Attachment 'D'

ORDINANCE NO. 6610

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.27.020 OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REZONING PROPERTY LEGALLY DESCRIBED AS LOTS 7 THROUGH 12, BLOCK 1, GALESBURG ADDITION AND LOTS 1 THROUGH 3 AND LOTS 10 THROUGH 12, ALONG WITH THE VACATED SECTION OF WARREN STREET ADJACENT, ALL IN BLOCK 6, GALESBURG ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA FROM R-1/SINGLE-FAMILY RESIDENTIAL DISTRICT TO A-2/PARKS, ESTATES, AND AGRICULTURAL DISTRICT, AS SET FORTH AND DEFINED IN CHAPTER 15.05 OF THE MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.070 of the 2020 Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by rezoning property legally described as Lots 7 through 12, Block 1, Galesburg Addition, and Lots 1 through 3 and Lots 10 through 12, along with the vacated section of Warren Street adjacent, all in Block 6, Galesburg Addition, City of Council Bluffs, Pottawattamie County, Iowa from R-1/Single-Family Residential District to A-2/Parks, Estates, and Agricultural District, as set forth and defined in Chapter 15.05 of the Municipal Code of Council Bluffs, Iowa.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

ADOPTED
AND
APPROVED September 9, 2024.

MATTHEW J. WALSH Mayor

Attest:

JODI QUAKENBUSH City Clerk

First Consideration: 8-26-24
Second Consideration: 9-9-24
Public Hearing: 9-9-24
Third Consideration: Waived

THE DAILY NONPAREIL

AFFIDAVIT OF PUBLICATION

The Daily Nonpareil

State of Pennsylvania, County of Lancaster, ss:

Yuade Moore, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of The Daily Nonpareil, a newspaper printed and published three (3) days a week at Council Bluffs, in said County and State, and that the notice herto attached was published in said newspaper once each day for the period on the dates below listed.

PUBLICATION DATES:
Aug. 31, 2024

NOTICE ID: 8lurRAFxRKZD1dPLCgB5
PUBLISHER ID: COL-9100979
NOTICE NAME: PH ZC24-006

(Signed) Yuade Moore

VERIFICATION

State of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: 09/03/2024

Nicole Burkholder
Notary Public

PUBLICATION FEE: $18.27
Notarized remotely online using communication technology via Proof.

NOTICE OF PUBLIC HEARING

You are hereby notified that the City Council of the City of Council Bluffs, Iowa, has scheduled a public hearing for September 9, 2024 at 7:00 p.m. in the City Council Chambers, 2 nd Floor of City Hall, 209 Pearl Street, Council Bluffs at which time all persons interested in this matter will be given an opportunity to be heard on the request of Nyles Lehnen to rezone property legally described as Lots 7 through 12, Block 1, Galesburg Addition and Lots 1 through 3 and Lots 10 through 12, along with the vacated section of Warren Street adjacent, all in Block 6, Galesburg Addition, from R-1/ Single-Family Residential District to A-2/Parks, Estates, and Agricultural District.
Jodi Quakenbush, City Clerk
August 31, 2024 COL-9100979

Council Communication

Department: City Clerk
Case/Project No.: ZC-24-006
Submitted by: Moises Monroy, Planner, Community Development Department

Ordinance 6610
ITEM 4.A.

Council Action: 9/9/2024

Description

Ordinance to amend the zoning map of the City of Council Bluffs as adopted in section 15.27.020 by rezoning property legally described as Lots 7 through 12, Block 1, Galesburg Addition and Lots 1 through 3 and Lots 10 through 12, along with the vacated section of Warren Street adjacent, all in Block 6, Galesburg Addition, From R-1/Single-Family Residential district to A-2/Parks, Estates, and Agricultural district, as set forth and defined in chapter 15.05.

