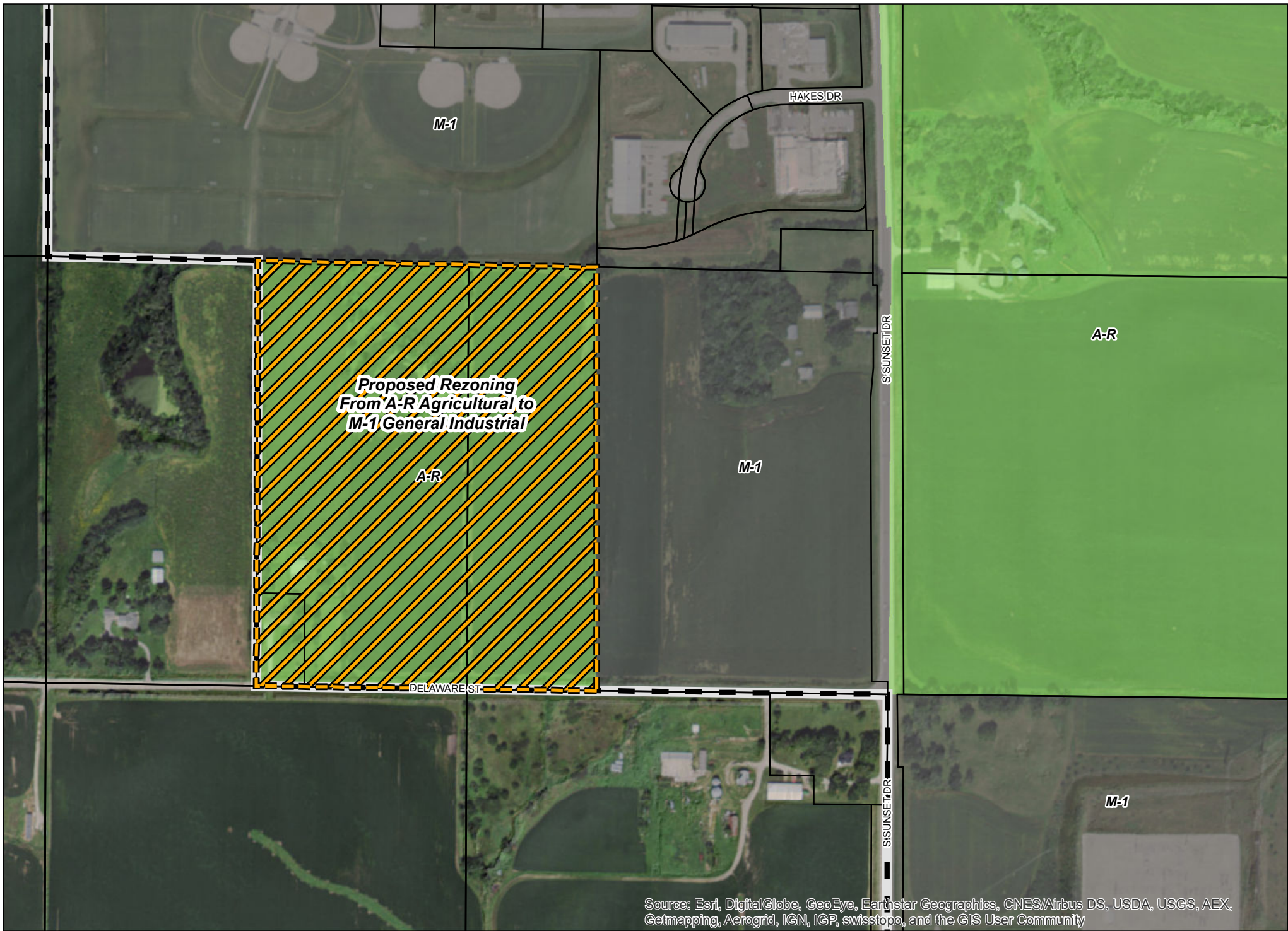
The area was identified for industrial growth in the City's Comprehensive Plan and through the Certified Site process. Adjacent property to the north and east are currently zoned in the M-1 district as part of the Norwalk Business Center and Windsor Windows & Doors Project. The property to the south and west is not currently in the City and is a current farmstead with farm ground. All of the surrounding property is planned as industrial ground in the City's future land use map.

**ALTERNATIVES:**

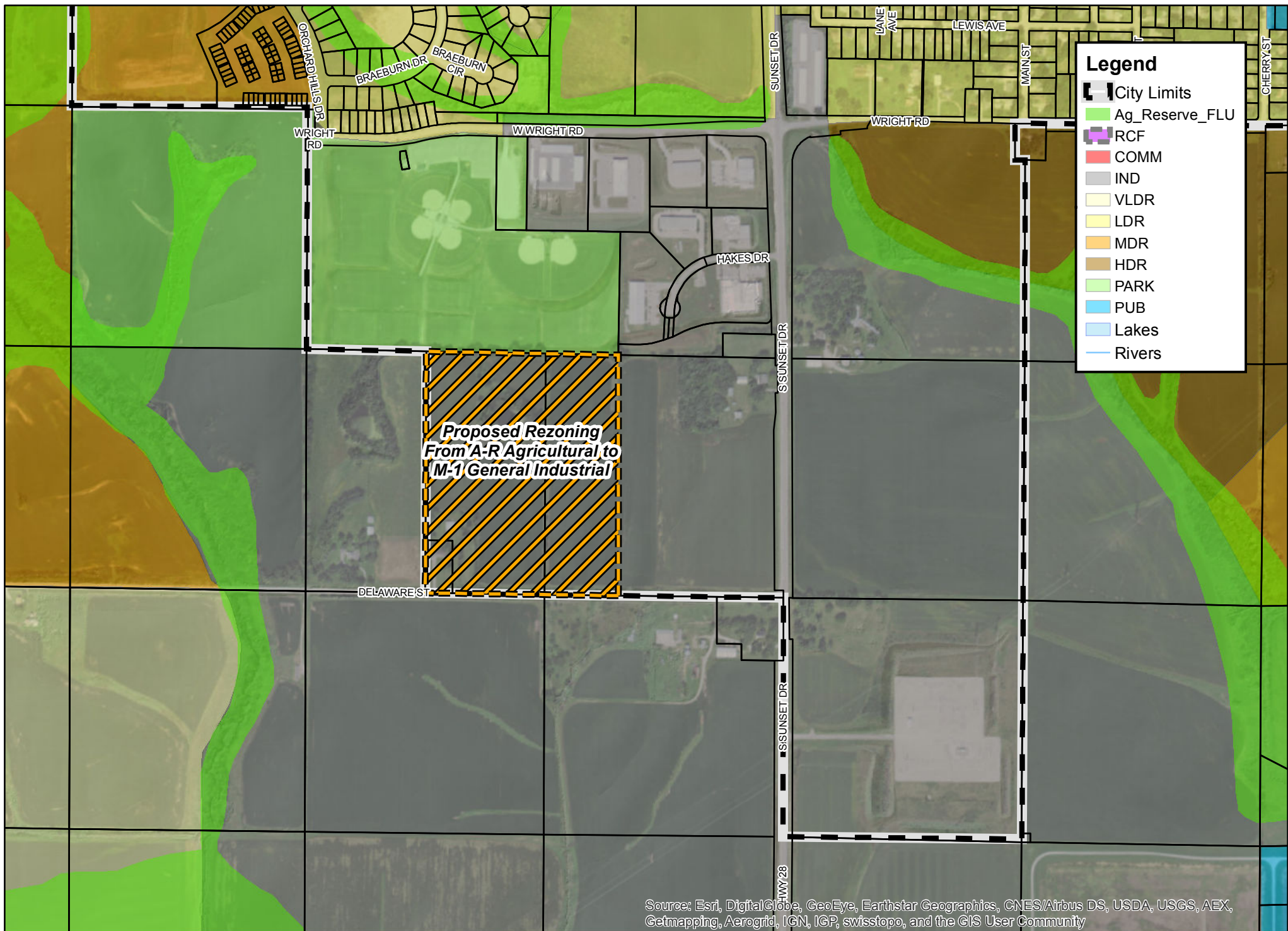
1. Recommend approval of the rezoning to the City Council
2. Recommend approval of the rezoning to the City Council with conditions
3. Take no action at this time.

**STAFF RECOMMENDATION:**

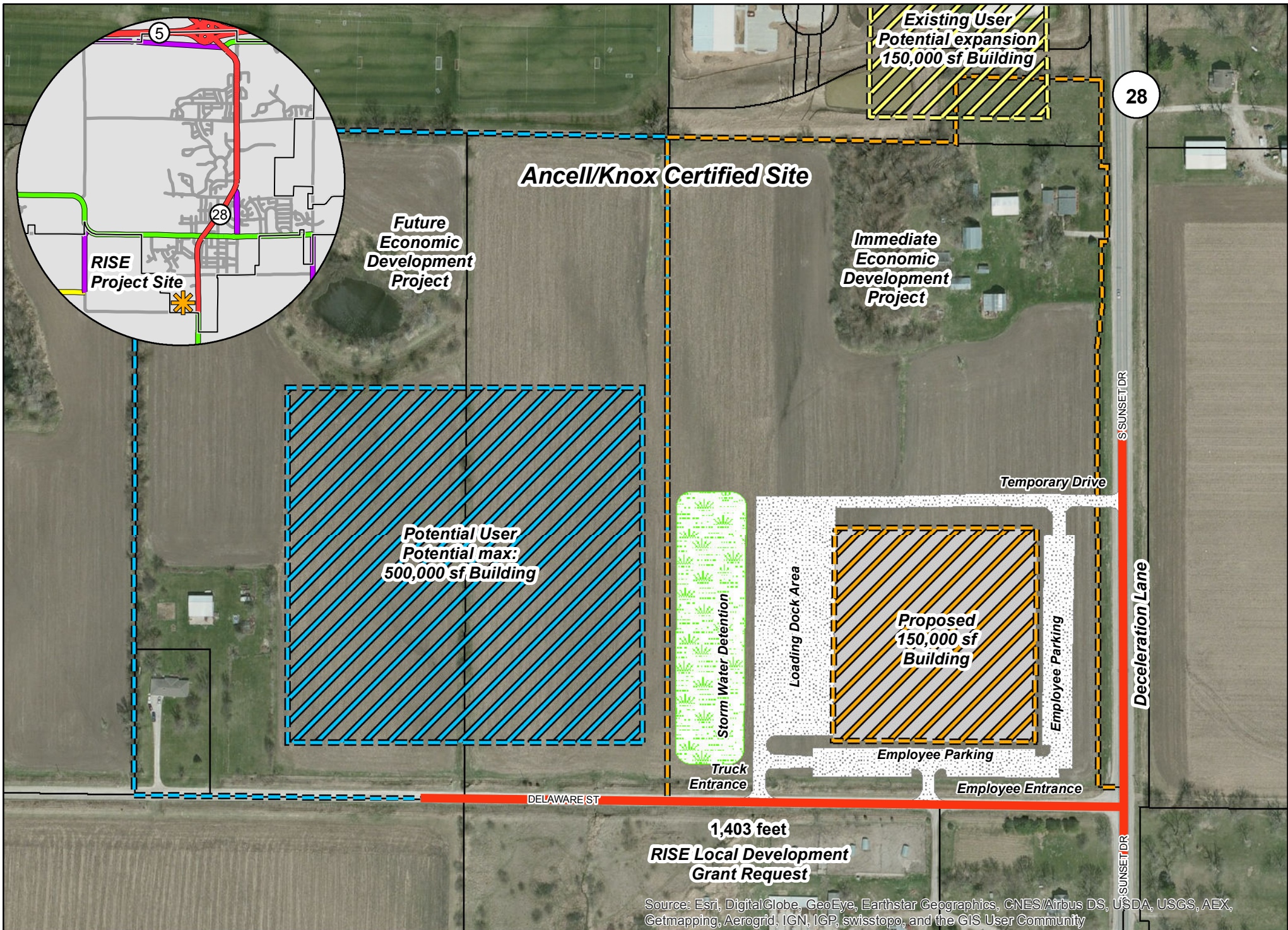
Staff recommend approval of the rezoning request. The request is in conformance with the City's Comprehensive Plan and future land use map. Through the site certification process, the City has anticipated and planned for extension of City services and the necessary upgrades to the transportation network to accommodate industrial users in this area.















