



**ZONING BOARD OF ADJUSTMENTS
AGENDA**

**Tuesday, December 21, 2021 - 4:00 PM
Council Chambers, 2nd Floor, City Hall
209 Pearl Street**

1. CALL TO ORDER

- A. *****ALL ATTENDEES THAT ARE NOT FULLY VACCINATED AGAINST COVID-19 ARE REQUIRED TO WEAR A FACEMASK AND/OR FACESHIELD AT ALL TIMES*****

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. ADOPTION OF AGENDA

5. APPROVAL OF MINUTES

6. PROOF OF PUBLICATION/POSTING

7. REVIEW OF MEETING PROCEDURES

8. PUBLIC HEARINGS

A. **CASE #BA-21-004**

Public hearing on the request of Cynthia Realty Company Inc., d/b/a Future Foam, for a variance from Section 15.20.050, Site Development Regulations, I-1/Light Industrial District of the Municipal Code (Zoning Ordinance) to allow a principal structure to have a zero foot interior side yard setback, as opposed to required 10 feet, on property legally described as Lots 2-11, Block 17, Halls Addition along with the vacated east/west alley and vacated Avenue F right-of-way adjacent; and Lots 2-11, Block 18, Halls Addition along with the vacated east/west alley and north one-half of vacated Avenue E right-of-way adjacent, City of Council Bluffs, Pottawattamie County, Iowa. Location: 600 North 10th Street.

9. OTHER BUSINESS

10. ADJOURNMENT

Any questions or concerns regarding this agenda and/or requests for special accommodations at this meeting should be directed to the Community Development Department at (712) 890-5350 or email at cgibbons@councilbluffs-ia.gov.

Zoning Board of Adjustment Communication

Department: Community
Development

Case/Project No.: BA-21-004

CASE #BA-21-004

Council Action: 12/21/2021

Submitted by: Moises Monrroy,
Planner

Description

Public hearing on the request of Cynthia Realty Company Inc., d/b/a Future Foam, for a variance from Section 15.20.050, Site Development Regulations, I-1/Light Industrial District of the Municipal Code (Zoning Ordinance) to allow a principal structure to have a zero foot interior side yard setback, as opposed to required 10 feet, on property legally described as Lots 2-11, Block 17, Halls Addition along with the vacated east/west alley and vacated Avenue F right-of-way adjacent; and Lots 2-11, Block 18, Halls Addition along with the vacated east/west alley and north one-half of vacated Avenue E right-of-way adjacent, City of Council Bluffs, Pottawattamie County, Iowa. Location: 600 North 10th Street.

Background/Discussion

See attached staff report.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Staff Report & Attachments	Other	12/15/2021

TO: Zoning Board of Adjustment
FROM: Community Development Department

DATE: December 21, 2021

RE: **CASE #BA-21-004**

REQUEST: Public hearing on the request of Patrick Medinger, represented by Dan Kerns with Schemmer Associates, a variance from Section 15.20.050, *Site Development Regulations, I-1/Light Industrial District* of the Municipal Code (Zoning Ordinance) to allow a principal structure to have a zero-foot interior side yard setback, as opposed to required 10 feet, on property legally described as Lots 2-11, Block 17, Halls Addition along with the vacated east/west alley and vacated Avenue F right-of-way adjacent; and Lots 2-11, Block 18, Halls Addition along with the vacated east/west alley and north one-half of vacated Avenue E right-of-way adjacent, City of Council Bluffs, Pottawattamie County, Iowa.

APPLICABLE

CODE SECTION: **Section 15.20.050 Site Development Regulations for the I-1/Light Industrial Zoning District**

<u>Minimum Setback</u>	<u>All Structures</u>
<i>Interior Yard</i>	<i>10 feet</i>

RELIEF SOUGHT: A variance from Section 15.20.050, *Site Development Regulations, I-1/Light Industrial District* of the Municipal Code (Zoning Ordinance) to allow a principal structure to have a zero-foot interior side yard setback, as opposed to required 10 feet.

LEGAL

DESCRIPTION: Lots 2-11, Block 17, Halls Addition along with the vacated east/west alley and vacated Avenue F right-of-way adjacent; and Lots 2-11, Block 18, Halls Addition along with the vacated east/west alley and north one-half of vacated Avenue E right-of-way adjacent, City of Council Bluffs, Pottawattamie County, Iowa.