Background/Discussion

See attached staff report.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
ZC-24-006 Staff Report	Staff Report	8/16/2024
Attachment A: Location/Zoning Map	Map	8/16/2024
Attachment B: Letter of Intent	Letter	8/16/2024
Attachment C: Letter of Opposition -- Jeffrey and Cynthia Hutcheson/Charles Lowell Richey	Letter	8/16/2024
Public hearing notice	Notice	8/16/2024
Ordinance 6610	Ordinance	8/21/2024

City Council Communication

Department: Community Development CASE #ZC-24-006 Applicant/Property Owner: Nyles R. Lehnen Everett Lehnen Trust 504 Parkwild Drive Council Bluffs, IA 51503	Ordinance No. _____	1st Consideration: 8/26/2024 2nd Consideration: 9/9/2024 3rd Consideration: 9/23/2024 Planning Commission: 8/13/2024

Subject/Title

Request: Public hearing on the request of Nyles Lehnen to rezone property legally described as Lots 7 through 12, Block 1, Galesburg Addition, and Lots 1 through 3 and Lots 10 through 12, along with the vacated section of Warren Street adjacent, all in Block 6, Galesburg Addition, City of Council Bluffs, Pottawattamie County, Iowa from R-1/Single-Family Residential District to A-2/Parks, Estates, and Agricultural District.

Location: Undeveloped land lying northwest of 1424 Harrison Street

Background

The Community Development Department has received an application from Nyles Lehnen to rezone property legally described as Lots 7 through 12, Block 1, and Lots 1 through 3 and Lots 10 through 12, along with the vacated section of Warren Street adjacent, all in Block 6, City of Council Bluffs, Pottawattamie County, Iowa from R-1/Single-Family Residential District to A-2/Parks, Estates, and Agricultural District. The subject property consists of multiple undeveloped parcels of land with a combined land area of 2.98 acres. In 2015, the applicant, on behalf of the previous property owner (Sarah Gorman), submitted a request to vacate the unimproved sections of Warren Street and Mt. Vernon Avenue that abut the subject property. City Council approved the request to vacate Warren Street right-of-way on July 15, 2015 via Resolution No. 15-177. However, the request to vacate Mt. Vernon Avenue right-of-way was denied as the proposed vacation would have landlocked several existing lots of record and eliminated a future connection point between Harrison Street and Parkwild Drive.

Due to the topographical conditions of the site, development on the subject property is significantly constrained. The applicant intends to use the subject property primarily for hunting purposes. This purpose of this request is to allow the applicant to bow hunt on the subject property year-round and to designate the subject property as an apple orchard for taxation purposes.

Land Use and Zoning – The following zoning and land uses surround the subject property:

Direction	Zoning District(s)	Land Uses
North	R-1/Single-Family Residential District	Undeveloped land and a single-family dwelling
South	R-1/Single-Family Residential District	Undeveloped land and single-family dwellings

East	R-1/Single-Family Residential District	Single-family dwellings
West	R-1/Single-Family Residential District	Undeveloped land and single-family dwellings

The Future Land Use Plan of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) designates the subject property as 'Low-Density Residential.'

Property Owner Notification – Public notices were mailed to all property owners within 200 feet of the request. The Community Development Department received the following comments:

A. Stephen Meade, owner of 217 Mt. Vernon Avenue, had several inquiries about the request relative to the minimum lot size requirements in the A-2 District, the amount of land necessary to accommodate an apple orchard, the applicant's ability to hunt the subject property year-round, and whether the proposed rezoning would be used to circumvent restrictions that prevent the construction of a single-family dwelling at this time.

B. Jeffrey and Cynthia Hutcheson, owners of 210 Mt. Vernon Avenue, and Charles Lowell Richey, owner of 241 Warren Street, submitted several documents expressing their opposition to the request (see Attachment 'C').

C. The letter sent to David D. Watts, owner of 710 Elliott Street, was returned as undeliverable.

City Departments and Utilities – All appropriate City departments and utilities were notified of the proposed planned commercial development plan. The following comments were received:

A. The Chief of Staff stated he would recommend denial of the request as the subject property is surrounded by R-1 zoning and thus would constitute "spot zoning" for the benefit of one landowner.

