

Clinton County Board of Supervisors

Clinton County Administration Building
1900 North Third Street

John F. Staszewski, Chairperson
Dan Srp, Vice Chairperson
Shawn Hamerlinck

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Clinton, Iowa 52733-2957
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PUBLIC NOTICE is hereby given that the Clinton County Board of Supervisors will meet at the following time and place: MONDAY, August 3, 2015, 9:00 A.M.; Clinton County Administration Building, Conference Room B, 1900 N. 3rd St., Clinton, IA.

9:00 a.m. Review Correspondence & Claims
Call to Order – Pledge of Allegiance

9:15 a.m. Formal Action & Motions

RESOLUTIONS

- Liquor license approval – Our Lady of the Prairie Retreat
- Tax suspension request policy change
- Personnel resignation – Communications
- Mobile home tax adjustments
- Set a public hearing for a proposed easement for Alliant Pipeline to place a pipeline across the Ben Martinsen Wildlife Area.

GENERAL PUBLIC

DEPARTMENT HEADS, ELECTED OFFICIALS & EMPLOYEES

9:30 a.m. Public Hearing with possible action to follow
Public comment is welcome on a proposed a subdivision application from Patrick Hartung and the Gerald Hartung Children’s Foundation

9:35 a.m. Public Hearing with possible action to follow
Public comment is welcome on a proposed text amendment to the Clinton County Zoning Ordinance addressing side-yard setback requirements

9:40 a.m. Public Hearing with possible action to follow
Public comment is welcome on a proposed zoning map change from A-1 to R-1 in DeWitt Township

9:50 a.m. Discussion with possible action
The Board of Supervisors will consider materials to be used for the roof replacement at the County Courthouse.

9:55 a.m. Discussion with possible action
The Board of Supervisors will receive an update on the Administration Building parking lot improvement project and consider setting a date for a public hearing to prepare to bid the project.

August 3, 2015

RESOLUTION 2015-_____

BE IT RESOLVED by the Clinton County Board of Supervisors that Johanna Rickl, d/b/a Our Lady of the Prairie Retreat, will electronically file an application for liquor license number BW_V_60646 with an endorsement for Class B Native Wine Permit, Outdoor Service and Sunday Sales, effective August 23, 2015. Said application be and is hereby approved by the Clinton County Board of Supervisors.

Roll Call:

Hamerlinck: _____

Srp: _____

Staszewski: _____

Chairperson, John Staszewski

ATTEST:

County Auditor, Eric Van Lancker

**CLINTON COUNTY
427.8 TAX SUSPENSION
POLICIES AND PROCEDURES**

MISSION STATEMENT

It is the belief of Clinton County that property tax suspensions under Iowa Code 427.8 to taxpayers of Clinton County should have specific eligibility guidelines as set forth by the Clinton County Board of Supervisors. This Policy has been developed with the interest of the residents of Clinton County and fulfills the duties imposed upon the county by Chapter 427 of the Code of Iowa.

PURPOSE

The purpose of this Policy is to provide temporary assistance to Clinton County property owners who meet eligibility guidelines so that they may maintain their homes. It is the expectation that this property tax suspension will allow the property owner an opportunity to examine his/her financial situation and plan ahead for how future property taxes will be paid.

DEFINITIONS

1. **Board of Supervisor's Designee:** Community Assistance Programs Director
2. **Earned Income:** income from employment wages, tips, bonus from an employer, etc.
3. **Gross Income:** the total amount of all household income, earned or unearned, from any source, or received by any person in the household, before allowable deductions are credited.
4. **Homestead:** (see Iowa Code Chapter 425.11 (3))
5. **Homestead Tax Credit:** Reduces the taxable value of the property. (see Iowa Code Chapter 425)
6. **Household Income:** All income earned or unearned that is received by the petitioner, his/her spouse; and any children residing in the home under the age of 18. This shall include any monetary contributions made by any other related or unrelated individuals currently residing within the home.
7. **Household Members:** The Applicant, the applicant's spouse or significant other, any children, step-children, or wards under the age of 18 who are residing with the applicant. Additionally any other relatives or unrelated individuals who reside with the applicant and who share meals, living space, etc.
8. **Household Resources:** Liquid and non-liquid assets owned by a person that the person is not legally restricted from using for support and maintenance, and that could be converted to cash. Unless specifically exempt, all resources are considered countable. Liquid resources are assets that can be easily converted to cash such as checking and savings accounts. Non-liquid resources are assets that cannot be easily converted to cash such as homes or personal property.

9. **Notice of Decision:** written notice provided by the General Assistance Worker to the Applicant concerning his/her eligibility for assistance, type of assistance approved and the amount.
10. **Parcel:** each separate item shown on the tax list, manufactured or mobile home tax list, schedule of assessment, or schedule of rate or charge.
11. **Poverty Level:** The amount of household income as set by the U.S. Department Health and Human Services, effective with this plan's implementation date and reflective each year thereafter.
12. **Property owner or Owner:** the owner or owners of property, as shown by the transfer books in the office of the county auditor of the county in which the property is located.
13. **Special Assessment:** an unpaid special assessment certified in accordance to Iowa Code Chapter 384, division IV.
14. **Suspension:** deferring /delaying the collection of property taxes, special assessments, and notes or charges, including interest, fees and costs.
15. **Taxes:** an annual ad valorem tax, a special assessment, a drainage tax, a rate or a charge, and taxes on homes pursuant to chapter 435 and 445 which are collectible by the County Treasurer.
16. **Total Amount Due:** the aggregate total of all taxes, penalties, interest, costs and fees due on a parcel.
17. **Unearned Income** – income from state and/or federal programs such as FIP, SSI, SSDI, SS, VA benefits, child support, alimony, Food Stamps, etc.

PROCESS OF PETITIONING FOR A TAX SUSPENSION:

1. The individual shall contact the BOS Designee in the Community Assistance Programs Department (CAP) to petition for a tax suspension. The individual may complete an application at the CAP Department or one will be mailed to the individual to complete and return.
2. The BOS designee will review the petition and supporting documentation in order to determine eligibility.
3. The BOS designee will make a final decision on the petitioner's eligibility within 10 working days of the date of application and grant one of the following actions:
 - Provide a Resolution approving the 427.8 property tax suspension to the Clinton County BOS for their approval and authorization for the County Treasurer to make entry to the county records accordingly. A copy of the approved Resolution will be sent to the petitioner by regular mail; or
 - Provide the Petitioner with a written notice of decision by regular mail informing them that they are ineligible for a 427.8 property tax suspension and their right to appeal and the method to appeal.