**PLANNING & ZONING COMMISSION  
AGENDA STATEMENT**

Item No. 6B  
For Meeting of 06.26.2017

<b>ITEM TITLE:</b>	<b>Request from Diligent Blooming Heights, LLC to approve the Final Plat for Blooming Heights Plat 1</b>	
<b>CONTACT PERSON:</b>	<b>Luke Parris, AICP – Community Development Director</b>	
<b>PREPARED BY:</b>	<b>Elliot Klimowski – Community Development Intern</b>	
<b>APPLICANT(S):</b>	Diligent Blooming Heights, LLC 12119 Stratford Drive, Suite B Clive, IA, 50325	Cooper Crawford and Associates, LLC 475 S. 50 <sup>th</sup> Street, Suite 800, West Des Moines, IA 50265
<b>GENERAL DESCRIPTION:</b>	This request would create 41 single-family lots on Redbud Street, Crabapple Drive, and Magnolia Circle, west of 50 <sup>th</sup> Avenue.	
<b>IMPACT ON NEIGHBORHOOD:</b>	The properties surrounding are undeveloped at this time and mostly agricultural.	
<b>VEHICULAR &amp; PEDESTRIAN TRAFFIC:</b>	The plat shows the construction of Redbud Street extending west from 50 <sup>th</sup> Avenue and terminating at a point from which further development may continue. Crabapple Drive is shown originating at a future development point, intersecting Redbud Street, and terminating as a cul-de-sac in the north part of the plat. Magnolia Circle is a cul-de-sac originating on the northeast side of Crabapple Drive.	
<b>TRAIL PLAN:</b>	The neighborhood will have 5' sidewalks along both sides of the street.	
<b>ZONING HISTORY FOR SITE AND IMMEDIATE VICINITY:</b>	This site is zoned as R-1(100). Surrounding ground is zoned R-1 (100) and Agricultural.	
<b>BUFFERS REQUIRED/NEEDED:</b>	Adjacent uses are compatible and no buffer is required.	
<b>DRAINAGE:</b>	Drainage from the subdivision is collected in the storm sewer system or drains off the site ultimately into detention areas adjacent to 50 <sup>th</sup> Avenue and west of the original plat.	
<b>DEVELOPMENT HISTORY:</b>	A preliminary plat for the area was originally approved on August 18, 2016.	
<b>FLOODPLAIN:</b>	None of the proposed lots are located within a floodplain.	

<b>PARKLAND:</b>	The developer is responsible for providing 32,103 square feet of parkland in the future phase of Blooming Heights. The developer has agreed to enter into an agreement with the City that the parkland will be dedicated in the next phase.
<b>UTILITIES: WATER, SANITARY SEWER, STORM SEWER.</b>	Proper easements have been identified and shown where needed for sanitary sewer and for public utilities. Connections to existing public utility infrastructure have been identified.
<b>RELATIONSHIP TO COMPREHENSIVE LAND USE PLAN:</b>	This area was identified as low density residential. The final plat meets the intent of the land use plan.
<b>STAFF ANALYSIS – ZONING ORDINANCE:</b>	<p>The Final Plat consists of 41 lots. The plat consists of 33.140 acres of land with lots ranging from 16,047 sf to 67,687 sf.</p> <p>Streets will be dedicated to the City for street use upon approval of the Final Plat. The designated street right-of-way is 60 feet with a 28' wide road. The cul-de-sacs are 26' wide roads.</p>
<b>STAFF ANALYSIS – SUBDIVISION ORDINANCE:</b>	<p>The Subdivision Ordinance requires that Final Plat submissions include such criteria as boundaries of property, engineer's certificate, easements and right-of-way widths. All information has been submitted by the applicant. The Final Plat shows platted building lines, property lines with dimensions, easements and right-of-way widths.</p> <p>The applicant will need to submit all other required documents prior to release of the final plat for recording.</p>
<b>STAFF RECOMMENDATION:</b>	<p>Therefore, staff recommends that the request for the Final Plat of Blooming Heights be approved with the following conditions:</p> <ul style="list-style-type: none"> <li>• That the applicant provides all supporting documentation required within the Norwalk Subdivision Regulations.</li> <li>• That any significant modifications to the plat be reviewed and approved by the Planning &amp; Zoning Commission and City Council.</li> </ul>

**DRAFT RESOLUTION NO. \_\_\_\_**

**A RESOLUTION APPROVING THE FINAL PLAT OF BLOOMING HEIGHTS**

WHEREAS, the Planning & Zoning Commission reviewed this request at their regular meeting on June 12, 2017 and recommends approval of the Final Plat; and

WHEREAS, that the applicant provides all supporting documentation required within the Norwalk Subdivision Regulations; and,

WHEREAS, that any significant modifications to the preliminary plat be reviewed and approved by the Planning & Zoning Commission and City Council; and,

NOW, THEREFORE, BE IT RESOLVED: That the City Council does hereby approve the Final Plat of Blooming Heights as described and shown in Attachment "A" attached hereto and made a part thereof by reference.

PASSED AND APPROVED this 6th day of July, 2017.

\_\_\_\_\_  
Tom Phillips - Mayor

ATTEST:

\_\_\_\_\_  
JODI EDDLEMAN, CITY CLERK

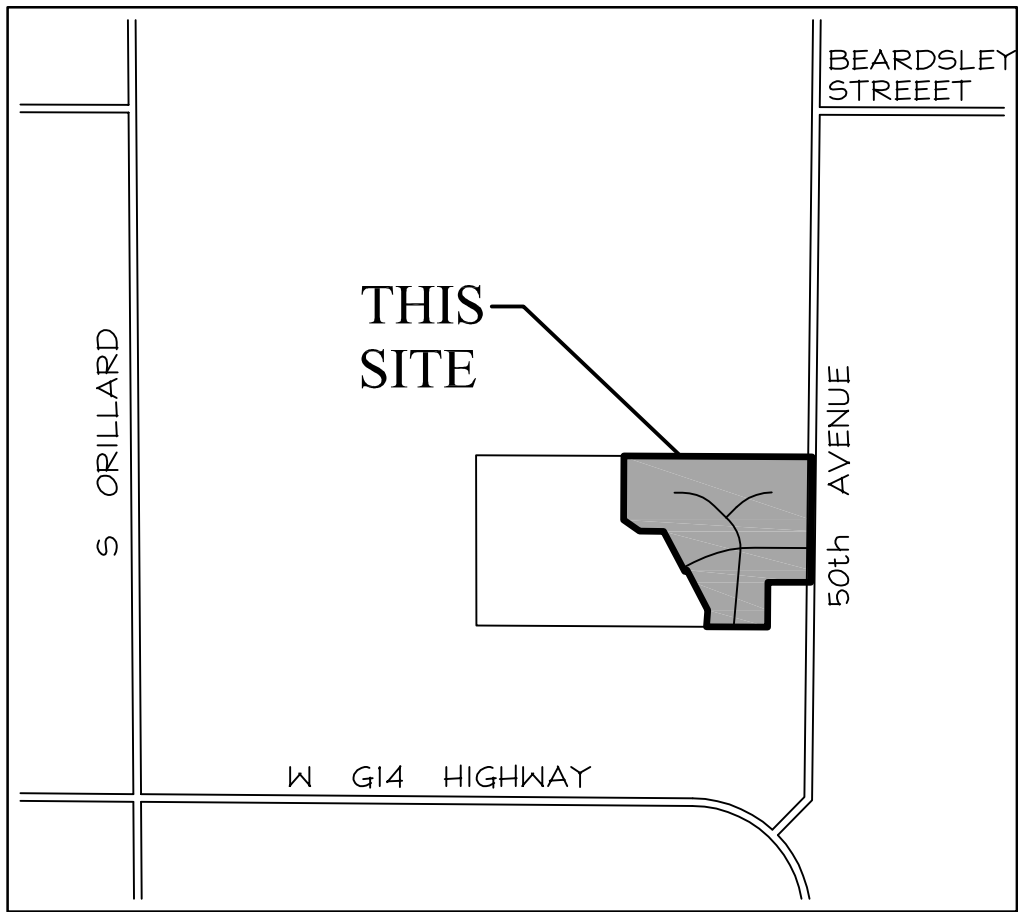
<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>
Kuhl	___	___
Lester	___	___
Isley	___	___
Riva	___	___
Livingston	___	___

NOTES

1. ANY USE OF THE PUBLIC UTILITY EASEMENT IS SUBORDINATE TO THE CITY'S USE OF ITS DESIGNATED EASEMENT AND ANY USER OF THE P.U.E. MUST RELOCATE ITS FACILITIES AT NO COST TO ACCOMMODATE THE CITY'S USE OF ITS DESIGNATED EASEMENT.
2. OUTLOT 'Z' WILL BE FOR FUTURE DEVELOPMENT.
3. OUTLOT 'Y' WILL BE UTILIZED FOR A DETENTION POND AND WILL BE OWNED AND MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
4. ALL TEMPORARY TURNAROUND EASEMENTS WILL BE TERMINATED AT THE TIME OF THE STREET BEING EXTENDED.
5. THE DEVELOPER IS RESPONSIBLE FOR PROVIDING 32,103 SQ FT (41 x 783) OF PARKLAND IN THE FUTURE PHASE OF BLOOMING HEIGHTS.

SURVEYORS NOTES

1. ALL LOT CORNERS SHALL BE SET WITHIN ONE YEAR OF RECORDING.
2. THIS PLAT BOUNDARY HAS AN ERROR OF CLOSURE OF LESS THAN 1 IN 10,000.
3. EACH LOT IN THIS PLAT HAS AN ERROR OF CLOSURE OF LESS THAN 1 IN 5,000.
4. BEARINGS BASED ON AN ASSUMED BEARING.



VICINITY SKETCH

NORTH  
SCALE: 1"=1500'

# FINAL PLAT BLOOMING HEIGHTS

SHEET 1 OF 2

OWNER/DEVELOPER  
DILIGENT BLOOMING HEIGHTS, LLC  
12119 STRATFORD DRIVE, SUITE B  
CLIVE, IA 50325

ZONING  
R-1(100) SINGLE FAMILY RESIDENTIAL

SETBACKS  
FRONT-40'  
REAR-40'  
SIDE-12' MIN. (25' TOTAL)

LEGAL DESCRIPTION  
Parcel "E", recorded in Book 2014, Page 9639, at the Warren County, Iowa, Recorder's office, and a part of the North half of the Southeast quarter of Section 10, Township 77 North, Range 25 West of the 5th P.M., City of Norwalk, Warren County, Iowa, that is more particularly described as follows:

Beginning at the East quarter corner of Section 10, Township 77 North, Range 25 West of the 5th P.M., City of Norwalk, Warren County, Iowa; thence S00°37'45"W, 980.62 feet along the East line of the Southeast quarter of said Section 10; thence N89°42'42"W, 333.00 feet; thence S00°37'45"W, 350.00 feet to the South line of the North half of the Southeast quarter of said Section 10; thence N89°42'42"W, 477.40 feet along said South line; thence N05°00'00"E, 130.67 feet; thence N27°37'54"W, 351.60 feet; thence S62°22'06"W, 21.30 feet; thence N27°37'54"W, 353.50 feet; thence N89°44'15"W, 188.38 feet; thence N55°00'00"W, 151.93 feet; thence N00°15'45"E, 500.20 feet to the North line of the Southeast quarter of said Section 10; thence S89°44'17"E, 1470.06 feet along said North line to the Point of Beginning.

