



## PLANNING AND ZONING

### Cerro Gordo County Courthouse

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August 22, 2019

TO: Cerro Gordo County Planning and Zoning Commission

FROM: John Robbins

SUBJECT: Next Meeting – *Thursday, September 5, 2019; 4:00 p.m.; Boardroom*

Ladies and Gentlemen:

The next meeting of the Cerro Gordo County Planning and Zoning Commission is scheduled for **Thursday, September 5, 2019 at 4:00 p.m., in the Boardroom at the Courthouse.** You will be considering three rezoning requests and one subdivision request.

1. Randy and Wendy Whitehurst      6959 220<sup>th</sup> Street

This request consists of two 1-acre parcels, located in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Section 1, Union Township. The 1-acre house parcel was split off in March 1993 without a rezoning and has been an illegal lot since as a result. The Whitehursts recently purchased an additional acre to bring the property to 2 total acres to meet the minimum area for the A-2 District (See Figures 1 & 2). Since the property will be less than 10 acres, a rezoning from A-1 to A-2 is requested by the applicant.

The property contains a house a hoop building (See Figures 3 & 4). The house and hoop building are 1'-3" apart. The Zoning Ordinance requires a 10' minimum separation distance between detached structures (See Figure 3).

The parcel is surrounded by fields in agricultural production. The fields to the southwest are accessible from 220<sup>th</sup> Street to the west. The added acres do not change accessibility for farming operations.

The rezoning request is in general compliance with the comprehensive plan: it is an existing building site, there are no access issues, and no land will be taken out of agricultural production. However, the addition parcel will trigger a subdivision under state rules. Combining the two parcels through the Auditor's Office into one will avoid the subdivision requirement and should be done prior to being heard by the Board of Supervisors. I recommend the request be forwarded to the Board of Supervisors for approval contingent on the two parcels being combined into one through the Auditor's Office.

2. Red Tail Ridge Subdivision Includes 7398 Grouse Avenue

The proposed two-lot subdivision is located on a 9.98-acre area in the NE¼ of the SE¼, Section 36, Union Township. rezoning from A-1 Agricultural to A-2 Agricultural is being requested because both lots will be less than 10 acres. A formal request to waive the preliminary plat requirement was received with the application.

The 6.89-acre proposed Lot 1 has an existing house and several accessory structures onsite (See Figures 1-4). None of the structures are non-conforming. There is an existing driveway access from Grouse Avenue (See Figure 5).

Proposed Lot 2 is 3.09 acres in size and contains an existing machine building (See Figure 6). There are no non-conforming structures. There is no existing driveway into the lot. If no new driveway is planned, an access easement should be shown on the plan and written into the Dedication of Plat. Any new driveway will require a controlled access permit be received from the County Engineer's Office.

The Auditor's Office has approved the subdivision name, "Red Tail Ridge Subdivision, Cerro Gordo County, Iowa." The Final Plat does not fully match the approved subdivision name from the Auditor's Office and needs to be revised to be identical to the approved subdivision name. The County Treasurer commented that taxes in the amount of \$236.00 are due and need to be paid before the Treasurer's Certificate can be signed. The Treasurer's Certificate is required to be recorded with any approved subdivision plat at the time of recording. The County Recorder, County Assessor, and County Engineer did not have any additional comment.

The primary concern for the Department of Public Health is regarding proper wastewater and ground and surface water protection. There is a relatively new, existing well that was installed in 2018 and a septic system that was installed in 2006 on Lot 1. A new dwelling is intended to be built on Lot 2 in the future. Any new well or septic systems to be installed onsite will require the necessary permits from the Health Department. If plans proceed for a new dwelling on Lot 2 using the existing well and wastewater system, the owner should consider drafting a well or wastewater system share agreement, but it is not necessary at this time since there is no existing dwelling currently located on Lot 2.

The plat generally conforms to the goals of the Comprehensive Plan. No land will be taken out of agricultural production. There are no access issues except as discussed above regarding Lot 2, which are dependent on the owner's intentions for access into Lot 2. The property is surrounded by land owned by the US Fish and Wildlife Service, so there are no issues with access to surrounding land.

I recommend the request for waiver of the preliminary plat be approved. I also recommend the subdivision and change of zone request be forwarded to the Board of Supervisors for approval. The approval should be subject to the above revisions being made and a revised Plat and Dedication of Plat being received by the Planning and Zoning Office before the hearing occurs.

### 3. Buck's UPI, Inc. 20996 Monroe Avenue

This is a request to change the zoning classification on two lots adjacent to the former Van Horn Auto Parts salvage yard. Enclosed in your packets is a zoning map and parcel highlight to which you can refer. The first rezoning request is a portion of land recently surveyed north of the existing salvage yard, located in the SW¼, Section 21, Lime Creek Township (Area 1), currently zoned A-1 (See Figures 1 & 2). This piece has been in an agricultural zoning district since the first zoning ordinance was adopted in 1962. The request is to rezone Area 1 to M-2 Heavy Industrial.

The second request is for the north 125' of Lots 1 and 2 of Winnebago Heights (Area 2), currently in the C-2 General Commercial District (See Figure 3). This was originally zoned to a commercial zoning classification in 1962. It was first used as an office for the salvage yard and for wrecking of vehicles inside an enclosed building. The original buildings have been removed over time since the 70s. The request is to also rezone Area 2 to M-2 Heavy Industrial.