B. The Council Bluffs Public Works Department stated they had no comments on the request.

C. The Council Bluffs Police Department stated they had no comments or objections to the request.

D. The Council Bluffs Fire Department stated they had no comments on the request.

E. Council Bluffs Water Works stated there is no water service to this site. They also stated that Council Bluffs Water Works would not be opposed to a new service line being run to the subject property.

F. MidAmerican Energy stated they have no conflicts or concerns with the request.

Discussion

A. The subject property is an undeveloped tract of land. Due to the topographical conditions of site, development on the subject property is significantly constrained. The proposed rezoning would not address this issue. Furthermore, the site development standards in the A-2/Parks, Estates and Agricultural are more restrictive than the standards in the R-1/Single-Family Residential District (see table below), which could hinder the development potential for the subject property in the future.

	R-1 District	A-2 District
Min. Front Yard Setback	25 feet	50 feet
Min. Interior Side Yard Setback	10% of lot width at building setback line or 5 feet, whichever is greater	10% of lot width or 10 feet, whichever is greater
Min. Street Side Yard Setback	15 feet	20 feet
Min. Rear Yard Setback	20 feet	20 feet
Max. Building Height	35 feet	35 feet
Max. Lot Coverage	35%	10%

B. The minimum lot area requirement in the A-2 District is three acres. None of the parcels of land included in the rezoning request meet the minimum lot size requirements in the A-2 District. Therefore, all of the applicant's land holdings will become nonconforming lots of record if the proposed rezoning is approved. Since the combined land area of all properties included in the rezoning request is 2.98 acres, replatting them into one lot would not be sufficient to meet the minimum lot size requirements in the A-2 District.

If the proposed rezoning is approved, the applicant shall be required to replat all properties under the ownership of the trust into one lot of record. The rezoning shall not become effective until the replat is completed. Furthermore, the applicant must request a subdivision variance to allow the subject property to contain less than the minimum required three acres in the A-2 District.

C. The applicant has indicated the purpose of this request is to allow him to bow hunt on the subject property year-round and to designate the subject property as an apple orchard for taxation purposes. After evaluating the proposed rezoning, the Community Development Department has found that a change of zone is not necessary for the applicant to use the subject property as he intends:

Request	Is a Rezoning Necessary?	Staff Comment	Applicable Code Section
Designate the subject property as an apple orchard for taxation purposes.	No.	Since the subject property is an undeveloped tract of land, the applicant can reduce the property taxes he owes on all of his land holdings by requesting to change their tax designation to the Pottawattamie County Assessor.	N/A
Facilitate hunting activities on the subject property.	No.	Licensed bow hunters meeting the requirements established by the Iowa Department of Natural Resources (DNR) may hunt antlerless deer or female turkey within private property	CBMC Chapter 4.21, Urban Deer and Turkey Management Program

		zoned R-1, R-2, or R-3 containing one acre or more in land area. A minimum of three acres are required to hunt antlered deer on property zoned R-1, R-2, or R-3. Although the combined area of the subject property is 2.98 acres, the applicant can obtain written permission from neighboring property owner(s) to increase the total area of the land on which hunting activities will occur to three acres.	
Allow hunting activities on the subject property year-round.	No.	Hunting may only occur on dates designated by the Iowa DNR as bow-hunting season. The proposed rezoning would not change this requirement.	CBMC Chapter 4.21, Urban Deer and Turkey Management Program
Discharge any apparatus capable of propelling a missile for hunting purposes.	Yes.	Any apparatus capable of firing a missile, exclusive of firearms, may only be operated for hunting purposes on property that is zoned either A-1 or A-2.	CBMC Chapter 8.74, Discharging Firearms in City Limits

D. The subject property is surrounded by land zoned R-1 District to the north, south, east, and west. The proposed rezoning would create a "small island" of A-2 District surrounded by R-1 District, which would constitute "spot zoning."