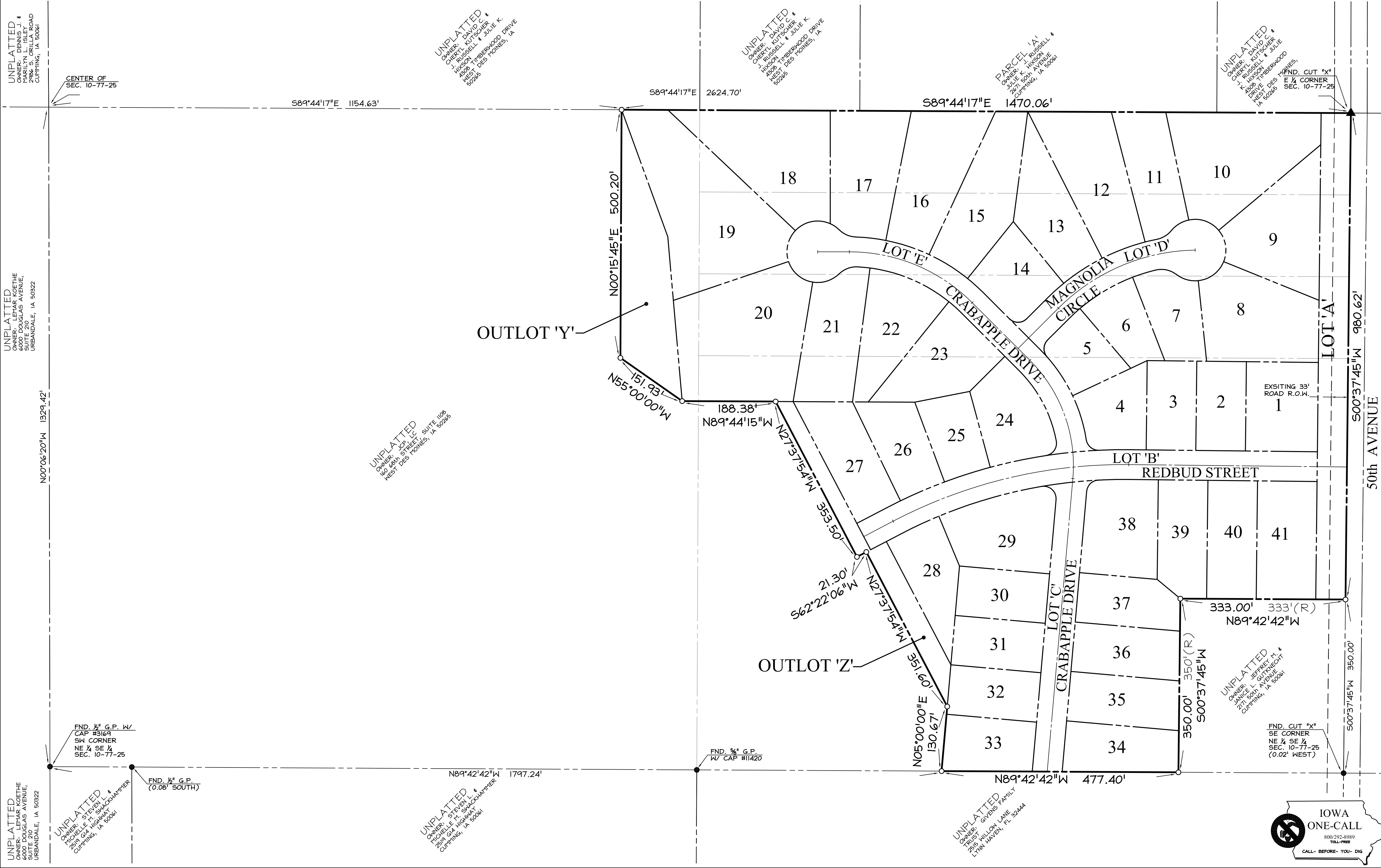
Said tract of land contains 33.140 acres more or less.

Said tract of land being subject to any and all easements of record.

LEGEND	
—	PLAT BOUNDARY
▲	SECTION CORNER
●	FOUND CORNER, AS NOTED
○	SET CORNER 5/8" I.R. W/ YELLOW CAP #13156
I.R.	IRON ROD
G.P.	GAS PIPE
D.	DEEDED DISTANCE
M.	MEASURED DISTANCE
R.	PREVIOUSLY RECORDED DISTANCE
P.U.E.	PUBLIC UTILITY EASEMENT
3333	ADDRESS
B.S.L.	BUILDING SETBACK LINE
M.O.E.	MINIMUM OPENING ELEVATION
M.P.E.	MINIMUM PROTECTION ELEVATION
N.R.	NOT RADIAL

CERTIFICATION	
	I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.
KEVEN J. CRAWFORD, PLS. IOWA LICENSE NO. 13156 MY LICENSE RENEWAL DATE IS DECEMBER 31, 2018 PAGES OR SHEETS COVERED BY THIS SEAL: Sheets 1-2	

COOPER CRAWFORD & ASSOCIATES, L.L.C. CIVIL ENGINEERS		
475 S. 50th STREET, SUITE 800, WEST DES MOINES, IOWA 50265 PHONE: (515) 224-1344 FAX: (515) 224-1345		
	DATE: 11-14-2016 REVISIONS: 1-17-2017 6-14-2017	JOB NUMBER <b>CC 1459</b>
APPROVED: --- INITIALED: --- AS-BUILT: ---	FINAL PLAT BLOOMING HEIGHTS	
SHEET 1 OF 2		





# FINAL PLAT BLOOMING HEIGHTS SHEET 2 OF 2

CURVE TABLE						
CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH.BEARING
C1	6°23'48"	1000.00	111.64	55.88	111.58	S87°25'51"W
C2	2°15'51"	1000.00	381.60	193.15	379.29	S73°18'02"W
C3	28°15'39"	1000.00	493.24	251.75	488.26	S76°29'56"W
C4	4°24'02"	300.00	23.04	11.53	23.04	N02°12'01"E
C5	45°35'58"	300.00	238.76	126.11	232.51	N22°12'01"W
C6	50°00'00"	300.00	261.80	139.89	253.57	N20°00'00"W
C7	45°00'00"	350.00	274.89	144.97	267.88	N67°30'00"W
C8	43°58'11"	400.00	306.97	161.49	299.49	S66°59'06"W
C9	3°20'21"	1030.00	60.03	30.02	60.02	S88°57'35"W
C10	83°40'32"	25.00	36.51	22.38	33.35	S50°52'19"E
C11	16°11'58"	330.00	93.30	46.96	92.99	N17°08'02"W
C12	16°18'27"	330.00	93.93	47.28	93.61	N33°23'15"W
C13	86°32'28"	25.00	37.76	23.53	34.27	S01°43'46"W
C14	4°42'06"	370.00	30.36	15.19	30.35	S47°21'03"W
C15	19°11'17"	370.00	123.91	62.54	123.33	S59°17'44"W
C16	7°30'07"	370.00	48.45	24.26	48.41	S72°38'27"W
C17	51°03'19"	50.00	44.55	23.88	43.09	N78°04'50"W
C18	43°18'56"	62.00	46.87	24.62	45.76	S74°12'39"E
C19	62°03'25"	62.00	67.15	37.30	63.92	N53°06'11"E
C20	62°03'25"	62.00	67.15	37.30	63.92	N08°57'14"W
C21	62°03'25"	62.00	67.15	37.30	63.92	N71°00'39"W
C22	38°46'18"	62.00	41.95	21.82	41.16	S58°34'30"W
C23	39°31'04"	50.00	34.94	17.96	33.81	N58°56'53"E
C24	3°15'45"	430.00	24.48	12.25	24.48	S77°04'32"W
C25	12°20'44"	430.00	92.65	46.51	92.47	S69°16'18"W
C26	12°20'44"	430.00	92.65	46.51	92.47	S56°55'34"W
C27	5°45'12"	430.00	43.18	21.61	43.16	S47°52'36"W
C28	90°00'00"	25.00	39.27	25.00	35.36	S90°00'00"E
C29	6°11'20"	380.00	41.05	20.54	41.03	N48°05'40"W
C30	13°50'23"	380.00	91.79	46.12	91.57	N58°06'31"W
C31	13°50'23"	380.00	91.79	46.12	91.57	N71°56'55"W
C32	9°10'04"	380.00	60.80	30.47	60.74	N83°27'08"W
C33	42°38'09"	50.00	37.21	19.51	36.35	S66°43'06"E
C34	20°31'21"	62.00	22.21	11.22	22.09	N55°39'42"W
C35	70°38'43"	62.00	76.45	43.94	71.69	S78°45'16"W
C36	62°03'25"	62.00	67.15	37.30	63.92	S12°24'12"W
C37	62°03'25"	62.00	67.15	37.30	63.92	S49°39'13"E
C38	53°27'48"	62.00	57.85	31.23	55.78	N72°35'11"E
C39	47°08'21"	50.00	41.14	21.81	39.99	S69°25'27"W
C40	4°29'12"	320.00	25.06	12.54	25.05	N84°45'47"W
C41	31°19'51"	320.00	174.98	89.74	172.81	N66°51'15"W
C42	6°11'20"	320.00	34.56	17.30	34.55	N48°05'40"W
C43	34°28'06"	270.00	162.43	83.76	159.99	N27°45'57"W
C44	91°49'50"	25.00	40.07	25.81	35.92	N35°23'01"E
C45	6°23'25"	1030.00	114.88	57.50	114.82	S78°06'13"W
C46	5°22'55"	1030.00	96.75	48.41	96.71	S72°13'04"W
C47	5°22'55"	1030.00	96.75	48.41	96.71	S66°50'09"W
C48	1°46'35"	1030.00	31.93	15.97	31.93	S63°15'24"W
C49	5°05'46"	970.00	86.28	43.17	86.25	S64°55'00"W
C50	12°45'51"	970.00	216.09	108.49	215.64	S73°50'48"W
C51	104°46'17"	25.00	45.72	32.45	39.61	N47°23'08"W
C52	82°02'08"	25.00	35.79	21.75	32.81	S46°01'04"W
C53	3°35'37"	970.00	60.84	30.43	60.83	S88°49'56"W
C54	3°27'32"	330.00	19.92	9.96	19.92	N43°16'14"W
C55	2°57'20"	1030.00	53.13	26.57	53.13	S85°48'44"W
C56	3°02'08"	1030.00	54.57	27.29	54.57	S82°49'00"W
C57	3°43'12"	970.00	62.98	31.50	62.97	S82°05'19"W
C58	3°05'13"	970.00	52.26	26.14	52.25	S85°29'31"W
C59	90°00'00"	25.00	39.27	25.00	35.36	S45°37'45"W
C60	90°00'00"	25.00	39.27	25.00	35.36	S44°22'15"E

LINE TABLE		
LINE	LENGTH	BEARING
L1	39.52	S62°22'06"W
L2	32.81	N27°37'54"W
L3	18.22	N63°05'40"E
L4	12.58	S27°37'45"E
L5	21.30	N62°22'06"E
L6	20.00	S27°37'54"E

## LEGEND

- PLAT BOUNDARY
- SECTION CORNER
- FOUND CORNER, AS NOTED
- SET CORNER 5/8" I.R. W/ YELLOW CAP #13156
- IRON ROD
- G.P.D.
- DEEDED DISTANCE
- M.
- MEASURED DISTANCE
- R.
- PREVIOUSLY RECORDED DISTANCE
- P.U.E.
- PUBLIC UTILITY EASEMENT
- ADDRESS
- B.S.L.
- BUILDING SETBACK LINE
- M.O.E.
- MINIMUM OPENING ELEVATION
- M.P.E.
- MINIMUM PROTECTION ELEVATION
- N.R.
- NOT RADIAL