ELIGIBILITY GUIDELINES:

For a petitioner to be considered for a tax suspension under IA Code 427.8 then he/she must meet the following established requirements:

1. Petitioner's gross yearly household income does not exceed \$22,011.00 or the state income level for property tax credit, whichever is greater and,
2. Petitioner's household resources must be less than the amount of property taxes the petitioner is requesting be suspended and,
3. Only property eligible for the homestead tax credit will be consider for tax suspension and,
4. Petitioner must have filed for homestead credit on the property as well as for any other property tax credit that he/she may be eligible for such as the Iowa Disabled and Senior Citizens Property Tax Credit; the Iowa Military Exemption; etc., and
5. Petitioner meets one of the following criteria:
 - a. Is 65 years of age or older; or
 - b. Is totally disabled, as shown by receipt of Social Security Disability Income (SSDI), other disability income or have a pending case; or
 - c. Has a medical condition that keeps them from currently being gainfully employed.
6. Provide any necessary documentation to support their petition for suspension of taxes. This may include but is not limited to:
 - Copy of last year's federal income tax return.
 - Verification of earned and/or unearned income if a tax return was not filed;
 - Copy of bank statements;
 - Doctor's statement dated no more than 30 days prior to the date of application that verifies a chronic medical condition that prevents the petitioner from being gainfully employed;
 - If applying due to a disability - Proof that the petitioner has applied for disability through the Social Security Administration

ALLOWABLE INCOME/RESOURCE DEDUCTIONS:

- Verified medical expenses (i.e. out of pocket cost of medication or out of pocket medical treatment) paid within the prior twelve months or ongoing medical bills that will be incurred due to a verified chronic medical condition shall be an allowable deduction to be considered when an individual has an earned income;
- Monthly Premiums for Medicare; MEPD, IA Market Place or private health care insurance.

EXEMPT RESOURCES:

- Burial lots and funeral trusts; persons applying for county assistance shall be required to provide proof of expense of burial lots or funeral trusts if greater than \$6,500.00 per individual or \$13,000.00 per couple;
- Trusts: If the beneficiary's access to the trust principal is restricted (i.e. if only the trustee can invade the principal), the principal shall not count as a resource to the beneficiary unless the trust states the money is to be used for

maintenance or support of the individual. Changing an existing order in order to become eligible for county funding may render that person ineligible for County Assistance. The County will, in such case, still use the original trust to determine eligibility for funding. If a beneficiary has unrestricted access to the principal of the trust, it is counted as a resource.

- Term Life Insurance
- Whole Life Insurance. The verified cash value of a whole life insurance policy shall be counted toward a resource in the event the cash value of the policy exceeds \$1,500.00.

DENIAL REASONS:

1. Failing to comply with any or all of the above eligibility criteria.
2. Providing false information and/or documentation in order to qualify for the property tax suspension.
3. If he/she continues to live beyond his/her means (i.e. expenses are greater than income) from year to year with no plan to improve his/her financial situation.

CONFLICT OF INTEREST POLICY

The Clinton County BOS or their Designee shall make tax suspension authorization decisions. It is the intent of Clinton County that tax suspension authorization decisions shall not be made by any individual or organization that has a financial interest in the services or supports to be provided. In the event of such a conflict of interest, the conflict shall be fully disclosed to individuals and other stakeholders on the Notice of Decision.

CONFIDENTIALITY

Clinton County personnel performing actions identified in the Clinton County Tax Suspension Policy will comply with all applicable state and federal statutes relating to confidentiality. Training will be provided to all parties with access to confidential information to assure knowledge of such statutes. Authorized personnel having access to individual files are limited to the following:

- The person receiving services, or their legal representative. Legal representative shall include, but is not limited to, the parent of a minor or a court-appointed guardian;
- The Clinton County Board of Supervisors, staff of the Clinton County CAP Department, Clinton County Treasure and staff of the Clinton County Treasurer's Office and Clinton County Attorney;
- Other persons or agencies for which the person receiving services has signed a release of information giving consent;
- Legal guardian – person appointed by the court, charged with either limited or complete duties as ordered by the court.

LIMITATIONS

A person's right to confidentiality is not absolute. It may be superseded with the rights of others, particularly the rights of children, who are in need of protection and when maintaining confidentiality might cause serious harm to the client or to a third party. In questionable instances, the Clinton County Attorney's Office will be consulted to obtain further legal advice on the matter.

RECORD KEEPING

Records pertaining to clients are the property of the agency. Care should be taken to ensure the record keeping is done with the interest of the client as the primary concern.

RECORD MAINTANCE AND DESTRUCTION

Individual records are considered confidential and should be kept in file cabinets designated for this purpose, unless being used by an authorized individual. For security reasons client records must be returned to the designated file cabinets by the end of the business day, or shift, in the case of 24- hour operations. Client information on PC terminals and printers shall be kept in secure areas and not left unattended in areas accessible to unauthorized individuals.

Client records shall be maintained a minimum of five years following the date of the petitioner's last application for 427.8 property tax suspension. All personal information pertaining to clients shall be shredded before placement in common disposal receptacles or if on disc destroyed. Client confidentiality shall be maintained in client record destruction. If Clinton County Community Supports Department or any program within Clinton County Community Supports Department should cease to function, client records shall be transferred to the new provider with appropriate releases signed, or the records shall be destroyed as above, depending upon the circumstances.

CLIENT ACCESS TO RECORDS

A current or past petitioner may, upon written request, inspect his/her own record in the provider agency's office in the presence of staff assigned to the case. An appropriate person designated in writing, such as the petitioner's attorney, guardian, guardian ad litem, or other acceptable person may accompany petitioner at the examination. Copies of information or reports generated by our office may be provided, upon written request, at the individual's own expense.

FAXING CONFIDENTIAL INFORMATION

Confidential information transmitted via the fax should be limited to only what is necessary to meet the requestor's needs. Special access policies and procedures will apply to faxing of client information including the following:

- Secure written Consent to Release Information. Consent to Release Information transmitted via fax is acceptable if all the requirements are met.
- Telephone confirmation should be used to verify transmissions. Confidential medical information should be faxed only to monitored machines, and operators should call ahead to alert the recipient that a confidential fax transmission is being sent. Verify fax number to ensure proper transmittal
- All faxed information must have a cover sheet with sender and receiving facility clearly listed. Approved confidentiality statement must be on the cover sheet of all faxed information as follows:

CONFIDENTIALITY NOTICE: The information contained in this fax is confidential and intended **ONLY** for the designated recipient. If the reader of the transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that review, dissemination, distribution, or copying of this information is forbidden. If you have received this fax in error, please notify the sender immediately by telephone and return the original by mail to the below address. Thank you.

- Faxed documents may be accepted as original and placed in the record.

APPEAL PROCESS

A Petitioner who is determined ineligible for a 427.8 Property Tax Suspension has the right to appeal such decision. The Notice of Decision provided to the Petitioner shall advise Petitioner as to the form and method of Appeal. The Petitioner is responsible to pursue the appeal on his/her own or with the assistance of any person, agent or attorney of his/her choice and at his/her own expense.

The Appeal must be submitted in writing to the Community Assistance Programs Department within ten (10) working days of the date on the Notice of Decision. The Appeal shall state the Petitioner's full name, current address, parcel number and address of the parcel if different from his/her residence; telephone number (if any) and the reason(s) for the Appeal.

Upon receipt of the Appeal, the BOS Designee shall be responsible to immediately notify the Board of Supervisors. The Appeal shall be placed on the Supervisors' regular agenda for review/hearing no less than five (5) and no more than ten (10) working days after the Supervisors have been notified of the Appeal.