E. The Bluffs Tomorrow 2030 (Comprehensive Plan) designates the subject property as 'Low-Density Residential,' which is primarily intended for single-family development. The proposed rezoning would not be consistent with the Future Land Use Plan. Furthermore, the subject property is located in an urban area surrounded by existing residential development. There is also potential for additional residential development on the existing platted lots to the north and south of the subject property. The proposed rezoning would not be compatible with existing or future residential development in the surrounding area.

F. Adequate utilities (e.g., water, sanitary sewer, electric, etc.) are not readily available to service the subject property. However, utilities can be extended at the owner's expense to serve future development provided the applicant acquires additional land or easements are retained to run service lines to the subject property.

Recommendation

The Community Development Department recommends denial of the request to rezone property legally described as Lots 7 through 12, Block 1, Galesburg Addition, and Lots 1 through 3 and Lots 10 through 12, along with the vacated section of Warren Street adjacent, all in Block 6, Galesburg Addition, City of Council

Bluffs, Pottawattamie County, Iowa from R-1/Single-Family Residential District to A-2/Parks, Estates, and Agricultural District, based to the reasons stated above.

Public Hearing

Staff speakers for the request:

1. Moises Monrroy, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503
2. Christopher Gibbons, Planning Manager, City of Council Bluffs, 29 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against:

1. Michael and Lu Ann Pribyl, 226 Warren Street, Council Bluffs, IA 51503
2. Stephen Meade, 1424 Harrison Street, Council Bluffs, IA 51503
3. Jeffrey Hutcheson, 210 Mt. Vernon Street, Council Bluffs, IA 51503

The Planning Commission recommended denial of the request to rezone property legally described as Lots 7 through 12, Block 1, Galesburg Addition, and Lots 1 through 3 and Lots 10 through 12, along with the vacated section of Warren Street adjacent, all in Block 6, Galesburg Addition, City of Council Bluffs, Pottawattamie County, Iowa from R-1/Single-Family Residential District to A-2/Parks, Estates, and Agricultural District, based to the reasons stated above.

VOTE: AYE – Hutcheson, Knauss, Freund, Rater, Rew, Stroebele, VanHouten, and Watson. NAY – None. ABSTAIN – None ABSENT – None. VACANT - Three Motion: Carried.

Attachments

Attachment A: Location/Zoning Map
Attachment B: Letter of Intent
Attachment C: Letter of Opposition – Jeffrey and Cynthia Hutcheson/Charles Lowell Richey

Prepared by: Moises Monrroy, Planner, Community Development Department

Attachment A

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION
CASES #ZC-24-006 LOCATION/ZONING MAP