**COOPER CRAWFORD**  
& ASSOCIATES, L.L.C.  
CIVIL ENGINEERS

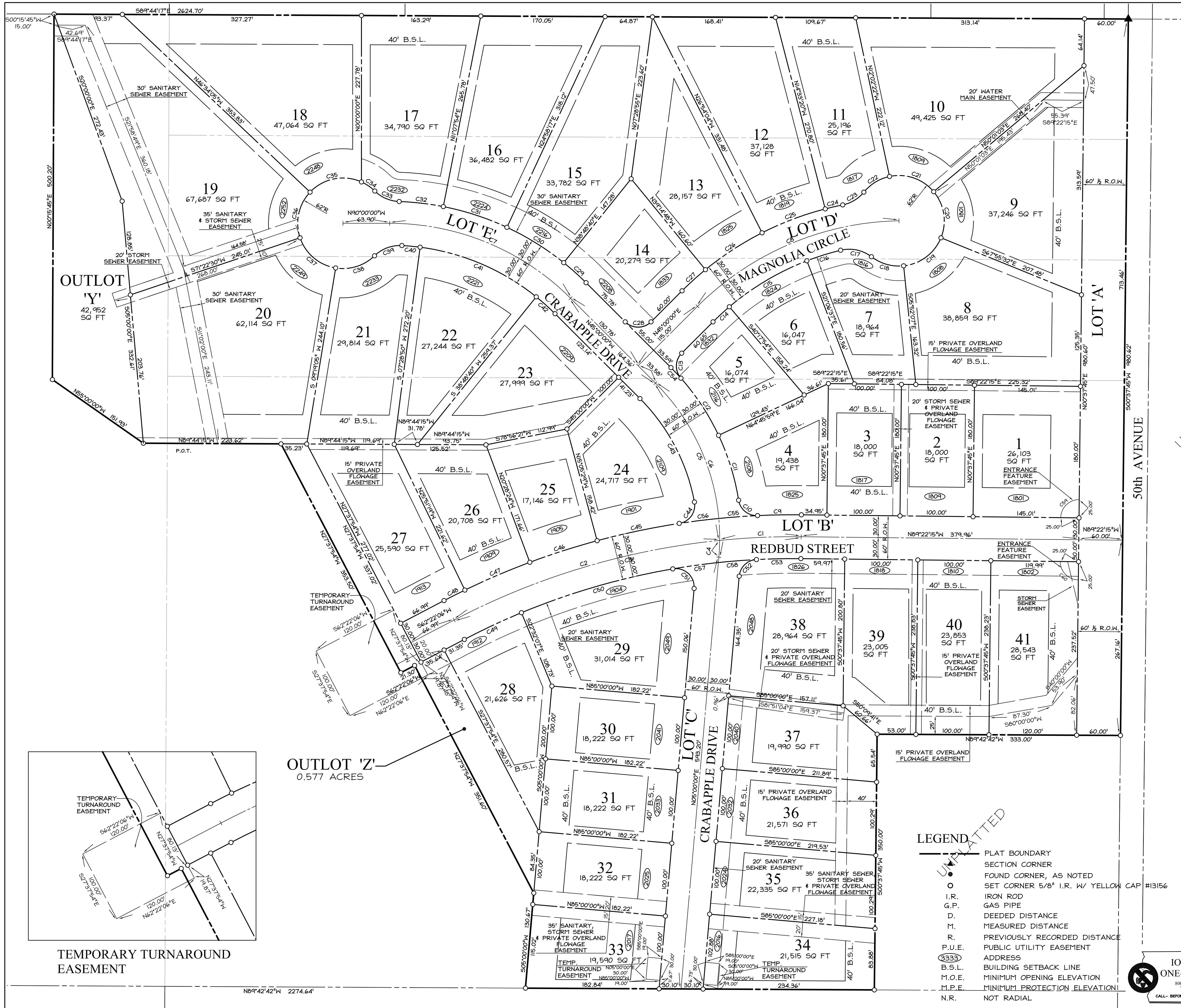
475 S. 50th STREET, SUITE 800, WEST DES MOINES, IOWA 50265  
PHONE: (515) 224-1344 FAX: (515) 224-1345

DATE: 11-14-2016  
REVISIONS: 1-17-2017  
6-14-2017

APPROVED: SCALE: 1"=60'

INITIALED: AS-BUILT: **CC 1459**

FINAL PLAT  
BLOOMING HEIGHTS  
SHEET 2 OF 2







Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

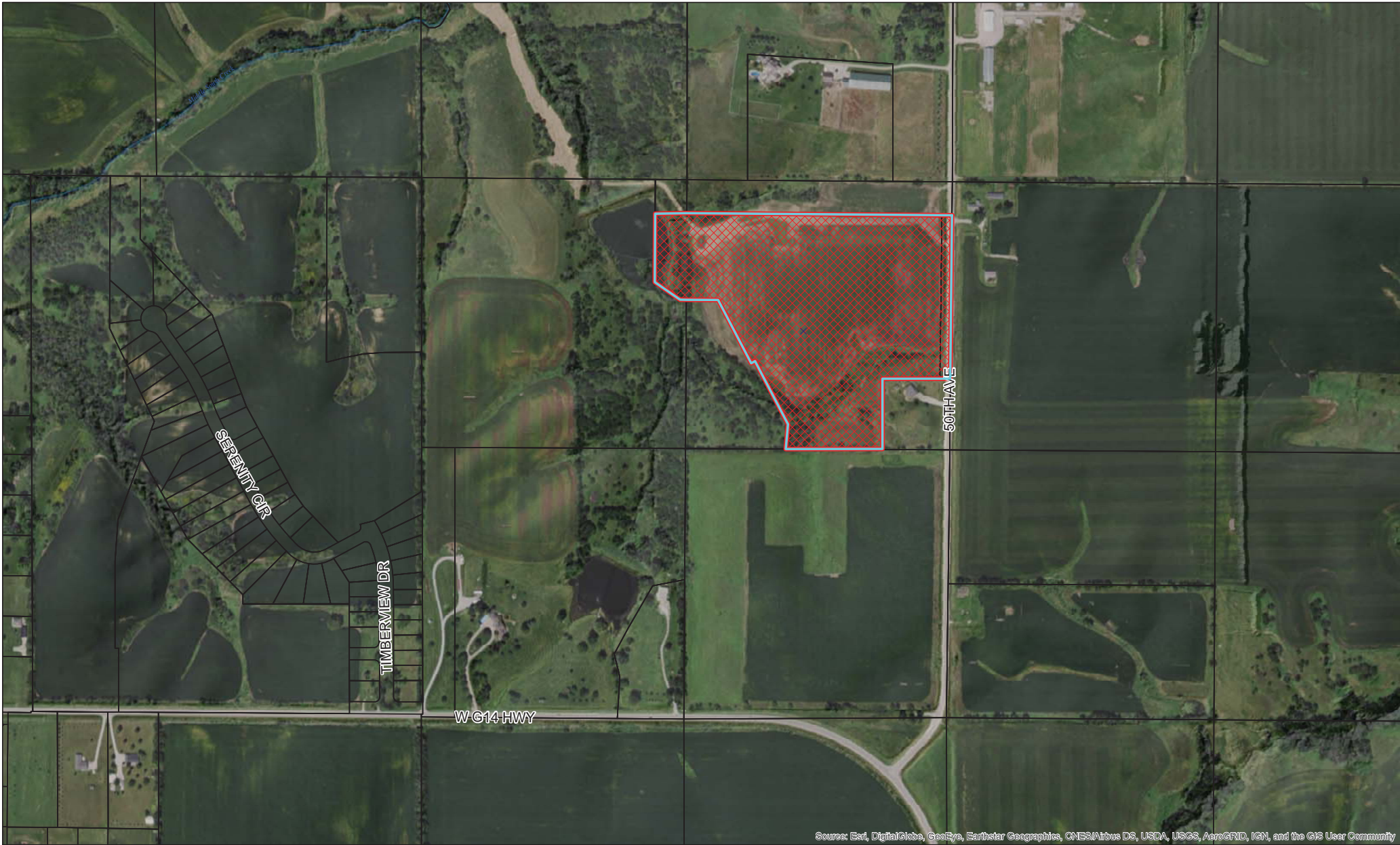


**Blooming Heights in Context**



Print Date: 6/22/2017

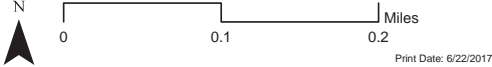




Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Blooming Heights in Context



Print Date: 6/22/2017



**PLANNING & ZONING COMMISSION  
AGENDA STATEMENT**

Item No. 6C  
For Meeting of 06.26.2017

<b>ITEM TITLE:</b>	<b>Request from Cort Landing, LLC to approve the Final Plat for Cort Landing Plat 2</b>	
<b>CONTACT PERSON:</b>	<b>Luke Parris, AICP – Community Development Director</b>	
<b>PREPARED BY:</b>	<b>Elliot Klimowski – Community Development Intern</b>	
<b>APPLICANT(S):</b>	Cort Landing, LLC 340 Wright Road, Suite E Norwalk, IA 50211	Civil Engineering Consultants, Inc. 2400 86 <sup>th</sup> Street, Unit 2 Des Moines, IA 50322
<b>GENERAL DESCRIPTION:</b>	This request would create 31 single-family lots along Pine Avenue, Cortland Drive, and Cortland Court in the Cort Landing development, west of Highway 28, and south of Arbor Glynn Plat 2 and Cort Landing Plat 1.	
<b>IMPACT ON NEIGHBORHOOD:</b>	The properties surrounding are residential in nature or planned for future residential.	
<b>VEHICULAR &amp; PEDESTRIAN TRAFFIC:</b>	The plat shows the construction of Pine Ave, Cortland Drive, and the Cortland Court cul-de-sac. Pine Ave continues south from Elm Ave and intersects Cortland Drive before terminating as a cul-de-sac. Cortland Drive extends west from Highway 28, intersects Pine Ave, and then angles south to terminate as Cortland Court. The subdivision will add additional vehicles to the neighborhood that have to exit by way of either Elm Ave or Cortland Drive.	
<b>TRAIL PLAN:</b>	The neighborhood will have 5' sidewalks along both sides of the street.	
<b>ZONING HISTORY FOR SITE AND IMMEDIATE VICINITY:</b>	This site is zoned as R-1(60). Ground to the west is zoned R-3 and R-4, to the north is R-1 (60), to the east is R-1 (60) and C-3, and the land to the south is zoned M-1, for the McAninch complex and industrial park.	
<b>BUFFERS REQUIRED/ NEEDED:</b>	Existing site conditions are sufficient to meet buffer requirements.	
<b>DRAINAGE:</b>	Drainage from the subdivision is collected in the storm sewer system or drains off the site ultimately into a detention area north of Wright Road.	

<b>DEVELOPMENT HISTORY:</b>	A preliminary plat for the area was originally approved as Cort Landing in 2016. Cort Landing Plat 1 Final Plat was approved April 6, 2017.
<b>FLOODPLAIN:</b>	None of the proposed lots are located within a floodplain.
<b>PARKLAND:</b>	The development is located close to the McAninch sports complex. The developer has agreed to provide grading services for the Orchard View Park in lieu of providing parkland in Cort Landing. The City staff is finalizing an agreement that details the services provided.
<b>UTILITIES: WATER, SANITARY SEWER, STORM SEWER.</b>	Proper easements have been identified and shown where needed for sanitary sewer and for public utilities. Connections to existing public utility infrastructure have been identified.
<b>RELATIONSHIP TO COMPREHENSIVE LAND USE PLAN:</b>	This area was part identified as low density residential. The final plat meets the intent of the land use plan.
<b>STAFF ANALYSIS – ZONING ORDINANCE:</b>	<p>The Final Plat consists of 31 lots. The plat consists of 11.02 acres of land with lots ranging from 7,979 sf to 34,655 sf.</p> <p>Streets will be dedicated to the City for street use upon approval of the Final Plat. The designated street right-of-way is 60 feet with a 28' wide road. The cul-de-sacs are 26' wide roads</p>
<b>STAFF ANALYSIS – SUBDIVISION ORDINANCE:</b>	<p>The Subdivision Ordinance requires that Final Plat submissions include such criteria as boundaries of property, engineer's certificate, easements and right-of-way widths. All information has been submitted by the applicant. The Final Plat shows platted building lines, property lines with dimensions, easements and right-of-way widths.</p> <p>The applicant will need to submit all other required documents prior to release of the final plat for recording.</p>
<b>STAFF RECOMMENDATION:</b>	<p>Therefore, staff recommends that the request for the Final Plat of Cort Landing Plat 2 be approved with the following conditions:</p> <ul style="list-style-type: none"> <li>• That the applicant provides all supporting documentation required within the Norwalk Subdivision Regulations.</li> <li>• That any significant modifications to the plat be reviewed and approved by the Planning &amp; Zoning Commission and City Council.</li> </ul>



**DRAFT RESOLUTION NO. \_\_\_\_**

**A RESOLUTION APPROVING THE FINAL PLAT OF CORT LANDING PLAT 2**

WHEREAS, the Planning & Zoning Commission reviewed this request at their regular meeting on June 12, 2017 and recommends approval of the Final Plat; and

WHEREAS, that the applicant provides all supporting documentation required within the Norwalk Subdivision Regulations; and,

WHEREAS, that any significant modifications to the preliminary plat be reviewed and approved by the Planning & Zoning Commission and City Council; and,

NOW, THEREFORE, BE IT RESOLVED: That the City Council does hereby approve the Final Plat of Cort Landing Plat 2 as described and shown in Attachment "A" attached hereto and made a part thereof by reference.