The Petitioner shall be notified immediately by phone, if possible, or by ordinary mail at the address stated on the Appeal, of the date, time and place of the hearing before the Board of Supervisors. The Petitioner and any person, agent or attorney may, upon written authorization, be granted access to the information contained in the Petitioner's file, which was used to make the decision.

The Board of Supervisors shall be responsible to hear Petitioner's Appeal de novo at the time scheduled on the agenda. If Petitioner requests a continuance, said request must be in writing and received by the Board of Supervisors prior to the date and time of hearing, stating the reasons a continuance is needed. If Board has determined that Petitioner has shown good cause for the need of a continuance, said continuance may be granted and Petitioner will be notified of the new date, time and place of the Appeal hearing.

The Petitioner may be physically present at the Appeal hearing if he/she chooses, and may present whatever evidence, verbal or written, necessary to support the basis for his/her Appeal. Witnesses may present verbal testimony and cross-examination shall be allowed. Technical rules of evidence shall not apply. Length of time of hearing shall be determined by the Board of Supervisors based upon the amount of evidence and number of witnesses to testify.

The Appeal Hearing may be held in Closed Session at the request of the Petitioner, the Board of Supervisors or the BOS Designee, if required according to IA Code Ch. 21. Petitioner's file, including confidential information, will be submitted into evidence. The Board may question the Petitioner, BOS Designee and any witnesses present at the hearing. The hearing shall be tape-recorded and the recording of the hearing shall be sealed and shall not be considered a public record open for public inspection if required by Iowa Code Ch. 22 or other state or federal law.

The Board of Supervisors shall deliberate on the Appeal in **closed session if required according to IA Code Ch. 21.**

The Board shall make a decision on the Appeal Hearing within five (5) working days. The Board's decision shall be based on all evidence and testimony submitted to the Board at the Appeal Hearing. The Petitioner shall be informed of the Board's decision immediately by phone (if possible) or by regular mail within five (5) working days of the date the Board reaches a decision. The Notice of Decision shall state the reasons for the decision along with any statute or ordinance used to govern the decision.

This Policy will be in effect from _____ forward or until updates/revisions are necessary and approved by the Clinton County Board of Supervisors.

Dated this _____ day of _____ 2015

Chair, Clinton County Board of Supervisors

Clinton County Attorney (or Assistant)

Resolution #2015-

WHEREAS, Clinton County currently has a 427.8 Property Tax Suspension Policy.

WHEREAS, the Clinton County Board of Supervisors wishes to revise the 427.8 Property Tax Suspension Policy with respect to the eligibility guidelines.

BE IT RESOLVED by the Board of Supervisors of Clinton County, Iowa that the current 427.8 Property Tax Suspension Policy be replaced with the revised 427.8 Property Tax Suspension Policy and the Chairperson be and is hereby authorized to sign the 427.8 Property Tax Suspension Policy, dated July 27, 2015 on behalf of Clinton County

Roll Call:

Hamerlinck: _____

Srp: _____

Staszewski: _____

John F. Staszewski, Chairperson
Clinton County Board of Supervisors

ATTEST:

Eric Van Lancker
County Auditor
County of Clinton
State of Iowa

August 3, 2015

RESOLUTION 2015-_____

WHEREAS, the Clinton County Communications has accepted the resignation of Nathan Petersen, as a Lead Operator.

THEREFORE, BE IT RESOLVED by the Board of Supervisors of Clinton County, Iowa that the County Auditor be and is hereby authorized to stop issuance of biweekly paychecks on the Emergency Management Services Fund, Communications, to Nathan Petersen after accrued benefits are paid effective after his last day of employment on July 25, 2015.

Roll Call:

Hamerlinck: _____

Srp: _____

Staszewski: _____

Chairperson
Clinton County Board of Supervisors

ATTEST:

Eric Van Lancker
County Auditor
County of Clinton
State of Iowa

Resolution # 2015-

Whereas, the following mobile homes are subject to adjustment in accordance with the code of Iowa section 435.23 for taxation by Clinton county:

Royal Pines Village	Vin-CWP015190TN	Dist # 0780	Trailer rented	\$126.00
Royal Pines Village	Vin-06L29511	Dist # 0780	Trailer rented	\$ 24.00

Therefore be it resolved, by the Clinton County Board of Supervisors that county records be adjusted by the county treasurer on the county system to reflect the additional pro-rated tax due.