LOCATION: 600 North 10th Street, Council Bluffs, IA 51503

APPLICANT: Patrick Medinger, 1610 Avenue ‘N,’ Council Bluffs, IA 51501

OWNER: Cynthia Realty Co. Inc., 600 North 10th Street, Council Bluffs, IA 51503

REPRESENTATIVE: Dan Kerns, Schemmer Associates, 1044 North 115th Street, Suite 300, Omaha, NE 68144

BACKGROUND INFORMATION – The Community Development Department has received a request from Patrick Medinger, represented by Dan Kerns with Schemmer Associates, for a 10-foot variance from Section 15.20.050, *Site Development Regulations*, of the Municipal Code (Zoning Ordinance) to allow a principal structure to have a zero interior side yard setback in an I-1/Light Industrial District on property addressed at 600 North 10th Street and legally described above.

The subject property is located on the north end of the Future Foam manufacturing site. The applicant is proposing to construct a new 38,000-square foot building addition to replace the south half of an existing building on the subject property (see Attachment ‘C’). The applicant is requesting a variance to allow a zero-foot setback to the westerly property line in order to align the proposed addition with other buildings and

equipment at this site. Additionally, the proposed zero-foot interior side yard setback would facilitate access to the rail spur to the west.

The following attachments have been included for your reference:

Attachment A: Location/Zoning Map

Attachment B: Letter of Intent

Attachment C: Site Plan

Attachment D: Conceptual Plan

CURRENT ZONING AND LAND USE – The subject property is zoned I-1/Light Industrial District. Surrounding properties include the Union Pacific Railroad to the west, which is also zoned I-1 District, and a grain elevator to the north, which is zoned I-2/General Industrial District. Properties to the east are zoned R-3/Low-Density Multifamily Residential District and primarily consist of single-family residential dwellings. Vacant land to the south is owned by the City of Council Bluffs and is zoned A-2/Parks, Estates and Agricultural District.

The following variances have been issued by the Zoning Board of Adjustment on the subject property:

- Case #BA-77-050: A variance to allow two principal residential buildings on a single lot was granted on property previously addressed at 425 North 10th Street. 425 North 10th Street was eventually incorporated into the subject property and currently serves as a parking lot for Future Foam employees.
- Case #BA-94-005: A 30-foot setback variance and a variance to allow 100% lot coverage were granted at 1026 Avenue ‘D’ to allow the construction of a 17,019-square foot building addition.

CITY DEPARTMENTS AND UTILITIES – All City departments and local utility providers were notified of the requested variance. The following comments were received:

- The Community Development Department had the following comments:
 1. The subject property is part of the Future Foam manufacturing site. Future Foam is bounded by Avenue ‘B’ to the south, Avenue ‘G’ to the north, North 10th Street to the east, and the Union Pacific Railroad to the west. Due to these existing physical constraints, opportunities to expand the applicant’s manufacturing operation are limited. The City of Council Bluffs would likely not support an expansion to the east of North 10th Street into the existing residential neighborhood. The Community Development Department suggested rezoning the entire Future Foam site to the P-I/Planned Industrial District and adopting a planned industrial development plan. The planned industrial development plan would have allowed the applicant to adopt a specific set of standards that takes into consideration the existing conditions and physical constraints of the site, provides the necessary flexibility to build the new 38,000-square foot building addition as proposed, and facilitates any future development that occurs on the site. However, the applicant preferred to request a variance to allow a zero-foot interior side yard setback.
 2. The minimum I-1/Light Industrial District interior side yard setback is 10 feet. The applicant is requesting a 10-foot variance from Section 15.20.050, *Site Development Regulations*, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow a zero interior side yard setback to the westerly property line. Based on the most recently available GIS aerial photography, the south 155 feet of the portion of the building proposed to be demolished currently has a zero-foot interior side yard setback. However, the north 140 feet of said portion, approximately 48% of the building area proposed to be demolished, is located 8.5 feet from the westerly property line. As such, the proposed building addition would increase the existing nonconformity.
 3. The proposed building addition will comply with all other minimum I-1 District setback requirements, as shown in Attachment ‘C.’
 4. The total amount of lot coverage on the subject property currently exceeds the maximum 60% allowed in the I-1 District. The applicant’s proposal would reduce the amount of lot coverage to 53%, which would eliminate an existing nonconformity on the subject property. **Note:** All land designated

as Parcel ID #754425301001, which contains land located to the east of North 10th Street, was included in the calculations of lot coverage for all structures on the subject property.

- The Council Bluffs Permits and Inspections Division stated they were not opposed to the variance request.
- The Council Bluffs Fire Department stated they had no comments on the variance request.
- Council Bluffs Water Works stated they had no comments on the variance request.
- Cox Communications stated they had no issues with the variance request.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet of the subject property were notified of the requested variance. The following comments were received:

- Timothy Krueger, owner of 921 Avenue ‘G,’ stated he would not be opposed to this request provided that his property is not negatively impacted by the proposed building addition.