PASSED AND APPROVED this 6th day of July, 2017.

\_\_\_\_\_  
Tom Phillips - Mayor

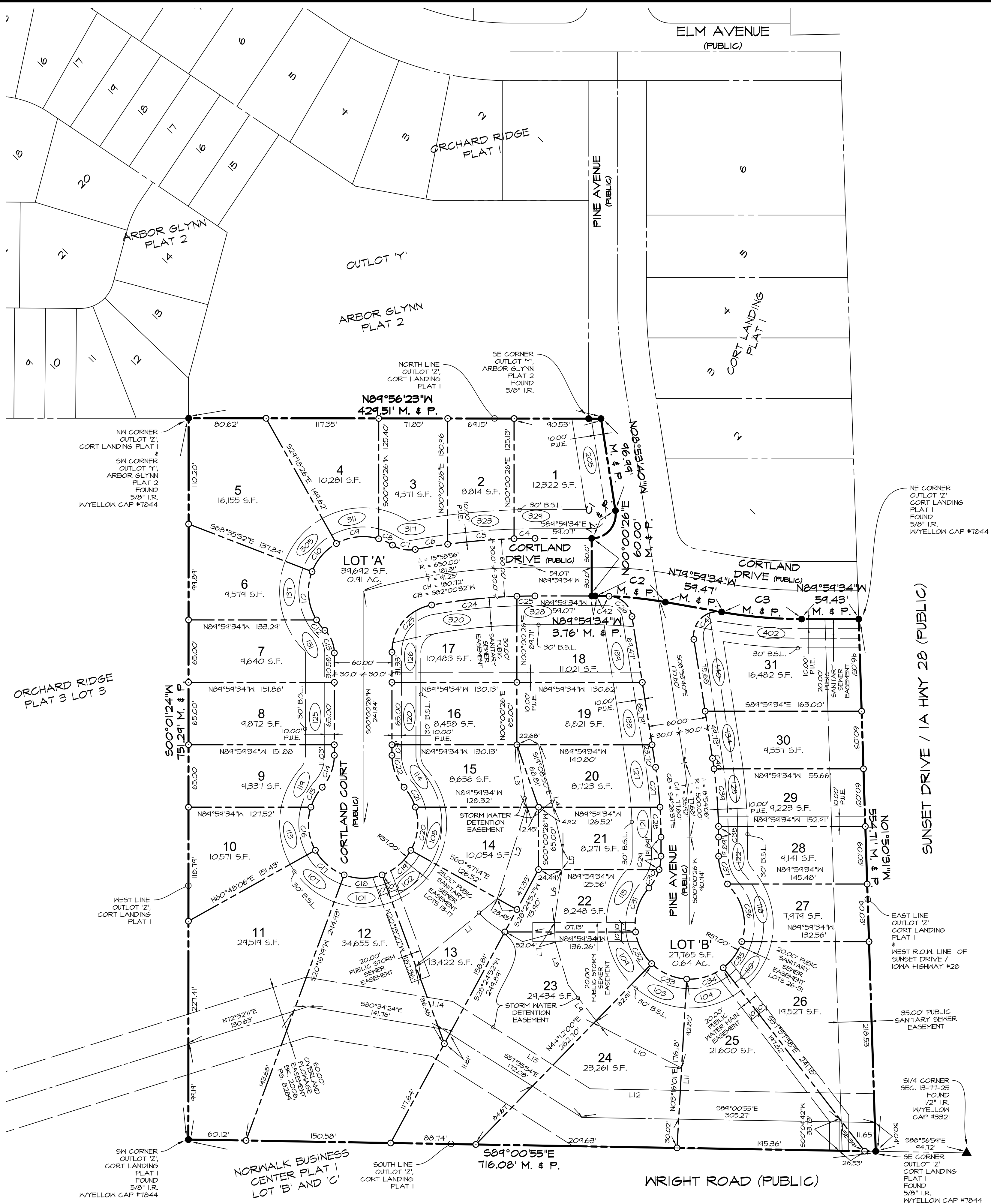
ATTEST:

\_\_\_\_\_  
JODI EDDLEMAN, CITY CLERK

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>
Kuhl	___	___
Lester	___	___
Isley	___	___
Riva	___	___
Livingston	___	___



\\FILES-7000\17223\_C3D Drawings\Plat\17223 PF PLAT 2.dwg, 6/5/2017 3:19:45 PM, mobil, 1:1



PARCEL CURVE DATA					
CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD
C1	48°54'06"	25.00'	43.15'	24.22'	31.99'
C2	10°00'00"	420.00'	73.30'	36.75'	73.21'
C3	10°00'00"	480.00'	83.78'	41.89'	83.67'
C4	1°50'01"	680.01'	21.78'	10.84'	21.78'
C5	5°50'58"	680.01'	64.42'	34.74'	64.39'
C6	2°53'10"	680.01'	34.25'	17.13'	34.25'
C7	42°55'48"	39.00'	24.78'	12.98'	24.75'
C8	15°51'25"	57.00'	15.78'	7.84'	15.72'
C9	45°48'34"	57.00'	45.51'	24.08'	44.37'
C10	34°31'01"	57.00'	34.41'	20.53'	38.63'
C11	52°39'03"	57.00'	52.38'	28.20'	50.56'
C12	13°54'21"	57.00'	13.42'	6.99'	13.88'
C13	45°34'23"	39.00'	26.25'	13.86'	25.56'
C14	41°36'42"	50.00'	36.31'	19.00'	35.52'
C15	24°10'19"	57.00'	24.09'	12.21'	23.87'
C16	46°38'43"	57.00'	46.40'	24.57'	45.13'
C17	40°31'46"	57.00'	40.32'	21.05'	34.48'
C18	40°31'46"	57.00'	40.32'	21.05'	34.48'
C19	40°31'46"	57.00'	40.32'	21.05'	34.48'
C20	46°38'43"	57.00'	46.40'	24.57'	45.13'
C21	24°10'19"	57.00'	24.09'	12.21'	23.87'
C22	41°36'42"	50.00'	36.31'	19.00'	35.52'
C23	74°59'35"	50.00'	64.81'	41.45'	64.27'
C24	8°15'30"	619.99'	84.36'	44.76'	84.29'
C25	1°44'29"	619.99'	18.84'	4.42'	18.84'
C26	74°08'23"	25.00'	34.53'	20.66'	31.85'
C27	5°06'10"	470.00'	41.86'	20.44'	41.84'
C28	34°47'56"	470.00'	31.16'	15.94'	31.16'
C29	16°19'42"	50.00'	14.16'	7.13'	14.11'
C30	25°22'54"	50.00'	22.15'	11.26'	21.97'
C31	44°35'44"	57.00'	44.34'	26.34'	47.81'
C32	37°44'24"	57.00'	37.63'	19.53'	36.55'
C33	40°55'54"	57.00'	40.72'	21.27'	34.86'
C34	40°53'34"	57.00'	40.68'	21.25'	34.82'
C35	34°02'42"	57.00'	33.87'	17.45'	33.37'
C36	54°55'56"	57.00'	54.62'	32.86'	56.44'
C37	35°24'41"	50.00'	30.40'	15.46'	30.41'
C38	1°12'16"	530.00'	11.14'	5.57'	11.14'
C39	6°30'34"	530.00'	60.21'	30.14'	60.18'
C40	1°11'16"	530.00'	10.99'	5.44'	10.99'
C41	108°24'46"	25.00'	47.30'	34.67'	40.56'
C42	1°57'32"	420.00'	14.36'	7.18'	14.36'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S50°32'41"W	110.14'
L2	S11°47'45"W	44.46'
L3	S08°50'36"E	65.78'
L4	N12°50'02"W	11.08'
L5	N00°56'12"E	21.70'
L6	N08°14'21"E	55.57'
L7	N02°18'31"W	20.01'
L8	N16°42'21"W	46.98'
L9	N37°54'12"W	55.03'
L10	N62°44'50"W	94.81'
L11	S03°16'01"W	23.33'
L12	N84°00'55"W	43.70'
L13	N51°35'54"W	169.74'
L14	N80°34'24"W	26.97'

PROPERTY OWNER / APPLICANT:  
CORT LANDING, LLC  
340 WRIGHT ROAD, SUITE E  
NORMALK, IOWA 50211

LEGAL DESCRIPTION  
OUTLOT 'Z', CORT LANDING PLAT I, AN OFFICIAL PLAT, CITY OF NORMALK, WARREN COUNTY, IOWA, RECORDED IN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_ AT THE WARREN COUNTY RECORDER'S OFFICE, AND CONTAINS 11.02 ACRES MORE OR LESS.

ZONING  
DOBSON PLANNED UNIT DEVELOPMENT  
LOTS 1-31: R-1 (60)

BULK REGULATIONS  
R-1 (60)  
MINIMUM LOT AREA - 7,500 SF  
MINIMUM LOT WIDTH - 60'  
FRONT YARD SETBACK - 30'  
REAR YARD SETBACK - 35'  
SIDE YARD SETBACK - 15' TOTAL (MIN. 7' ONE SIDE)  
HEIGHT LIMIT - 35'

FLOOD ZONE  
ZONE 'X'  
FEMA FIRM FLOOD INSURANCE RATE MAP NUMBER 19181C0131E, REVISED MARCH 2, 2001.  
ZONE 'X'  
FEMA FIRM FLOOD INSURANCE RATE MAP NUMBER 19181C0133F, REVISED OCTOBER 16, 2014.

NOTES  
1. THE USE OF PUBLIC UTILITY EASEMENTS IS SUBORDINATE TO THE CITY'S USE OF ITS DESIGNATED EASEMENT. ANY USER OF A PUBLIC UTILITY EASEMENT MUST RELOCATE AT ITS OWNERS RISK WHEN THE UTILITY IS IN CONFLICT WITH THE CITY'S USE OF ITS EASEMENT.  
2. SOME LOTS ACCEPT DRAINAGE FROM ADJACENT PROPERTY. BUILDING ON THESE LOTS MUST TAKE INTO ACCOUNT UPSTREAM DRAINAGE.  
3. LOTS 'A' AND 'B' ARE TO BE DEEDED TO THE CITY OF NORMALK FOR STREET PURPOSES.  
4. STRUCTURES AND FENCES ARE PRECLUDED WITHIN EASEMENTS. REAR YARD AND SIDE YARD SETBACKS ARE EFFECTIVELY INCREASED IN AREAS WHERE EASEMENTS EXTEND MORE THAN THE MINIMUM SETBACK WIDTH INTO THE LOT.