Shawn Hammerlink _____

Dan Srp _____

John Staszewski, Chair _____

John Staszewski, Board Chairperson

Attest: _____

Eric Van Lancker, County Auditor

STAFF REPORT

DATE: August 3, 2015

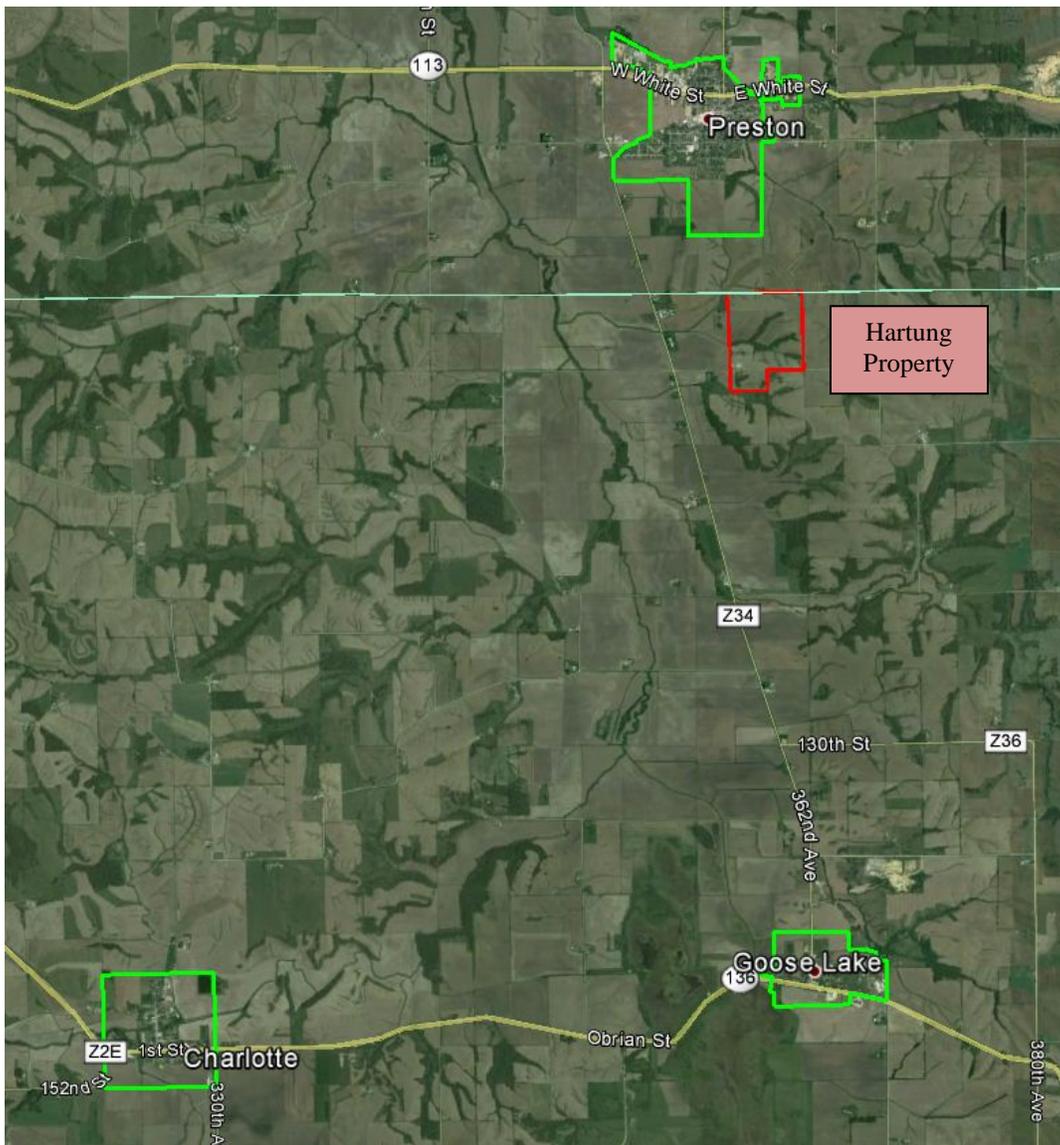
TO: Clinton County Board of Supervisors

FROM: Clinton County Planning and Zoning Office
Nate Mueller

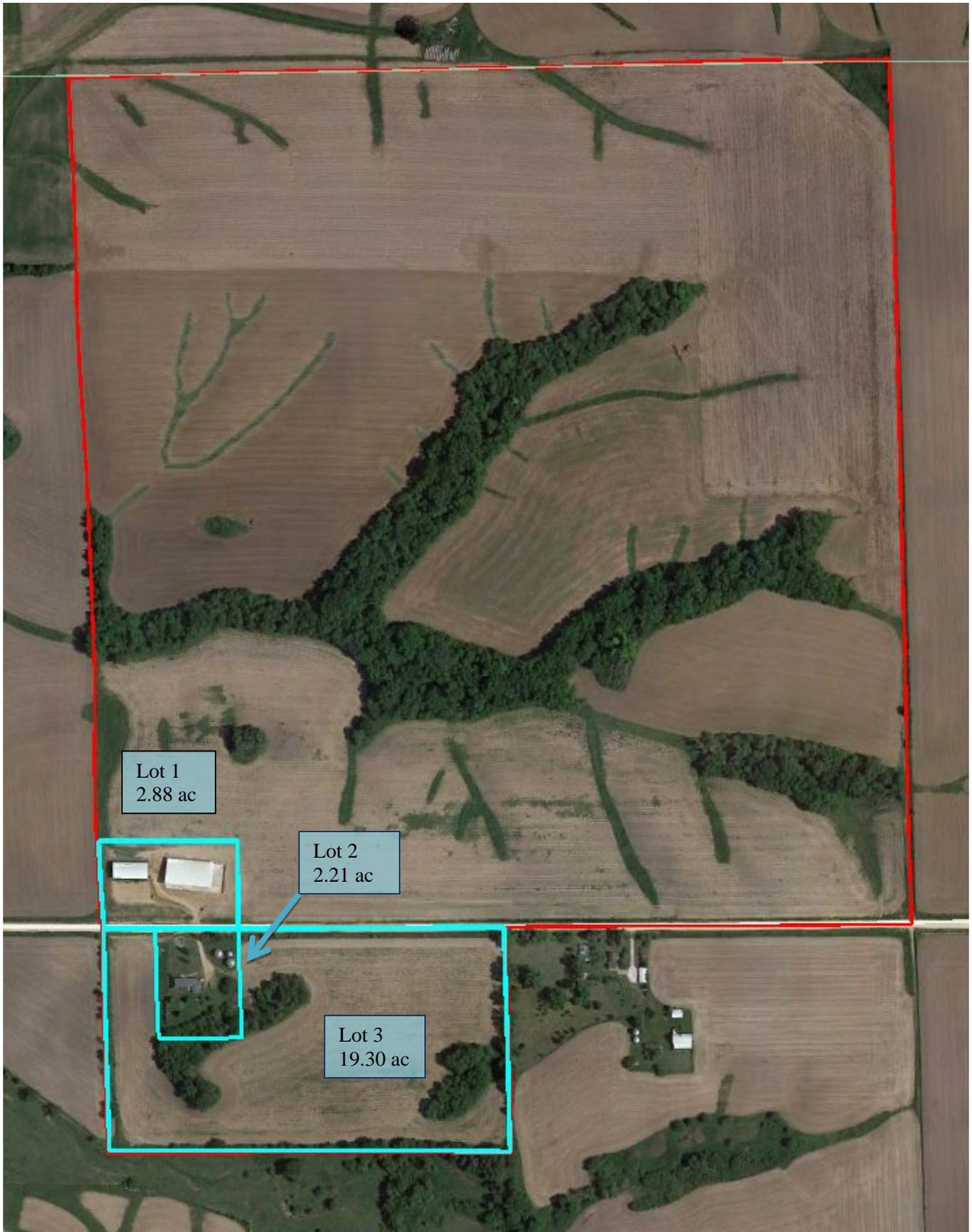
RE: Application 3876 of Patrick Hartung & Susan Hartung as Trustee for the Gerald Hartung Children’s Trust, requesting approval of an application to create a 3-lot Minor Subdivision to be known as Hartung Farm Subdivision.

Location

The proposed subdivision is located in the SW ¼ of the NW ¼ and the NW ¼ of the SW ¼ of Section 4 Township 83 North, Range 5 East of the 5th P.M. in Clinton County, Iowa. This is a 3-lot subdivision consisting of 24.39 acres located on both sides of 105th Street approximately 2 miles south of Preston in Deep Creek Township.



Proposed lots for Hartung Farm Subdivision:



Background and Details

The purpose of this subdivision application is to split an existing home and cattle buildings onto 2 new lots – Lot 1 will contain the existing cattle buildings and be used as an agricultural lot. Lot 2 will contain the existing home and will be used as a non-farm lot. Lot 3 will contain the remaining ground which will remain in production. There are no existing buildings on proposed lot 3.

There are 2 residences within a ¼ mile and 5 within ½ mile. The site is currently zoned A-1 and is primarily crop ground except for the existing buildings and timber cover. The new residential use will have agricultural uses on all sides, including the established cattle barns across the road. To help minimize future conflict between the cattle operation and the non-farm residence, ***Staff recommends that the applicants be required to record an Ag-Warning Notice with the plat proceeding as a condition of approval.***

Details of the Proposal:

The regular bulk standards, normally permitted uses, and special exception uses from the A-1 Zoning District of the Clinton County Zoning Ordinance will apply to all lots in the proposed subdivision:

Lot size/	<u>Lot 1</u> – 2.88 acres – Agricultural – Lot will contain the existing cattle buildings
Anticipated Use	<u>Lot 2</u> – 2.21 acres – Residential — Lot will contain the existing home <u>Lot 3</u> – 19.30 acres – Agricultural – Ground will remain in ag production
Front setback	50 feet
Side setback	15 feet
Rear setback	40 feet
Building Height - max	35 feet or 2 ½ stories
Density Allowed	1 lot per 40 acres - the applicant’s attorney has submitted an acceptable Agricultural Easement to allow for the increased density in this A-1 district.