COMMENTS - Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when ‘unforeseen applications of this Ordinance...create particular hardships.’ No variance shall be granted unless the Board of Adjustment makes findings of fact based on the standards and conditions that follow. A variance less than requested may be granted by the Board when the record supports the applicant’s right to some relief, but not to the entire relief requested. (§15.02.080 – *Variances*)

1. *The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity. The subject property is part of the Future Foam manufacturing site. The topography of the property is typical of those in the general vicinity and surrounding area. Although the shape of the subject property is relatively uniform, it is constrained within an “island” between Avenue ‘B’ to the south, Avenue ‘G’ to the north, North 10th Street to the east, and the Union Pacific Railroad to the west. The existing configuration of the Future Foam site is singularly unique in this area of the city and does not apply to other properties in the vicinity.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. The existing location and configuration of the Future Foam site significantly restricts how and where the applicant can expand their operation. Granting some relief from the application of the Zoning Ordinance would be appropriate in order to allow the applicant to continue to make reasonable use of the subject property.*
3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. Although the current property owners created some of the existing conditions on the subject property, the location of existing public right-of-way (i.e. North 10th Street, Avenue ‘B’ and Avenue ‘G’) and the railroad tracks are beyond their control. As such, the disadvantage that affects the subject property does not exist because of the owners or their predecessors.*
4. *Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district. Granting the requested variance to allow a zero-foot interior side yard setback would constitute a special privilege, as it would allow the applicant to increase an existing nonconformity on the subject property, which is explicitly denied in Section 15.26.040(A), *Enlargement of Nonconforming Structure*, of the Council Bluffs Municipal Code (Zoning Ordinance). However, granting a variance less than requested would provide the necessary flexibility to accommodate the proposed building addition and replicate part of the existing building layout on the subject property without conveying any special privileges onto the applicant or the subject property.*
5. *Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance. The variance process*

is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this ordinance that create particular hardships. Granting a variance less than requested to allow the construction of the proposed addition will not be contrary to the public interest and will not adversely impact surrounding properties.

RECOMMENDATION

The Community Development Department recommends approval of a 1 ½-foot variance from Section 15.20.050, *Site Development Regulations, I-1/Light Industrial District* of the Municipal Code (Zoning Ordinance) to allow a principal structure to have an 8 ½-foot interior side yard setback, as opposed to required 10 feet, on property legally described as Lots 2-11, Block 17, Halls Addition along with the vacated east/west alley and vacated Avenue F right-of-way adjacent; and Lots 2-11, Block 18, Halls Addition along with the vacated east/west alley and north one-half of vacated Avenue E right-of-way adjacent, City of Council Bluffs, Pottawattamie County, Iowa, based on the reasons stated above.




Christopher Gibbons, AICP
Planning Manager

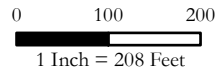


Moises Monrroy
Planner

CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT CASES #BA-21-004 LOCATION/ZONING MAP