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

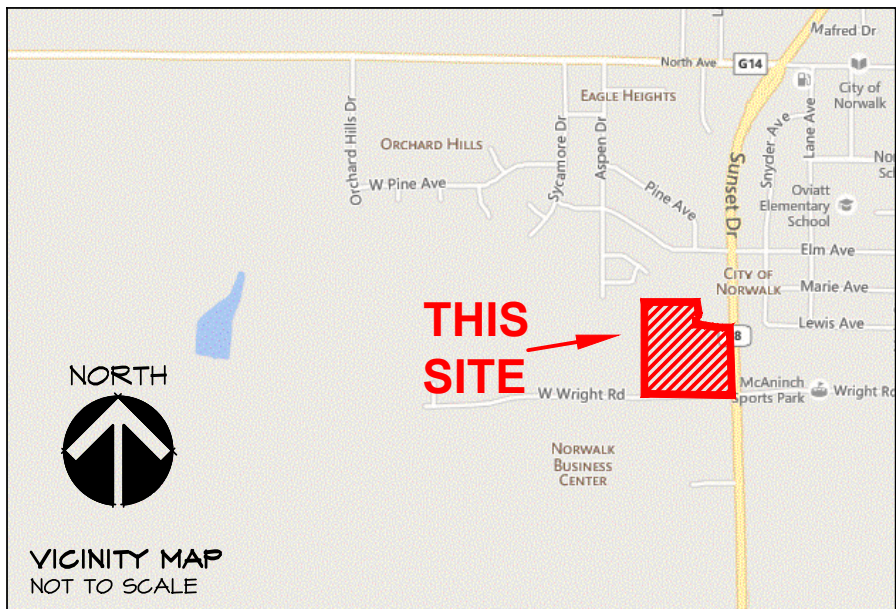
JERRY P. OLIVER, IOWA REG. NO. 7844, DATE MY LICENSE RENEWAL DATE IS DECEMBER 31, 2016  
PAGES OR SHEETS COVERED BY THIS SEAL.

LEGEND

- FOUND SECTION CORNER
- ▲ FOUND CORNER 1/4 5/8" I.R. WYELLOW CAP #7844 UNLESS OTHERWISE NOTED
- SET PROPERTY CORNER W/ 5/8" I.R. WYELLOW CAP #7844 UNLESS OTHERWISE NOTED
- PLAT BOUNDARY
- EXISTING PROPERTY LINES
- PROPOSED LOTS
- EASEMENT LINES
- BUILDING SETBACK LINES (B.S.L.)
- CENTERLINE STREET
- D. DEEDED BEARING & DISTANCE
- P. PREVIOUSLY RECORDED BEARING & DISTANCE
- M. MEASURED BEARING & DISTANCE
- I.R. IRON ROD
- I.P. IRON PIPE
- BK. XXX, PG. XXX COUNTY RECORDER'S INDEXING BOOK
- R.O.W. RIGHT-OF-WAY
- P.U.E. PUBLIC UTILITY EASEMENT
- P.O.B. POINT OF BEGINNING
- B.S.L. BUILDING SETBACK LINE
- M.P.E. MINIMUM PROTECTION ELEVATION
- (123) ADDRESS

COUNTY: WARREN
CITY: NORMALK
ALIQUOT PART: SW 1/4 SECTION 13-TT-25W
SUBDIVISION: CORT LANDING PLAT I
LOTS: OUTLOT 'Z'
PROPRIETOR(S): CORT LANDING, LLC
REQUESTED BY: CORT LANDING, LLC
LAND SURVEYOR: JERRY P. OLIVER, PLS
CIVIL ENGINEERING CONSULTANTS, INC ATTN: JERRY P. OLIVER COMPANY: 2400 86TH STREET, SUITE 12, URBANDALE, IA 50322 PHONE: 515-276-4884

PROPERTY	GROSS AREA	ROAD EASEMENT AREA	NET AREA
SE1/4 SW 1/4 SEC. 13-TT-25	11.02 AC.	-----	11.02 AC.
TOTAL	11.02 AC.	-----	11.02 AC.



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



DATE:	REVISIONS	COMMENTS					
		1	2	3	4	5	6
MAY 24, 2017							
DATE OF SURVEY:							
DESIGNED BY:							
DRAWN BY:							

CORT LANDING PLAT I  
NORMALK, IOWA  
FINAL PLAT

SHEET  
01  
OF 01

E-7222

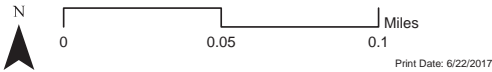




Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



**Cort Landing Plat 2 in Context**





**PLANNING & ZONING COMMISSION  
AGENDA STATEMENT**

**Item No. 6D**  
**For Meeting of 06.26.2017**

**ITEM TITLE:** Discussion regarding the zoning and future land use designation for the Stark Property east of 50<sup>th</sup> Street near County Line Road

**CONTACT PERSON:** Luke Parris, AICP – Community Development Director

City staff recently met with Real Estate agents seeking to list the Stark Property on the northern side of town near 50<sup>th</sup> Avenue and County Line Road. The agents requested information on allowable uses for the property and indicated they wished to market the ground as it is currently zoned. The City determined that there is a conflict between the current zoning and the recently approved future land use.

The property is approximately 225 acres and currently zoned a mix of A-R, IC, and PC. The area is also located within the approach zone of the Des Moines International Airport. This zone has restrictions on building height; has restrictions on site lighting; recommends low intensity uses; and requires special noise mitigation measures during building construction. The approach zone does not circumvent the City's ability to determine appropriate land uses within the zone.

In 2016, the City adopted the updated future land use plan and map. In that planning effort, changes were made to the proposed land uses for this area. The new future land use map calls for a new Sub Area of Residential/Commercial Flex development along 50<sup>th</sup> Avenue and low density residential development to the east. The Residential/Commercial Flex corridor was identified because the City was running out of potential commercial development along our main thoroughfare of Iowa Highway 28. The concept is that 50<sup>th</sup> Avenue would become the secondary commercial corridor within the community due to the development of Veteran's Parkway in West Des Moines and the connection to 50<sup>th</sup> Avenue from Maffit Lake Road.

Prior to 2016, the previous future land use plan and map identified the entire area, including the North Shore development, as Sub Area 2 in the City that required special planning. The plan identifies residential uses, retail uses, office uses, and educational/municipal/community uses in the Sub Area.

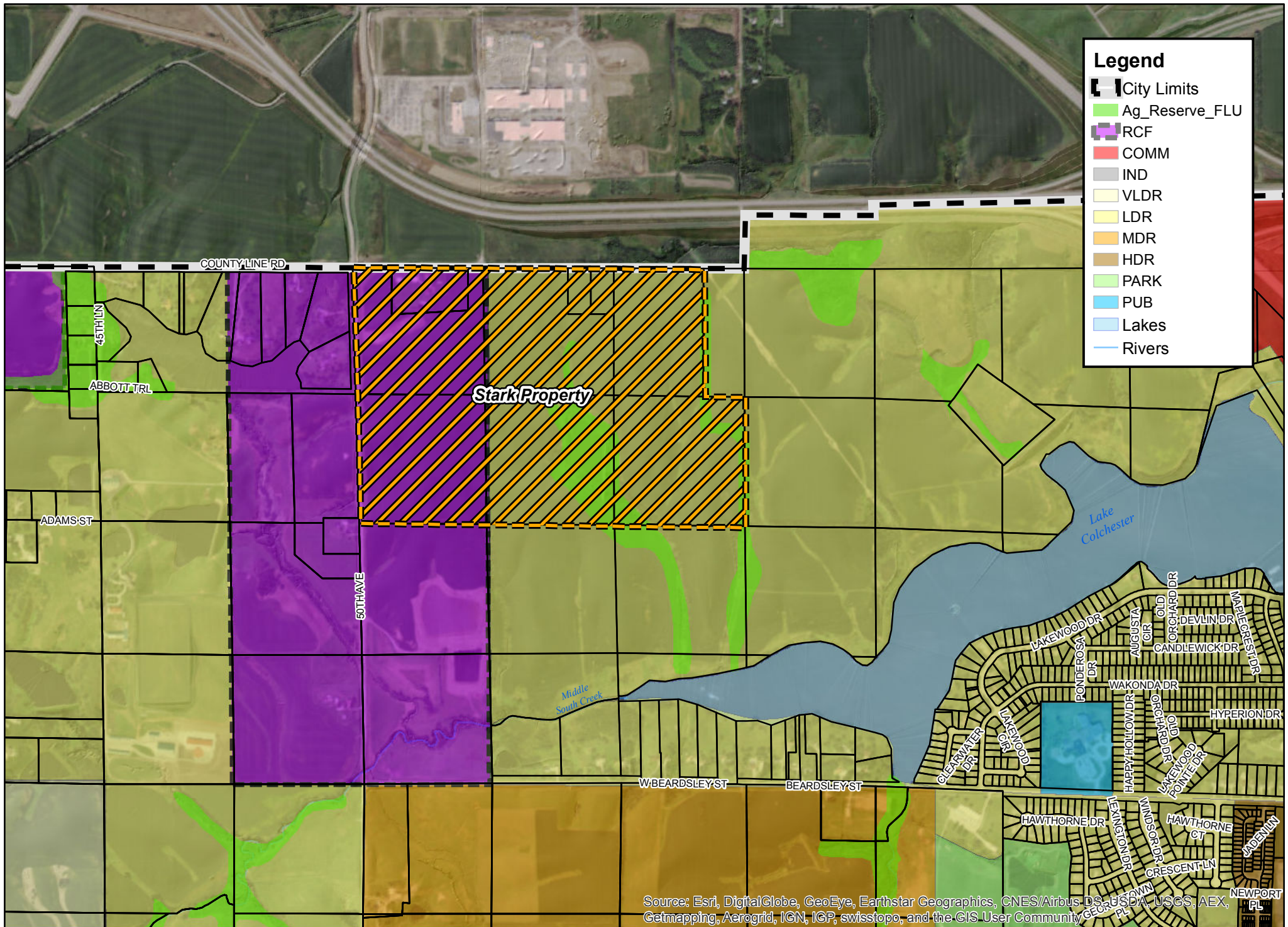
Both the 2016 updated future land use plan, and the previous future land use plan, are in conflict with the current zoning. The previous plan would have allowed the uses in the PC district and the office type uses in the IC district, though not any of the more intense industrial uses. The change in the 2016 update would not allow the IC and the PC uses in the areas they are currently zoned. The Residential/Commercial Flex area along 50<sup>th</sup> Avenue would allow some office uses but primarily retail and residential.

Currently, with the zoning in place, portions the Stark Property can be developed with uses compatible with the IC or PC district. This is not in conformance with the City's Comprehensive Plan and Future Land Use Plan. To conform, the City would need to consider a rezoning of the property or an amendment to the Future Land Use Plan. The City staff is looking to clarify an approach for handling this non-conformity.