County Engineer’s Review of Proposed Driveway Access

All accesses currently exist. Any new accesses onto County roads are subject to permitting and review by the County Secondary Roads Department. Final location and design requirements of any new access will be determined at the time of permitting. New driveways must meet separation and site distance requirements.

County Health Department Review of Well and Septic System Suitability

With an existing system and a parcel size of 2.21 acres, the County Health Department does not foresee any problems developing adequate wastewater facilities on proposed Lot 2 *subject to review of a soil analysis or percolation test.* There is no new well or septic systems planned for Lots 1 or 3. Any new or replacement wells or wastewater treatment systems installed on any lot in the future are subject to permitting and review by the County Health Department. Final wastewater suitability and design will be determined at the time of permitting.

Planning & Zoning Commission Recommendation

The Zoning Commission held a Public meeting on July 9th, 2015 in DeWitt. After taking public comment and reviewing the application, the Commission voted 5 – 0 to recommend approval of this application ***subject to the condition that an Ag-Warning notice prepared by Planning & Zoning staff be recorded with the final plat proceeding.***

Review of Preliminary Plat Subdivision Criteria (2.2.3.D) for Drake's Run Subdivision

- 1. The application conforms with environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal.**

An acceptable soil analysis or percolation test will be required before any septic systems can be constructed or reconstructed in this subdivision. New septic systems are subject to County Health Department approval and permitting and applicants are strongly encouraged to work closely with the County Sanitarian to make sure preliminary designs meet all applicable State and County regulations.

- 2. The applicant has shown the availability of water which meets applicable health standards and is sufficient for the reasonable foreseeable needs of the subdivision.**

Any new wells or connections to existing wells are subject to County Health Department approval and permitting. All lots within this subdivision must share a water supply unless granted a variance by this Commission.

- 3. The site is served, or will be served at the time of development, with all necessary public utilities, including, but not limited to electric and telephone service.**

Utility Services are available at this location. Electrical Service is provided by Eastern Light & Power. Telephone service, if needed, is provided by Windstream.

- 4. The site is located in an area of the County that is appropriate for proposed development activity and which will not contribute to the need for inefficient extensions and expansions of public facilities, utilities and services.**

All lots will have direct access onto 105th Street which is a gravel-surface County road. Lots 1 and 2 have existing driveways, and Lot 3 has an existing field access. The applicant has indicated that they do not plan to install any new driveways at this time. No extension of public utilities is required for development on this site.

- 5. The applicant has shown the availability and accessibility of public services such as schools, public safety and fire protection.**

This subdivision is located in the Northeast School District. Fire protection will be provided by the Preston Volunteer Fire Department which is located within 2 miles. Police protection is provided by the Clinton County Sheriff's Department.

- 6. The site represents an overall development pattern that is consistent with the goals and policies on the Master Plan, the Capital Improvements Program, and any other applicable planning documents adopted by the County.**

This development is in an area designated Agricultural on the Future Land Use Map, which allows for limited development of this type. The proposed non-farm lot is located in an area that is not actively farmed due to the residence and timber. The applicants have submitted an acceptable Agricultural Easement to allow for the increased density in the A-1 district. No infrastructure improvements are required for this development. To help minimize future conflict between the cattle operation and the non-farm residence, *the applicants should be required to record an Ag-Warning Notice prepared by Planning & Zoning staff with the plat proceeding as a condition of approval.*

7. The site and application conform to all applicable provisions of these regulations.

The proper application procedures have been followed for this application.

The site is zoned A-1, which allows 1 dwelling unit per 40 acres. The applicants have submitted an acceptable Agricultural Easement to allow for the increased density in the A-1 district.

The Corn Suitability Ratings for Lot 2 are not factored in as the site contains existing buildings and timber. As such, this lot and its uses are within the limits set forth in the Zoning Ordinance. Lots 1 and 3 will remain a 'farm lots' primarily adapted for ag use so CSR values for these lots are not factored into the approval.

8. The application considers the effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision.

105th Street is a gravel-surface road which had a traffic count of 60 VPD in the most recent DOT study (2010). There is excess capacity for additional traffic on this road sufficient to handle any increased volume, which should be minimal as all structures and uses are existing.

9. The Preliminary Plat shows the location, spacing and design of proposed streets, curb cuts and intersections, all of which are consistent with good traffic engineering design principles.

No new streets are proposed in this subdivision.

10. Each lot in the map of a residential development has adequate and safe access to/from a local street. If lot access is to/from a collector or arterial street, the Planning and Zoning Commission shall expressly find that such access is safe and that no other lot access or subdivision configuration is feasible.

Development on any of the proposed lots will have adequate and safe access to 105th Street, which is a gravel-surface minor collector road. If the property owners wish to establish a new access they will have to meet driveway separation distances as well as Secondary Roads site distance, design, and permitting requirements.

11. The site contains a parcel, lot and land subdivision layout that is consistent with the Zoning Ordinance, good land planning and site engineering design principles.

The lot design for this subdivision meets the requirements of the ordinance and reflects good land planning and site engineering principles.

12. The site will be laid out and developed in a manner that is sensitive to environmental features and/or characteristics of the tract or parcel including, but not limited to, topography, slope, soils geology, hydrology, floodplains, wetlands, vegetation and trees.

The site is primarily crop ground with a few stands of trees. No crop ground will be removed from production as all uses are existing. There is no mapped floodplain on the property and there are no extreme slopes, topography, soil geology, or wetlands to consider on either lot.

13. The applicant agrees to dedicate and improve land, right-of-way and easements, as may be determined to be needed to effectuate the purposes of these regulations and the standards and requirements incorporated herein.

No dedications of land or rights-of-way are required for this subdivision.

Staff Recommendation

Planning & Zoning staff recommends approval of this Subdivision subject to the applicants agreeing to record an Ag-warning notice prepared by Planning & Zoning staff with the final plat proceeding.

STAFF REPORT

DATE: August 3, 2015
TO: Clinton County Board of Supervisors
FROM: Clinton County Planning and Zoning Office
Nate Mueller
RE: An Ordinance Amending the Clinton County Zoning Ordinance to update the required side-yard setback for accessory structures.

Background

The Clinton County Zoning and Subdivision Ordinances currently require that new or substantial re-constructed structures meet the required side-yard setback – currently 15 feet in all zoning districts except Urban Residential (R-2) where the requirement is 10 feet.

The proposed amendments to the Zoning Ordinance would add a side-yard setback reduction to match the existing rear-yard setback reduction for accessory structures in all zoning districts. The change would allow a reduced setback of 5 feet on all sides except the front. This change would allow property owners more flexibility and fewer delays in developing their property and also reduce the burden and cost on Zoning staff and the Board of Adjustment by reducing the number of variance cases brought for public hearing. This change would also bring Clinton County more in line with development regulations of surrounding counties that already allow reduced setback requirements for accessory structures.