The rezoning requests are designed to bring the whole of the property wished to be used for the salvage operation into a common zoning district and into full compliance with the Zoning Ordinance. The original salvage yard began operation in 1955. As mentioned above, zoning was first adopted in Cerro Gordo County in 1962. The areas currently zoned M-2 Heavy Industrial (which does not include Area 1 or Area 2) were grandfathered under the current Zoning Ordinance (See Figures 4-6), and the land owner holds a vested right in continuing the operation of a salvage yard until the use is legally abandoned. The use cannot be expanded into new areas except under the rules of the current Zoning Ordinance. You may note from the enclosed zoning map and parcel highlight that a portion of the salvage yard on the west side of Monroe Street is in the R-1 Single Family Residential District. This area is a part of the grandfathered part of the salvage yard operation (See Figure 7). Effectively, this property is treated as if it were zoned M-2 Heavy Industrial.

Area 1 was not used as a salvage yard until after the current ordinance was adopted but expansion occurred into the area beginning in the late 90s. Vehicles have since been removed from Area 1. While salvage yards are permitted in the A-1 District with a Special Use Permit granted by the Board of Adjustment, Area 1 is less than the size of 10 acres, so rezoning the area to M-2 is necessary for the operation to continue. Area 2 was not used for inventory storage until sometime in the late 70s when some outdoor inventory storage began to take place, noted using the County's GIS system. This was not considered a legal use at the time, so Area 2 is not considered as grandfathered under the ordinance.

Buck's UPI, Inc. is allotted 12 months from taking ownership to bring Area 1 and Area 2 into compliance under the rules of the Zoning Ordinance. A Special Use Permit for these areas is also required for the operation of a salvage yard. That is a separate process heard by the Board of Adjustment, so that is not something you should factor into your recommendation at this time.

Area 1 and Area 2 do not have a need for well or wastewater services. There is an existing well located in the main building (See Figure 4). There is also an existing leech field that serves the buildings onsite.

The future land use map in the Comprehensive Plan designates the area, and the whole of Winnebago Heights, as agricultural. The map also notes that future industrial zones are areas

that are deemed as appropriate for industrial uses by the Planning and Zoning Commission. Area 1 and Area 2 have had the salvage yard operation in use as described above.

As shown on the enclosed map of current zoning, Area 1 abuts residential zoning to the southeast. Area 2 abuts the same residential property located to the north across North Street, and there is also a residential property to the east. The Zoning Ordinance requires the establishment of a buffer park or buffer wall between industrial and residential or agricultural zoning districts when development occurs. The onus for providing the buffer park is on whoever develops the adjacent property, except for an agricultural use. Significant vegetative buffers or fencing already exists between the properties.

The Comprehensive Plan has several policy statements pertaining to industrial development to ensure that such uses are compatible with its surroundings. Policy 6.1.1 discourages industrial development that would present a conflict with or pose a danger to dense development. Salvage yards are an intensive use that typically should not be located adjacent to a residential neighborhood. However, the existing salvage operation has been occurring for decades. The requested zone changes simply are bringing the use into full compliance with the Zoning Ordinance and does not change the actual use of the property.

Policy 6.1.2 infers that industrial development that is in proximity to necessary infrastructure and to a supplier or customer base is permissible. The requested zone change does not change any needs for infrastructure. According to the Department of Public Health, the existing septic system checked out well during a time of transfer inspection in 2018. The well inside the building tested well after a broken well cap was replaced in 2018.

Policy 6.1.3 provides a list of criteria that industrial development must meet in order to be permissible. This request does not constitute new industrial development and is adequately served by a major transportation route and paved roads.

Policy 6.1.4 directs that the criteria used for evaluating proposed special uses be employed when considering requests to rezone property to an industrial classification. The packet on this request includes a supplement applying the criteria to the proposed rezoning.

Policy 6.1.6 encourages that industrial development be required to contribute in any rural improvements needed to support the location of the development. This policy does not apply because it is an existing industrial development and no infrastructure improvements are needed.

Finally, Policy 6.1.7 encourages the protection of known mineral and aggregate extraction areas. There are major quarry operations about one mile to the northwest of the salvage yard. The salvage yard operation does not affect these quarry operations.

Upon transfer to Buck's UPI, Area 1 will become a new tax parcel, which could trigger a subdivision under state rules. However, the subdivision trigger can be avoided in one of two ways: 1.) A Declaration of Use Covenant dedicating the farmland north of Area 1 for agricultural purposes; or 2.) a combination of Area 1 with the existing salvage yard parcel immediately to the south into one through the Auditor's office. The simplest method to avoid the subdivision trigger would be option 2 occurring after the official transfer of the property. I recommend the request be forwarded to the Board of Supervisors for approval.

4. David and Cheryl Kapka 23838 Fir Avenue

This 4.05-acre parcel, located in the NE¼ of the NE¼, Section 12, Grant Township, is being separated from the surrounding cropland. Since the property will be less than 10 acres, a rezoning from A-1 to A-2 is requested by the applicant. A minimum area of 2 acres is required in the A-2 District.

The property contains a house, two machine sheds, and seven grain bins (See Figures 1-3). The westerly grain bins are 2'-8" apart. The two northeasterly grain bins are 3'-8" apart. The southernmost grain bins are 3'-2" apart. The two large, centrally located grain bins are 8'-3" apart. The Zoning Ordinance requires a 10' minimum separation distance between detached structures

The parcel is surrounded by fields in agricultural production. The fields around the acreage are accessible just to the north of the acreage and to the south via Fir Avenue.

The rezoning request is in general compliance with the comprehensive plan: it is an existing building site, there are no access issues, and no land will be taken out of agricultural production. A Declaration of Use Covenant dedicating the farmland for agricultural purposes will be necessary to avoid a subdivision trigger before the request is heard before the Board of Supervisors. I recommend the request be forwarded to the Board of Supervisors for approval contingent on a Declaration of Use Covenant being prepared and recorded with the County Recorder prior to the hearing.