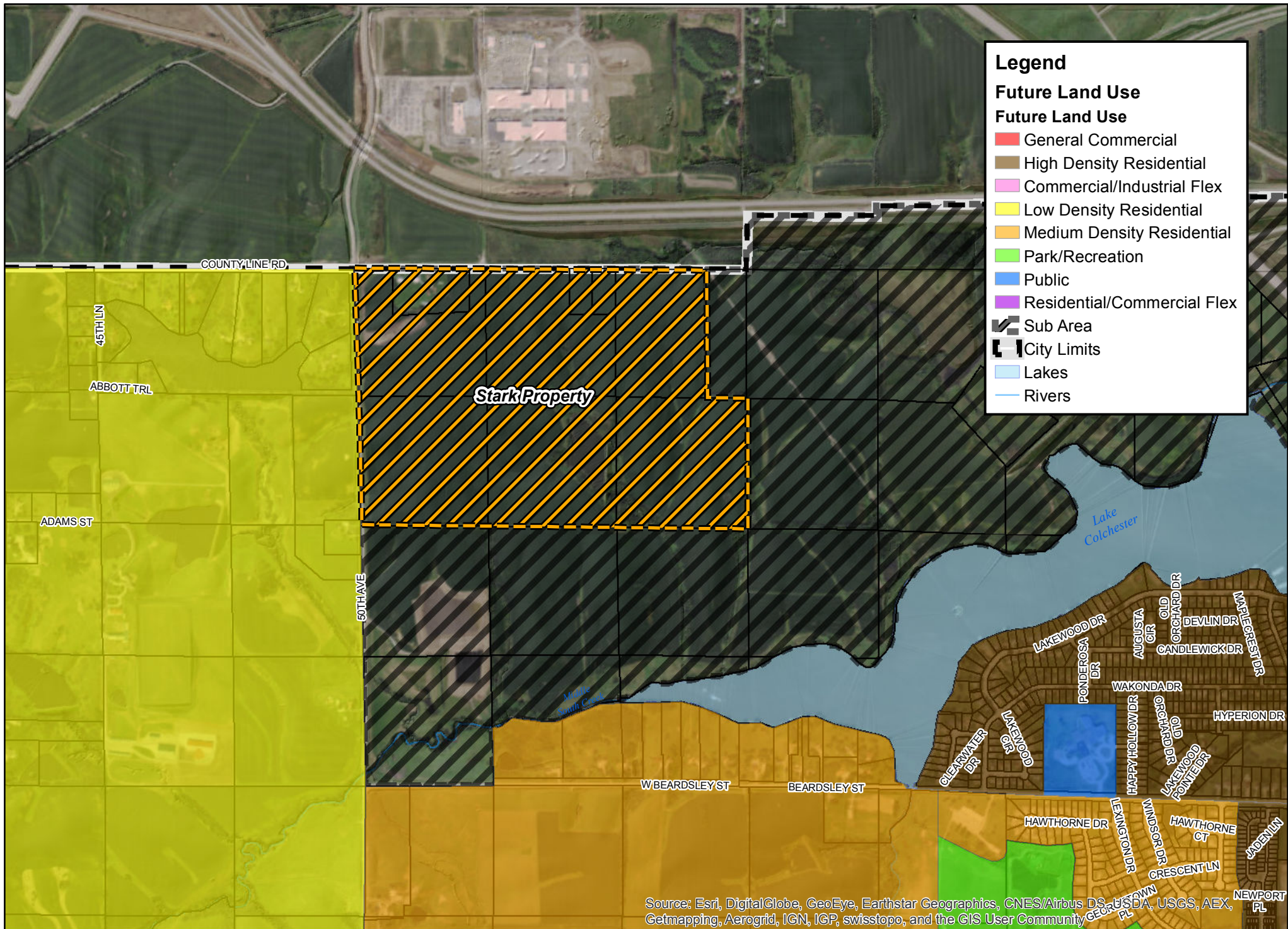






Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community







**PLANNING & ZONING COMMISSION  
AGENDA STATEMENT**

Item No. 6E  
For Meeting of 06.26.2017

**ITEM TITLE:** Update on moratorium on cell towers in the public ROW.  
**CONTACT PERSON:** Luke Parris, AICP – Community Development Director

This past spring, the City received a request from Mobilitie to place 100 foot cell tower pole in the public right-of-way (ROW) along Iowa Highway 28. Staff reviewed this request and determined that we could fit the request into the standard City process, but that it was not ideal. On April 6, 2017, the City adopted a six-month moratorium to allow for staff time to research the issue and bring forward ideas to address the requests.

On May 9, 2017, the Governor signed a bill that amends the Iowa Cell Siting Act to allow for certain types of cell towers in the public ROW. The amendment specifically addresses small wireless facilities located on new or existing poles. The code states that a new pole would have similar height and appearance to existing poles located within 500 feet of the proposed location. Staff believes that the City can regulate the height of these poles due to this language and ensure that any new poles are in similar height, style and appearance to existing poles.

The amendment does not give the City much ability to deny a new pole or the siting of small wireless facilities on existing poles. The City has to treat new pole requests similar to how we treat the installation of utility poles currently. Public Works has indicated that they review and approve lighting plans for street lights, but that they haven't review a request for a new power pole in a long time because all new utilities are placed underground.

The City can require special use permits on the location of poles in areas zoned and used for single family residential, however, the amendment only provides a narrow set of circumstances in which a permit can be denied. Additionally, most of those circumstances can be overcome by the applicant modifying the proposal and resubmitting to the City.

With the new legislation approved, the City staff is looking to clarify an approach for dealing with requests in the future.

**Senate File 431 - Enrolled**

Senate File 431

AN ACT

RELATING TO THE SITING OF SMALL WIRELESS FACILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 8C.2, subsections 3 and 14, Code 2017, are amended to read as follows:

3. "*Authority*", used as a noun, means a state, county, or city governing body, board, agency, office, or commission authorized by law to make legislative, quasi-judicial, or administrative decisions relative to an application.

"*Authority*" does not include ~~state~~ any of the following:

a. State courts having jurisdiction over land use, planning, or zoning decisions made by an authority, ~~the~~.

b. The utilities division of the department of commerce, ~~or~~.

c. Any entities, including municipally owned utilities established under or governed by Title IX, subtitle 4 of the Code, that do not have zoning or permitting authority jurisdiction.

14. "Utility pole" means a pole or similar structure owned or ~~operated~~ utilized in whole or in part by a public utility, municipality, wireless service provider, or electric utility that is designed specifically for and used to carry lines, cable, transmission equipment, or wires for telephone, wireless service, cable television, or electricity service, or to provide for lighting, the vertical portion of support structures for traffic control signals or devices, signage, information kiosks, or other similar functions.

Sec. 2. Section 8C.2, Code 2017, is amended by adding the following new subsections:

NEW SUBSECTION. 9A. "Micro wireless facility" means a small wireless facility with dimensions no larger than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that has an exterior antenna, if any, that is no more than eleven inches in length.

NEW SUBSECTION. 10A. a. "Small wireless facility" means a wireless facility that meets the following requirements:

(1) Each antenna is no more than six cubic feet in volume.

(2) (a) All other equipment associated with the small wireless facility is cumulatively no more than twenty-eight cubic feet in volume.

(b) For purposes of this subparagraph, volume shall be measured by the external displacement of the primary equipment enclosure, not the internal volume of such enclosure. An associated electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switch, cutoff switch, cable, conduit, and any equipment that is concealed from public view within or behind an existing structure or concealment may be located outside of the primary equipment enclosure and shall not be included in the calculation of the equipment volume.

b. "Small wireless facility" includes a micro wireless facility as defined in subsection 9A.



*c. "Small wireless facility"* does not include any structure that supports or houses equipment described in this subsection.

NEW SUBSECTION. 14A. *"Wireless facility"* means equipment at a fixed location that enables the transmission of wireless communications or information of any kind between user equipment and a communications network, except that *"wireless facility"* does not include coaxial or fiberoptic cable that is not immediately adjacent to, or directly associated with, a particular antenna.

NEW SUBSECTION. 14B. *"Wireless service"* means any fixed or mobile service using licensed or unlicensed wireless spectrum and provided using a wireless facility.

NEW SUBSECTION. 14C. *"Wireless service provider"* means a provider of wireless service.

Sec. 3. NEW SECTION. 8C.7A **Uniform rules for small wireless facilities — permit approval.**

1. *a.* Except as provided in this section, an authority shall not prohibit or restrict the siting of a small wireless facility.

*b.* For purposes of this section, *"siting"* means the mounting, installation, maintenance, modification, operation, or replacement of a small wireless facility on or adjacent to any of the following:

(1) An existing tower, utility pole, wireless support structure, or other existing structure.

(2) A new utility pole of a similar height and appearance as an existing utility pole and which is located within a five-hundred-foot radius of the existing utility pole.

(3) A replacement utility pole of a similar height and appearance as an existing utility pole and which is located within a five-hundred-foot radius of the existing utility pole.

2. *a.* An authority that has adopted planning and zoning regulations shall authorize the siting of a small wireless facility within its jurisdiction and shall not require a person to obtain a special or conditional land use permit for any of the following:

(1) For siting the small wireless facility in a public right-of-way or on an authority structure located outside of a public right-of-way to the extent that such structure is

already in use as a wireless support structure by supporting non-authority communications equipment that involve external attachments, provided that such structure is not listed on the national register of historic places.

(2) For siting the small wireless facility on an existing tower, utility pole, or wireless support structure, regardless of the location, except for on property zoned and used exclusively for single-family residential use or within a previously designated area of historical significance pursuant to section 303.34.

*b.* A small wireless facility may be classified as a special or conditional land use where such small wireless facility is not sited in a manner as provided in paragraph "a".

*c.* A person may install a new utility pole or wireless support structure in a public right-of-way subject to the provisions of this section. An authority may reasonably limit the number of new utility poles or wireless support structures, consistent with the protection of public health, safety, and welfare, and provided that such limitation does not have the effect of prohibiting or significantly impairing a wireless service provider's ability to provide wireless service within the area of a proposed new structure. However, an authority may require a person to obtain a special or conditional land use permit to install a new utility pole or wireless support structure for the siting of a small wireless facility on property zoned and used exclusively for single-family residential use or within a previously designated area of historical significance pursuant to section 303.34.

3. *a.* (1) An authority may require a person to obtain a building, electrical, or public right-of-way use permit for the siting of a small wireless facility to the extent that such permit is of general applicability and does not deny access to site the small wireless facility in a public right-of-way. Notwithstanding this paragraph, an authority shall not require a person to obtain a permit for the routine maintenance of a previously approved small wireless facility or the replacement of a previously approved small wireless facility with a facility of substantially similar height, weight, and wind and structural loading, provided, however, that an authority

may require a person to obtain a permit to work in a public right-of-way or on an authority structure located outside of a public right-of-way with the same terms and conditions provided for other commercial projects or uses in the public right-of-way or on the authority structure.

(2) (a) Except as provided in subparagraph divisions (b) and (c), an authority shall not impose any fee or require any application or permit for the installation, placement, operation, maintenance, or replacement of a micro wireless facility that is suspended on operator-owned cables or lines that are strung between existing utility poles in compliance with national safety codes.

(b) An authority that has adopted a municipal or county code which requires an application or permit for the installation, placement, operation, maintenance, or replacement of a micro wireless facility may continue the application or permit requirement subsequent to the effective date of this Act.

(c) (i) An authority may require a single-use right-of-way permit for the installation, placement, operation, maintenance, or replacement of a micro wireless facility if any of the following conditions apply:

(A) The work is contained within a highway lane or requires the closure of a highway lane.

(B) The work disturbs the pavement, shoulder, ditch, or operation of a highway.

(C) The work involves placement of a micro wireless facility on a limited access right-of-way.

(D) The work requires any specific precautions to ensure the safety of the traveling public or the protection or operation of public infrastructure and such work was not authorized in, or will not be conducted in, the same time, place, or manner that is consistent with the approved terms of the existing permit for the facility or structure upon which the micro wireless facility is attached.

(ii) For purposes of this subparagraph division, "*highway*" means the same as defined in section 325A.1.

b. An authority shall not require a person to apply for or enter into an individual license, franchise, or other agreement with the authority or any other entity for the siting

of a small wireless facility on a utility pole located in a public right-of-way. However, an authority may, through the conditions set forth in a building permit obtained pursuant to this subsection, do any of the following:

(1) Establish nondiscriminatory, competitively neutral and commercially reasonable rates, terms, and conditions for such siting, which rates, terms, and conditions shall comply with the federal pole attachment requirements provided in 47 U.S.C. §224 and any regulations promulgated thereunder.

(2) Require compliance with the Iowa electrical safety code, the national electrical safety code, applicable fire safety codes, and any building code or similar code of general applicability for the protection of the public health, safety, or welfare that was adopted by an authority prior to the filing of the application.

(3) Require that a small wireless facility reasonably match the aesthetics of an existing utility pole or wireless support structure that incorporates decorative elements.

(4) Require compliance with section 306.46, subsection 1, and section 306.47.

(5) Require that after the construction of a small wireless facility or new utility pole is completed in accordance with all conditions under which the permit is granted, which conditions shall be consistent with this section, the owner of the small wireless facility or new utility pole, or the owner's successor in interest, shall maintain the small wireless facility or new utility pole at the expense of the owner or successor and if the authority subsequently undertakes any maintenance, public improvement project, or reconstruction of authority property or equipment which requires the modification, relocation, or reconstruction of the small wireless facility or new utility pole, such work and the costs thereof shall be the responsibility of the owner or successor. If the project necessitating the modification, relocation, or reconstruction of the small wireless facility or new utility pole is for a private commercial purpose, the authority may require the owner or successor to modify, relocate, or reconstruct the small wireless facility or new utility pole upon prepayment of the costs of such work by the



private commercial entity whose project facilitates the need for such work. For purposes of this subparagraph, "*new utility pole*" means a new utility pole installed by a wireless service provider pursuant to this section solely for use as a wireless support structure and that is owned by the wireless service provider.

c. Beginning with applications filed on or after September 1, 2017, an authority shall accept an application for, process, and issue a permit under this subsection as follows:

(1) An applicant shall not be required to provide more information or pay a higher application fee, consulting fee, or other fee associated with the processing or issuance of a permit than the amount charged to a telecommunications service provider that is not a wireless service provider. The total amount of fees for processing or issuing a permit, including any fees charged by third parties, shall not exceed five hundred dollars for an application addressing no more than five small wireless facilities, and an additional fifty dollars for each small wireless facility addressed in an application in excess of five small wireless facilities. An applicant shall not be required to pay any additional fees or perform any services relating to the acceptance, processing, or issuance of a permit, nor provide any services unrelated to the siting of the small wireless facility or of a new, replacement, or modified utility pole on which a small wireless facility is sited. For purposes of this subparagraph, engineering and structural review are deemed to be related to the permitting of a small wireless facility. The total amount of fees shall be adjusted every five years to reflect any increases or decreases in the consumer price index, rounded to the nearest five dollars.