Proposed Amendments

Subsection 4.2.1 of the Clinton County Zoning Ordinance is hereby amended by deleting subsection 4.2.1.A in its entirety and replacing it with the following:

- A. Accessory Structures.** No accessory building shall be erected in any required front setback area and no separate accessory buildings shall be erected within five (5) feet of the rear yard or side yard lot line. Accessory buildings shall not occupy more than thirty (30) percent of the rear or side yard. Accessory buildings located closer than ten (10) feet to a principal structure shall be considered part of the principal structure.
1. In a residential or agricultural zoning district an accessory building or structure is a subordinate or incidental structure, attached to or detached from the principal building, which is not used for commercial purposes except as provided for home occupations or farm use.
 2. In non-residential zoning districts an accessory building or structure is a subordinate building or structure, the use of which is secondary to and supportive of the principal building.
 3. All non-agricultural structures are subject to the bufferyard requirements found in Chapter VII of this Ordinance.

Planning & Zoning Commission Recommendation

The Zoning Commission held a Public meeting on July 9th, 2015 in DeWitt. After taking public comment and reviewing the application, the Commission voted 5 – 0 to recommend approval of this ordinance amendment.

Review of Text Amendment Criteria (9.3.2.B.7) for an Ordinance Amendment updating side-yard setback requirements for accessory structures.

Clinton County Zoning Ordinance section 9.3.2.B.7: “When a proposed amendment would result in a change in the text of this ordinance but would not result in a change of the zoning map, the recommendation of the Planning & Zoning Commission shall describe:”

a. Whether such a change is consistent with the intent and purpose of this ordinance and the goals and policies of the Master Plan.

According to the Master Plan, the intent of the setback requirements is to help preserve open space and prevent conflicts between adjoining land uses. Unless located in a subdivision, most non-farm development in the county is a single lot surrounded by fields or timber – allowing a reduced setback between a structure and a corn field does not threaten or impact the open space of either property owner. In more dense development situations such as rural subdivisions, setbacks are often addressed in covenants or Homeowner’s Association documents and the self-imposed restrictions go beyond the County minimums. County staff has not seen any issues arise because of the reduced rear-yard setback requirements, and does not anticipate any issues arising from adopting a reduced side-yard setback requirement.

b. Whether the change is a result of an error or omission in the original text.

It is unknown at this time whether the omission of a side-yard setback reduction was an error or an intentional decision at the time of adoption of the Ordinance. The inclusion of a rear-yard setback reduction would suggest that reduced setbacks were not against the intent of the Board at the time of adoption. Based on the practices of most other counties in the state, Planning & Zoning staff recommends that the Ordinance be updated to include a side yard setback reduction for accessory structures.

c. The areas that are most likely to be directly affected by such change and the likely effects.

Because this change will impact all applications for building development it will affect all areas of the county equally and in a uniform way.

d. The changes in physical, social, or economic conditions or development practices that justify the proposed change.

Clinton County has many lots of record that are well below the 2-acre minimum lot size. The placement of existing houses, outbuildings, and septic systems on these smaller lots, in addition to natural barriers to development such as timber cover, steep slopes, and/or flood plain, does not always leave adequate room to site new structures without protruding into required setbacks. The development and redevelopment of these lots has presented challenges to property owners which have been addressed by the Board of Adjustment through the variance process.

Most other counties around the state have addressed this by allowing reduced side- and rear-yard setbacks for accessory structures. The Board of Supervisors acknowledged this issue when they allowed a reduced rear-yard setback when the Zoning Ordinance was adopted in 1999.

Staff Recommendation

Planning & Zoning staff recommends approval of this Ordinance Amendment.