Legend

Subject Property

0 40 80

1 Inch = 83 Feet

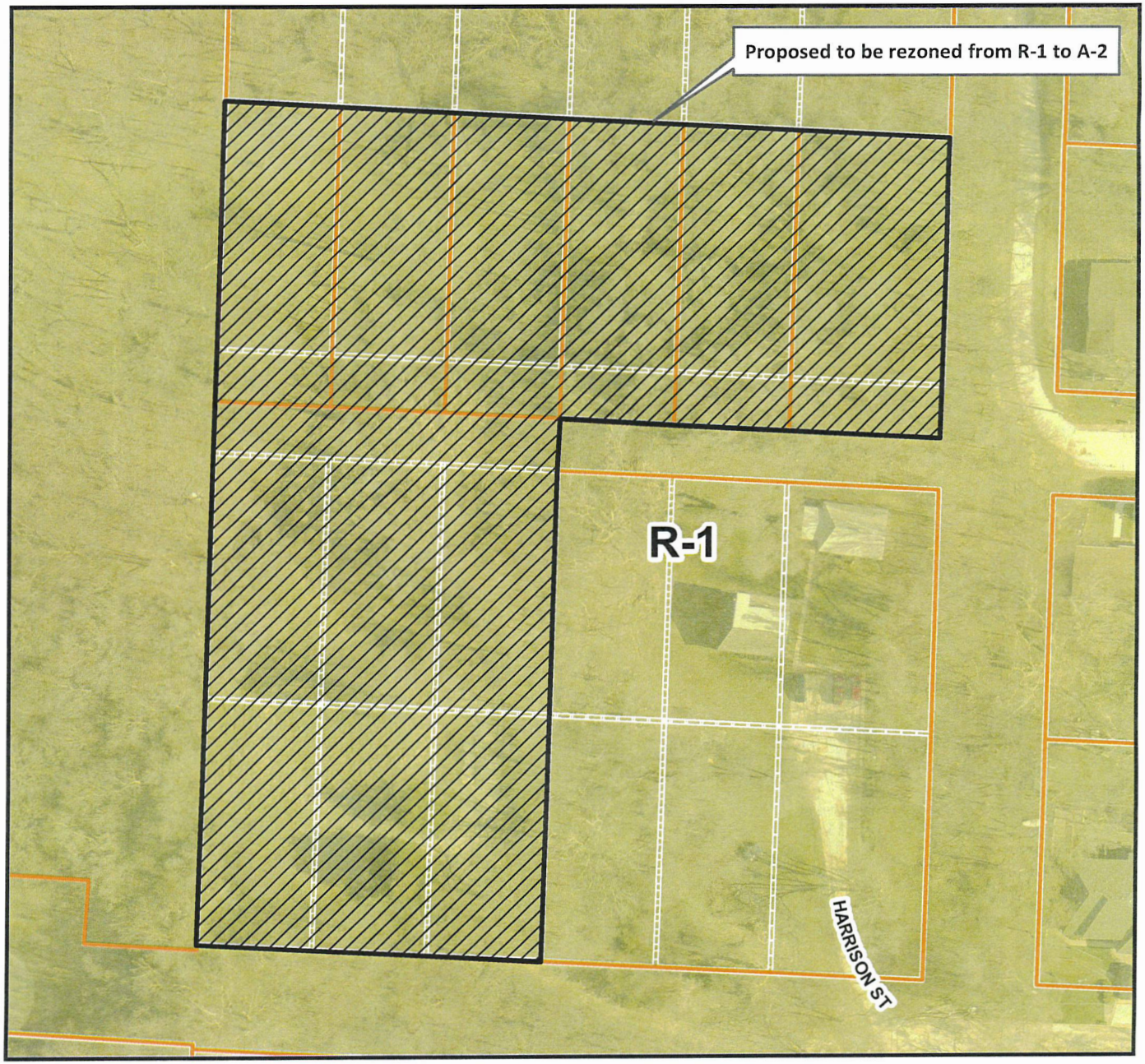


Last Amended: 7/24/2024

Council Bluffs Community
Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 890-5350

DISCLAIMER

This map is prepared and compiled from City documents, plans and other public records data. Users of this map are hereby notified that the City expressely denies any and all responsibilities for errors, if any, in the information contained on this map of the misuse of the same by the user or anyone else. The user should verify the accuracy of information/data contained on this map before using it. The City assumes no legal responsibility for the information contained on this map.



Attachment 'B'

Moises Monrroy Castillo

From: Nyles Lehnen <nyleslehnen@icloud.com>
Sent: Monday, July 15, 2024 1:42 PM
To: Moises Monrroy Castillo
Subject: Rezoning app and letter of intent
Attachments: CamScanner 07-11-2024 14.48.pdf

THIS MESSAGE IS FROM AN EXTERNAL SENDER. Look closely at the SENDER address. Do not open ATTACHMENTS unless expected. Check for INDICATORS of phishing. Hover over LINKS before clicking. Learn to spot a phishing message

>> Letter of intent:
>
> My intent to use the property as a for profit apple orchard with 40 plus trees or more is what I want to do. SW Iowa Apples will be the name of the entity.
>
> Sincerely, Nyles R. Lehnen
>
> Please see Rezoning app attached below
>
>>
>>
>>
>>