(2) An authority shall approve or deny a permit application within ninety days following the submission of a completed application. Except as provided herein, an application shall be deemed approved if the authority fails to approve or deny the application within ninety days following the submission of a completed application. This period of time for the processing of an application may be extended upon mutual written agreement between the authority and the applicant.

An applicant may address up to twenty-five small wireless facilities in a single application, provided, however, that a single application may only address small wireless facilities within a single two-mile radius consisting of substantially similar equipment to be placed on substantially similar types of wireless support structures or utility poles. In rendering a decision on an application addressing more than one small wireless facility, an authority may approve the application as to certain individual small wireless facilities while denying it as to others. An authority's denial of an individual small wireless facility or subset of small wireless facilities within an application is not a basis to deny the application as a whole. If an authority receives applications for the approval of more than seventy-five small wireless facilities within a single seven-day period, whether from a single applicant or from multiple applicants, the authority may notify an applicant submitting any additional siting applications during that seven-day period that the authority is invoking its right to an automatic thirty-day extension for any additional siting application submitted during that seven-day period.

(3) (a) An authority may only deny a completed application if any of the following apply:

(i) The application fails to include reasonable information required by the authority and in accordance with this subsection.

(ii) The application does not comply with the Iowa electrical safety code, the national electrical safety code, applicable fire safety codes, or any building code or similar code of general applicability for the protection of the public health, safety, or welfare that was adopted by an authority prior to the filing of the application.

(iii) The application would result in the authority being noncompliant with the federal Americans With Disabilities Act.

(iv) (A) A licensed engineer selected by the applicant or the authority certifies that siting the small wireless facility as proposed would compromise the structural safety of, or preclude the essential purpose of, the utility pole or wireless support structure in the public right-of-way on which it is proposed to be sited and any of the following conditions apply:

(I) The applicant fails to redesign the small wireless facility in a manner determined necessary by the engineer to make the existing utility pole or wireless support structure structurally sound for the siting of the small wireless facility.

(II) The applicant fails to modify the utility pole or wireless support structure to make the structure structurally sound for the siting of the small wireless facility.

(III) The applicant fails to replace the utility pole or wireless support structure with a utility pole or wireless support structure that is structurally sound for the siting of the small wireless facility.

(IV) The applicant fails to propose an alternative location for the siting of the small wireless facility.

(B) If an applicant chooses to modify or replace a utility pole or wireless support structure to make the structure structurally sound for the siting of a small wireless facility, the applicant shall pay or advance to the authority the costs of modifying or replacing the utility pole or wireless support structure with a utility pole or wireless support structure that would safely support the small wireless facility and preserve the essential purpose of the utility pole or wireless support structure.

(v) The application seeks approval of a new small wireless facility, utility pole, or wireless support structure that would impair, interfere with, or preclude the safe and effective use of facilities already located in the public right-of-way for pedestrian, vehicular, utility, or other authority public right-of-way purposes.

(vi) The application seeks approval for the siting of a small wireless facility outside the public right-of-way that would impair, interfere with, or preclude the safe and effective use of an authority structure or property for a public purpose.

(vii) The application seeks approval for the siting of a small wireless facility on a wireless support structure used exclusively for emergency communications equipment.

(viii) The application seeks approval for the siting of a small wireless facility on a utility pole that is the vertical

portion of a support structure for a traffic control signal or device, and the authority determines that the utility pole lacks sufficient space or load capacity for the proposed siting or the small wireless facility cannot be sited on the utility pole without impairing the public health, safety, or welfare.

(b) An authority denying an application shall document the basis for the denial, including the specific code provisions or standards on which the denial is based, and provide the applicant with such documentation on or before the date the application is denied.

(c) An applicant whose application is denied shall have an opportunity to cure any deficiencies identified by the authority as the basis for the denial and to submit a revised application within thirty days following the date of denial without paying an additional fee. The authority shall approve or deny a revised application within thirty days following submission. The authority shall not identify any deficiencies in a second or subsequent denial that were not identified in the original denial.

(4) An authority shall not limit the duration of a permit issued for the siting of a small wireless facility in a public right-of-way pursuant to this subsection, and shall not limit the duration of a permit issued for the siting of a small wireless facility on an authority structure located outside of a public right-of-way to any period less than ten years, with one automatic five-year renewal, provided, however, that the owner of the small wireless facility may terminate the permit upon providing ninety days' notice to the authority. The construction of a small wireless facility permitted pursuant to this subsection shall commence no later than two years following the date that the permit is issued, or two years after any appeals are exhausted.

(5) An authority shall not impose a moratorium on the processing or issuance of permits under this subsection.

(6) An authority shall process and issue permits on a nondiscriminatory basis. An authority shall receive an application for, process, and issue a permit for the siting of a small wireless facility in a manner substantially comparable to the permitting of other applicants within the jurisdiction

of the authority, and may not impose discriminatory licensing standards for persons siting small wireless facilities.

4. The annual recurring rate charged by an authority for the siting of a small wireless facility on an authority utility pole shall not exceed the rate computed by the federal communications commission for telecommunications pole attachments in 47 C.F.R. §1.1409(e)(2).

5. *a.* An authority shall authorize the siting of a small wireless facility on an authority structure located outside of a public right-of-way to the same extent the authority authorizes access to such structures for other non-authority communications equipment that involve external attachments, and may authorize the siting even if the authority has not previously permitted such access.

*b.* A siting authorized under this subsection shall be subject to reasonable rates, terms, and conditions as provided in one or more agreements between the authority and the wireless service provider. Notwithstanding chapter 480A, the annual recurring rate for such siting as charged by an authority shall not exceed the lesser of the following:

(1) The amount charged for a similar commercial project or use to occupy a similar area of space on similarly situated property.

(2) The projected cost to the authority resulting from the siting.

6. A party aggrieved by the final action of an authority, either by its affirmative action on a permit, term or condition, or rate under the provisions of this section or by its inaction, may bring an action for review in any court of competent jurisdiction, except that if the final action of the authority was the denial of a conditional or special use permit pursuant to this section, the party must first seek review under section 335.13 or 414.10, as applicable.

7. This section only addresses an authority's approval of zoning and building permits and the rates for the use of public rights-of way and authority structures. This section shall not modify the rights and obligations of a nonauthority owner of a utility pole or a municipal utility that owns a utility pole, under 47 C.F.R. §1.1401 et seq., and the Iowa electrical safety



code.

**Sec. 4. NEW SECTION. 8C.7B Small wireless facilities — violation and removal.**

1. A public utility that owns or controls a utility pole on which a small wireless facility is sited in alleged violation of this chapter or the Iowa electrical safety code shall notify the owner of the small wireless facility of the alleged violation, in writing or by any other method agreed upon by the parties in writing. The notice shall include the following information:

*a.* The address and location where the alleged violation occurred.

*b.* A description of the alleged violation.

*c.* Suggested corrective action.

2. Upon the receipt of notice of an alleged violation, the recipient of such notice shall respond to the public utility within sixty days in writing or by any other method agreed upon by the parties in writing. The response shall include the following information:

*a.* A statement disclosing whether or not the recipient of the notice is the owner of the small wireless facility at issue.

*b.* A statement disclosing that the owner disputes that the alleged violation has occurred, if applicable.

*c.* A plan for corrective action if the owner does not dispute that the violation has occurred.

*d.* A statement disclosing whether the violation has been corrected, if the owner does not dispute that the violation has occurred.

3. The owner of a small wireless facility in alleged violation of this chapter or the Iowa electrical safety code shall correct the alleged violation within one hundred eighty days after receiving notice of the violation unless, for good cause shown, a delay for taking corrective action is appropriate or if the parties otherwise agree in writing to extend the time required to take corrective action. Good cause for a delay in corrective action shall include but is not limited to a dispute over whether the recipient of the notice is the owner of the small wireless facility at issue, a

dispute over whether the alleged violation has occurred, or if taking corrective action within the required time frame is not possible due to circumstances which are beyond the control of the owner of the small wireless facility. The public utility and owner of the small wireless facility shall cooperate in determining an efficient and cost-effective solution to correct an alleged violation.

4. *a.* Notwithstanding subsections 1 through 3, in the event of an emergency, an authority or public utility shall contact the owner of the small wireless facility at issue and provide the owner with a reasonable opportunity, given the nature of the emergency, to alleviate such emergency or participate with the authority or public utility to make any repairs necessary to alleviate such emergency. If the owner of the small wireless facility does not respond in a timely manner, as determined by the authority or public utility given the nature of the emergency, the authority or public utility may remove or make alterations to the small wireless facility as necessary to ensure public safety.

*b.* For purposes of this subsection, "*emergency*" means exigent and extraordinary circumstances under which the physical or electrical failure of a utility pole, wireless support structure, or small wireless facility threatens imminent physical harm to persons or there is a substantial likelihood of imminent and significant harm to property.

5. If the parties cannot resolve a dispute after following the procedures provided in this section, any party may file an action concerning an alleged violation under this section in the district court for the county in which the violation is alleged to have occurred, for any appropriate remedy, including the removal of a small wireless facility deemed by the court to be in violation of this chapter or the Iowa electrical safety code. However, this section shall not preclude a party from bringing an action pursuant to the Iowa electrical safety code or 47 C.F.R. §1.1401 et seq., or the application of a dispute resolution process set forth in an applicable pole attachment agreement between the parties.

6. Nothing in this section shall be deemed to limit the ability of a public utility and the owner of a small wireless

facility to voluntarily enter into a pole attachment agreement that establishes different terms for the siting of a small wireless facility or the resolution of a dispute regarding such a facility.

Sec. 5. NEW SECTION. **8C.7C Height limitations.**

1. A new, replacement, or modified utility pole or wireless support structure installed in a public right-of-way located within the city limits of an incorporated city for the purpose of siting a wireless facility, including a small wireless facility under the provisions of this chapter shall not exceed the greater of ten feet in height above the tallest utility pole existing on or before July 1, 2017, located within five hundred feet of the new, replacement, or modified utility pole in the same public right-of-way, or forty feet in height above ground level. Except as provided in section 8C.7A, subsection 2, paragraph "c", an authority shall not require a special or conditional use permit for the installation of a utility pole or wireless support structure that complies with the height limitations of this subsection.

2. Notwithstanding subsection 1, a person may construct, modify, or maintain a utility pole or wireless support structure along, across, and under a public right-of-way in excess of the size limits provided in subsection 1, to the extent permitted by the authority's applicable zoning regulations.

3. A person shall comply with nondiscriminatory undergrounding requirements that prohibit wireless service providers from installing structures in a public right-of-way without prior zoning approval in areas designated as an underground district pursuant to a resolution or ordinance adopted by an authority prior to the date the application is filed or in areas zoned and used for single-family residential use, provided that such requirements shall not prohibit the replacement of existing structures.

4. Nothing in this section shall be deemed to limit the ability of a public utility to install a utility pole for the purposes of electric utility transmission or distribution within a public right-of-way subject to an authority's planning and zoning regulations.

Sec. 6. Section 8C.9, Code 2017, is amended to read as follows:

**8C.9 Repeal.**

This chapter is repealed July 1, ~~2020~~ 2022.

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JACK WHITVER  
President of the Senate

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LINDA UPMAYER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 431, Eighty-seventh General Assembly.

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W. CHARLES SMITHSON  
Secretary of the Senate

Approved \_\_\_\_\_, 2017

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TERRY E. BRANSTAD  
Governor