STAFF REPORT

DATE: August 3, 2015

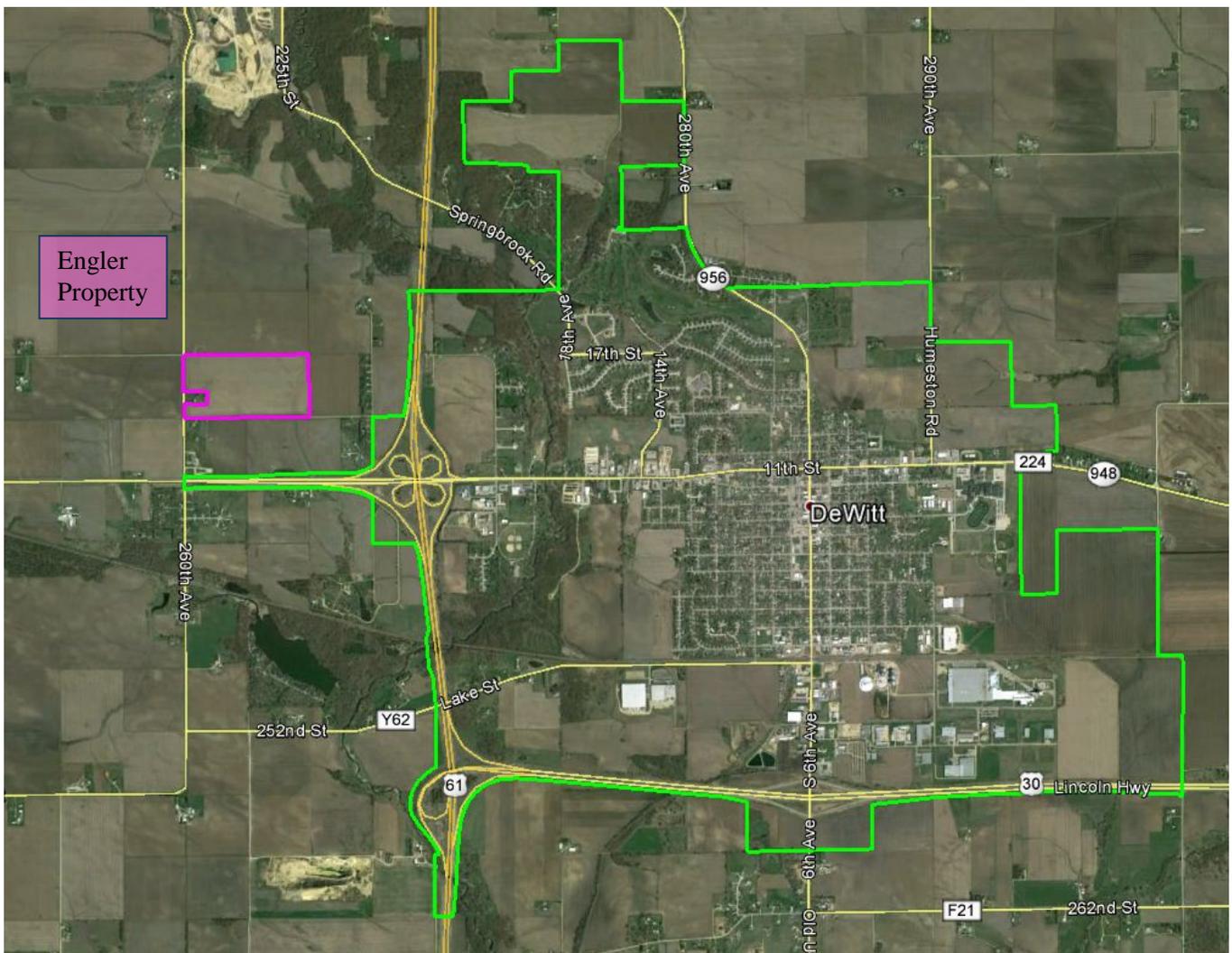
TO: Clinton County Board of Supervisors

FROM: Clinton County Planning and Zoning Office
Nate Mueller

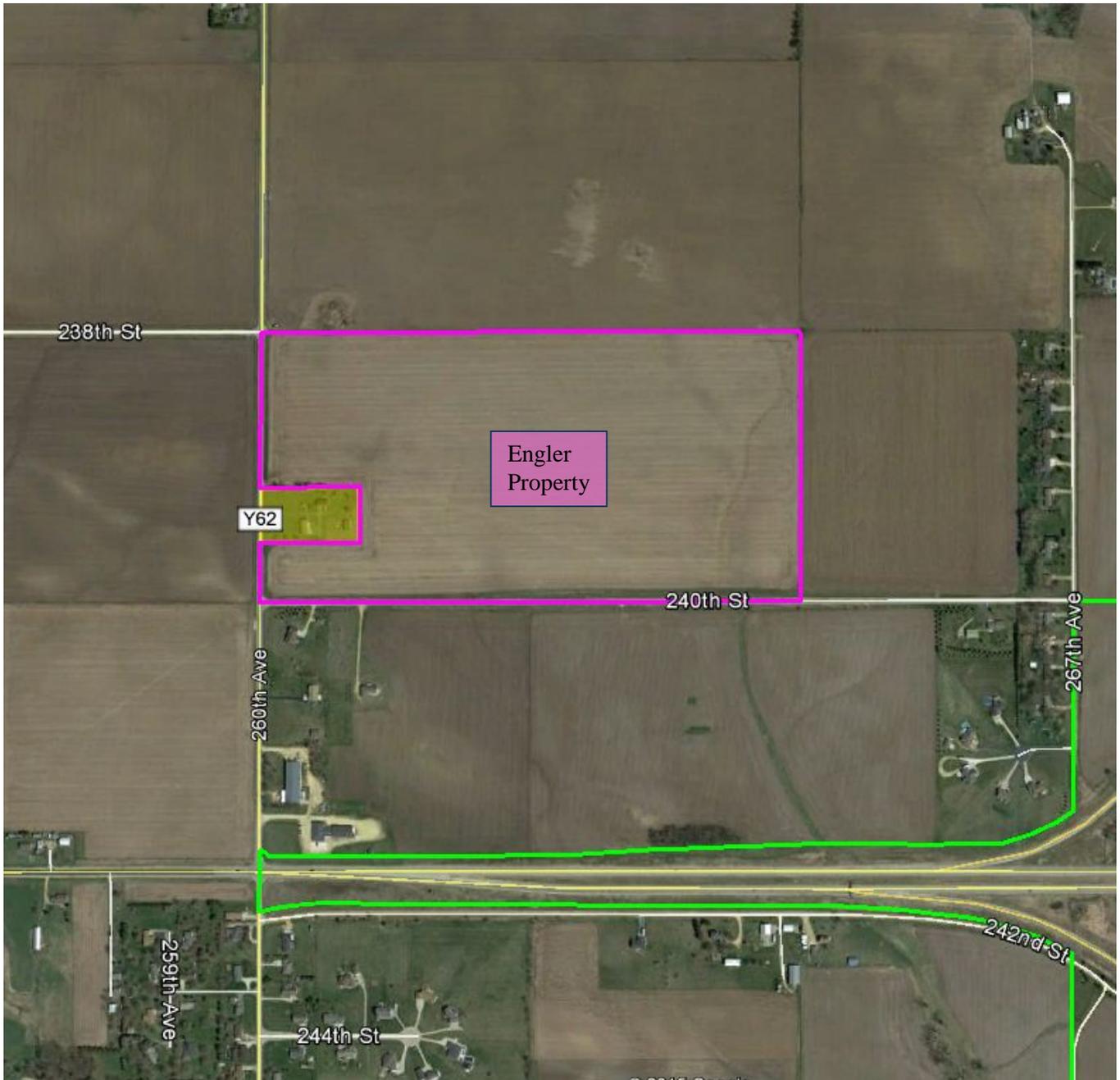
RE: Rezoning application 3875 of The Norma Engler Trust, signed by John Peavey, requesting the change of 73 acres from A-1 (Prime Agricultural) to R-1 (Suburban Residential).

Background

The applicant owns approximately 73.1 acres located at the northeast intersection of 240th Street and 260th Avenue approximately ½ mile west of DeWitt. They are requesting to rezone to Suburban Residential (R-1) for estate planning purposes. There are no proposals to subdivide or develop the land at this time.



Location Detail for Engler Property



Property in Pink – Engler Property.

Property in Yellow – Carl Sewejkis Property – not included in the rezoning request.

Green – Corporate Limits of DeWitt.

Details of the Request

The applicant has expressed an interest in rezoning approximately 73.1 acres located on the northeast corner of the intersection of 240th Street and 260th Avenue from Prime Agricultural (A-1) to Suburban Residential (R-1). In May 2015 the Board of Supervisors approved an amendment to the Clinton County Master Plan which designated this area as Suburban Residential on the Future Land Use Map. That designation supports the proposed rezoning.

Current Surrounding Uses

North: Zoned Agricultural – currently in row crop production.

Southwest: Zoned Residential – Chuck Gregoire recently completed a major subdivision on this property. There will be 6 residential lots that access 240th Street adjacent to the south property boundary of the Engler property.

Southeast: Zoned Agricultural – currently in row crop production.

East: Zoned Agricultural – currently in row crop production. Zoned Residential – currently subdivided and built out with single family residential homes.

West: Zoned Agricultural – currently in row crop production.

Density Allowed currently 1 lot per 40 acres – a 2.88-acre non-farm lot was split from the property in 2004, so only one more non-farm lot could be split from the east half of the property, and one farm dwelling could be built on the remaining land.

Proposed Density Allowed 1 lot per 2 acres – if the property is zoned R-1 a total of 36 two-acre lots could theoretically be created based on total net acres. In reality, a development area of this size would require private subdivision roads to access the interior lots, so the property would likely yield closer to 30 lots.

Development Characteristics of the Area

The areas to the south and east of the site have seen notable residential development over the last 20 years. There are approximately 40 residences in 5 different residential zones within ¼ to ½ mile of the subject property. The majority of these residential zonings are located in areas which are designated as Suburban Residential or Commercial on the Future Land Use Map.

Planning & Zoning Commission Recommendation

The Zoning Commission held a Public meeting on July 9th, 2015 in DeWitt. After taking public comment and reviewing the application, the Commission voted 5 – 0 to recommend approval of this application.