Legend

 Subject property

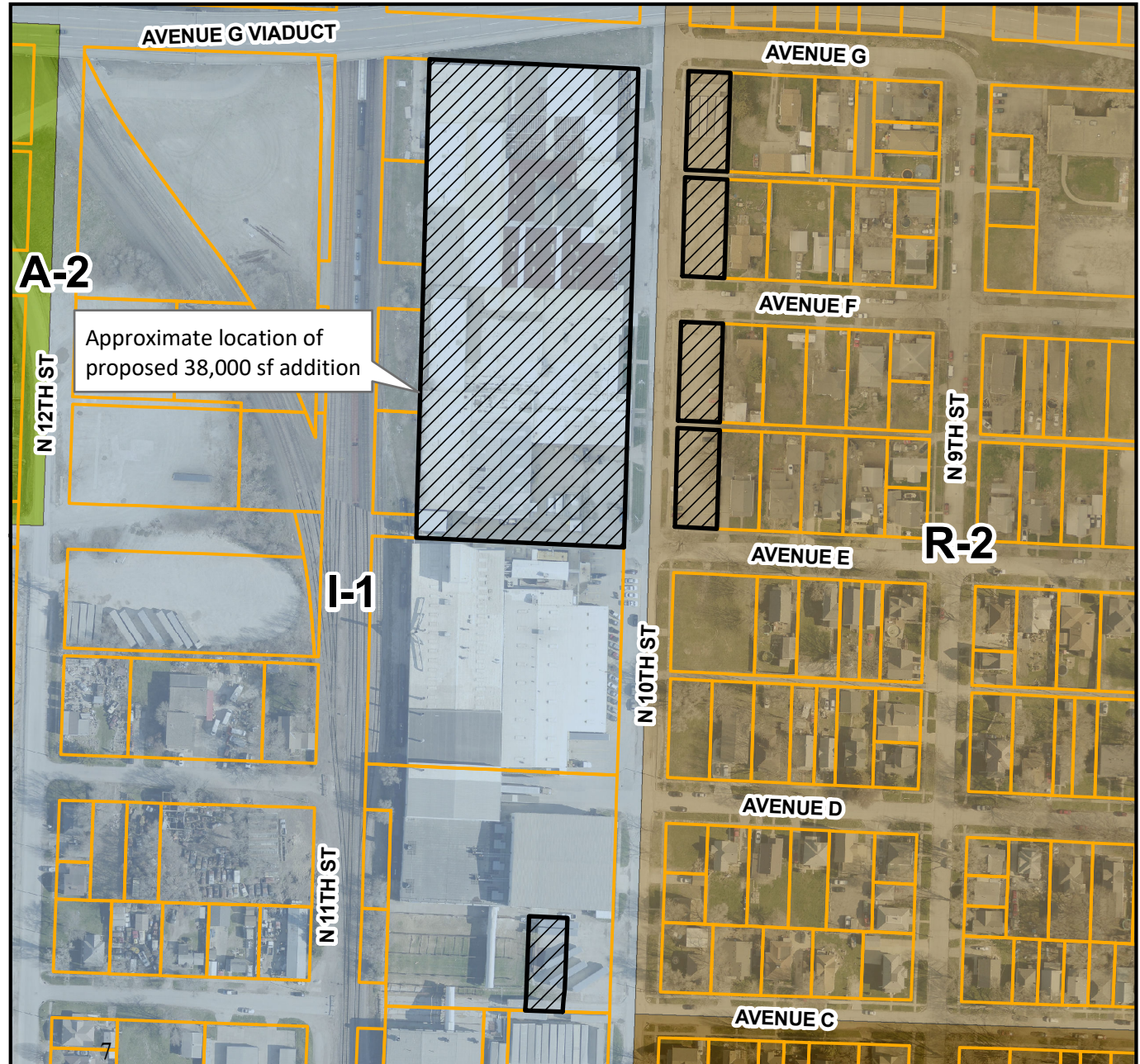


Last Amended: 12/1/2021



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

DISCLAIMER
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Design with Purpose. Build with Confidence.

November 22, 2021

City of Council Bluffs, IA
Community Development Department
209 Pearl Street
Council Bluffs, IA 51503

RE: Zoning Board of Adjustments Application
Future Foam, 600 N. 10th St

To Whom it May Concern:

Per the requirements for Application to the Zoning Board of Adjustments, the following is a statement of operations for the property:

1. Spring Plant at 600 N 10th St produces bed springs made out of wire. Plant also has a lamination line that laminates the layers of foam together to make a complete bed. When beds are completed, each mattress can be shipped out either flat pack or rolled and placed into a box.
2. Operation hours are 7am to 2:30am Monday through Fri.
3. 33-36 employees of 1st shift that operate 7am to 3:30pm. 10-12 employees on 2nd shift operate 3:30pm to 2am Monday through Thursday.
4. Total amount of employees is 46-48 employees that work in Spring Plant, and 2-4 mechanics that report at 400 N 10th St plant at times go over to work on down equipment. Current total amount at max would be 49-52. If we are able to complete the addition as planned, it will add 12-16 jobs on second shift to that number (49-52).
5. Future manufacturing expansion for foam production is planned to take place in the proposed addition.

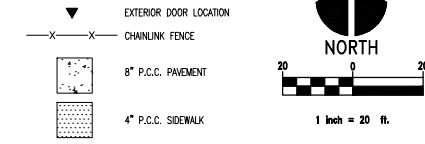
If you have any questions or need additional information, please feel free to contact me via phone at 402-431-6377 or via email at dkerns@schemmer.com

Respectfully Submitted,

Dan Kerns, AIA, NCARB
Principal
Manager, Architecture
Commercial Market Leader

Attachment C

LEGEND



REFERENCED CONSTRUCTION NOTES:

1. TAPER CURB FROM 6" TO 0" ALONG CURVE.
2. CONSTRUCT 8" P.C.C. PAVEMENT, SEE SUDAS STANDARD SPECS SECTION 7010.
3. CONSTRUCT 4" P.C.C. SIDEWALK, SEE 4/C201.
4. DOCK WALL, SEE ARCHITECTURAL.
5. STOOP, SEE ARCHITECTURAL.
6. PAVEMENT AT BUILDING/STRUCTURE, SEE 2/C101.
7. CONSTRUCT THICKENED EDGE, SEE 3/C101.
8. CANOPY WALL, SEE ARCHITECTURAL.
9. CONSTRUCT 6" STANDARD CURB AND GUTTER PER SUDAS FIGURE 7010.12.
10. BUILDING, SEE ARCHITECTURAL.
11. TAPER CURB FROM 6" TO 0" IN 5' LINEAR.
12. CONSTRUCT CURB AND GUTTER TO MATCH EXISTING.
13. CONSTRUCT CURB RAMP PER SUDAS FIGURE 7030.206.
14. STAIRS, SEE ARCHITECTURAL.
15. CONSTRUCT CHAIN LINK FENCE WITH TOP RAIL, ENCLOSED TOP WITH CHAIN LINK AND GATE ACCESS TO PROTECT MECHANICAL STRUCTURES PER SUDAS FIGURE 9060.101. FENCING SHALL BE 3' TALLER THAN THE TOP OF MECHANICAL STRUCTURES.
16. CONSTRUCT BOLLARD, SEE DETAIL 8/C201.

LAYOUT COORDINATES

POINT #	NORTHING	EASTING
1	6970686.10	16465477.98
2	6970686.29	16465430.74
3	6970581.95	16465429.06
4	6970582.42	16465307.12
5	6970573.01	16465406.60
6	6970525.10	16465479.27
7	6970536.12	16465456.88
8	6970524.94	16465450.48
9	6970535.22	16465455.56
10	6970287.01	16465448.53
11	6970287.66	16465397.88
12	6970289.23	16465397.25
13	6970289.53	16465254.24
14	6970261.84	16465254.14
15	6970262.10	16465222.51
16	6970257.11	16465222.57
17	6970256.75	16465178.28
18	6970289.60	16465178.55
19	6970588.90	16465437.35
20	6970572.24	16465395.12
21	6970570.00	16465388.49
22	6970572.11	16465385.64
23	6970579.11	16465385.66
24	6970572.27	16465344.50
25	6970579.27	16465344.53
26	6970580.78	16465341.94
27	6970577.31	16465335.86
28	6970582.34	16465327.22
29	6970589.34	16465327.25
30	6970319.63	16465370.74

PROPOSED BUILDING

WORK IN THIS AREA NOT PART OF THE BUILDING PACKAGE SEE RESTROOM PACKAGE

ISSUE DATE:	10/01/2021
DESIGNED:	MJS
DRAWN:	JAD
CHECKED:	MJK
DATE:	11/23/2021
BY:	JAD
DESCRIPTION:	PR NO. 1

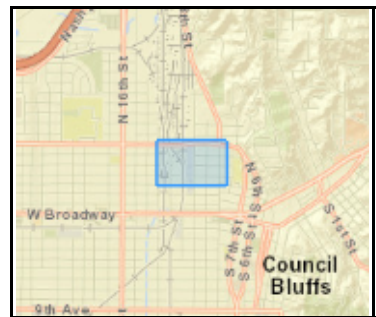
SCHEMMER
Design with Purpose. Build with Confidence.

FUTURE FOAM
WAREHOUSE ADDITION
400 N. 10TH ST
COUNCIL BLUFFS, IA 51503
SITE LAYOUT & PAVING PLAN

PROJECT NO.: 08120.001

C101

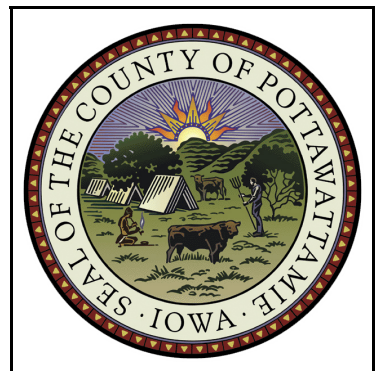
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DATE PLOTTED: 11/23/2021 10:00:00 AM



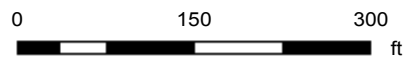
Legend

- World Imagery (Map Service)
- World Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 60cm Resolution Metadata

Pottawattamie County GIS
 223 S 6th St.
 Council Bluffs, IA 51501
 (712) 328-4885
 gis@pottcounty-ia.gov
 https://gis.pottcounty-ia.gov
 11/20/2021



SCALE: 2568



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