Review of Map Amendment Criteria (9.3.2.B.5) for Rezoning request of Norma Engler Trust

- a. Whether or not the current district classification of the property to be rezoned is valid and the suitability of the subject property for the uses to which it has been restricted under the existing zoning classification.**

This property is currently zoned A-1 (Prime Agricultural). Non-farm residential uses are allowed in this district by the Zoning Ordinance. The A-1 zoning allows for up to one dwelling unit per 40 acres, meaning adjacent crop ground must be put under Agricultural Easement in order to allow for non-farm lots to be split from the property. This requirement limits the total development on this property to 3 total dwellings (2 non-farm lots each with a dwelling, and one farm dwelling on the remaining land). The rezoning request is for approximately 73 acres of bare crop ground in production. The existing zoning is suitable for the current use of the property, but limits further development to a total of 2 dwellings.

- b. Whether there is a need for additional land zoned for the purpose requested.**

There is relatively little undeveloped Residentially-zoned land in the County. Anecdotal evidence taken from Zoning staff's conversations with realtors and private individuals looking to buy land would suggest that there may be a shortage of developable residential land in the rural parts of the county.

- c. The character and use of nearby property.**

The character and use of nearby property is a mix of agricultural and residential in nature. The immediate bordering properties are in crop production, but there are several areas of non-farm residential development within a ½ mile. There is also a limited area of commercial and industrial-zoned land to the south. The proposed use of the property will remain agricultural for the immediate future, but this rezoning would imply that non-farm residential use is expected to occur at some point.

- d. Master Plan future land use designations.**

The Future Land Use Map was changed by the Board of Supervisors in May 2015 to designate this property as Suburban Residential. The Master Plan specifically designates the R-1 Suburban Residential district as the preferred zoning district to implement the Suburban Residential Future Land Use Map designation.

- e. The extent to which the proposed use will detrimentally or positively affect nearby property.**

There is no change in proposed use anticipated at this time. As the market drives development in this area, the property will likely see transition from agricultural to residential uses. The immediate surrounding area includes primarily crop ground which should not be affected by the development of residential lots. This proposed use should have minimal impact on nearby property.

- f. The length of time the subject property has remained vacant as zoned.**

The site has been used as agricultural crop ground since at least the 1930's. It is well suited for that use.

- g. Recommendations of the County's professional staff.**

Planning & Zoning: From an infrastructure and location standpoint, this area is ideally suited for residential development. It is adequately served by existing infrastructure – both by paved local roads and also by close proximity (¼ mile) to a major arterial highway. The site is within ½ mile of the Highway 61 interchange and the City of DeWitt. The site is entirely open crop ground with acceptably flat open areas to support single family residential development. The Board of Supervisors recently changed the Future

Land Use designation of this property to show it as appropriate for suburban residential development in line with the policies of the county's Master Plan.

As well-suited as the site is, the Board must consider the balance between providing room for growth while also protecting prime Ag ground. This subdivision would create housing development opportunities for the County, but would do so at the expense of high-quality crop ground. The vast majority of the site (approximately 60 acres) has a CSR of 82 or above.

As shown in review criteria "b" above, the need for additional land of this zoning designation is a consideration when reviewing a rezoning request. Currently there are very limited opportunities for residential development in the unincorporated areas of the County. While approving this rezoning application would likely mean the eventual loss of this particular high-quality farm ground, the addition of residential development area would allow the Zoning Commission and Supervisors to direct future residential growth to this area, thereby protecting more crop ground throughout the county. In general, this site appears suitable for the proposed use and Zoning Staff recommends approval of the application.

Health Department: After a brief review of the soil types present on the property, the County Health Department does not foresee any problems developing on-site wastewater facilities in this area; however, without specific soil analysis or percolation test results to review final suitability cannot be confirmed. If the rezoning is approved, any eventual subdivision applications would require soil sampling as part of the application review. Any subdivisions of this property would also require a public water supply built to IDNR standards in order to comply with the Subdivision Ordinance requirement of a single water supply per subdivision.

Engineer: While a specific subdivision request is needed to estimate the actual traffic impacts on the surrounding roads, the County Engineer indicated that the existing hard-surface roads should be able to handle the traffic that would be generated by 30 – 35 additional single-family housing lots (the maximum number of dwellings possible at full build-out). However, without detailed calculations he could not confirm whether the traffic generated by such a development would increase the road classification of 240th Street, which may require the County to upgrade the shoulder and/or signage on the road to meet the required safety regulations.

- h. The availability and adequacy of required public and community facilities, utilities and services to serve the proposed use. These may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, solid waste collection and disposal and others as applicable.**

Being located in close proximity to DeWitt means all necessary public utilities and services are easily accessible and could be extended to this property with relative ease. The 2 acre minimum lot size allows each lot to have an approved wastewater disposal system permitted by the County Health Department. The subdivision will be required to share a single water supply. Eastern Iowa Light and Power provides electrical service to the area; the Dewitt Volunteer Fire Department (which is 1 mile from this site) provides fire protection, and the Clinton County Sheriff's Department provides police protection. Solid waste (garbage) disposal would be each lot owner's responsibility.

- i. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the street network influenced by the use, or present parking problems in the vicinity of the property.**

There are no changes to traffic anticipated at this time as the applicant intends to leave the ground in crop production for the foreseeable future. Any subdivision of this site would require private subdivision

roads, which would connect access to 240th Street (100 VPD in 2010) and/or 260th Avenue (540 VPD in 2010). If the applicant wishes to establish new driveways or private subdivision roads in the future, they will be reviewed by the Engineer as part of a preliminary subdivision application. The property is located approximately 1300 feet from U.S. Highway 30 which had a 2010 traffic count of 5000 VPD in the vicinity of 260th Avenue. Highway 30 would serve as the arterial connection for the majority of the traffic generated at this site. This proposed development may adversely impact the safety of the existing road network if it is determined that the increased traffic on 240th Street increases the road classification to the point of needing safety improvement. If such upgrades are determined to be necessary, County staff may request that the applicant enter into a road improvement or road maintenance agreement at the time of subdivision.

- j. The environmental impacts that the proposed use will generate including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting, or other environmental harm.**

While residential development of this property would create storm water runoff, noise and nighttime lighting that are not present in its current use as crop ground, it is unlikely that these changes would be substantial enough to be considered environmental harm. A 2-acres lot size should allow the majority of the impacts from storm water runoff, noise, light, etc. to remain on each individual lot. Physically speaking the area is generally suitable for development. Overall there should be little environmental impact from this use.

- k. The ability of the applicant to satisfy any requirements applicable to the specific use imposed pursuant to these Regulations and other applicable County Ordinances.**

The Subdivision Ordinance requires that any future subdivision is limited to a single on-site water supply, meaning all future residences will be required to share a well. Having a single well should also allow for the creation of a fire flow water access point for fire suppression within the subdivision. Staff recommends that if the Board of Supervisors waives the fire flow requirement, the applicant be required to obtain written acknowledgement from the Dewitt Fire Department that the Department feels it can provide fire protection without a dedicated onsite fire flow water source.

The applicant should not have trouble satisfying any requirements of the Zoning Ordinance or any other Ordinances of Clinton County. The applicant will need to comply with any other applicable regulations and ordinances.

