



**AGENDA (REVISED)**  
**CITY OF CEDAR FALLS, IOWA**  
**PLANNING AND ZONING COMMISSION MEETING**  
**WEDNESDAY, SEPTEMBER 11, 2019**  
**5:30 PM AT CITY HALL**

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**Call to Order and Roll Call**

**Approval of Minutes**

1. Planning and Zoning Commission Minutes of August 28, 2019.

**Public Comments**

**Old Business**

- 2. Panther West Preliminary Plat**  
**Location:** 40 acre property north of Aldrich Elementary School  
**Applicant:** Panther Farms, LLC  
**Previous discussion:** August 28, 2019  
**Recommendation:** *Applicant requests deferral to the next meeting*  
**P&Z Action:** *None*

**New Business**

- 3. The Pointe at Henry Farms Preliminary and Final Plat**  
**Location:** Southwest corner of Highway 58 and W. Ridgeway Avenue  
**Applicant:** VEREIT Real Estate, L.P. (owner); VJ Engineering (surveyor)  
**Previous discussion:** None  
**Recommendation:** Recommend approval  
**P&Z Action:** *Review and make a recommendation to City Council*
- 4. College Hill Neighborhood Commercial District Facade Review – 2211 College Street**  
**Location:** 2211 College Street  
**Applicant:** Emaad LLC  
**Previous discussion:** None  
**Recommendation:** *Recommend approval*  
**P&Z Action:** *Review and make a recommendation to City Council*
- 5. PO-1 District Site Plan Amendment – All Smiles Family Dentistry Signage**  
**Location:** 915 Hudson Road  
**Applicant:** All Smiles Family Dentistry (owner); Levi Architecture  
**Previous discussion:** None  
**Recommendation:** *Recommend approval*  
**P&Z Action:** *Review and make a recommendation to City Council*
- 6. College Hill Neighborhood Commercial District Façade Review – temporary mural installation**  
**Location:** multiple locations in the College Hill Business District  
**Applicant:** College Hill Partnership  
**Previous discussion:** None  
**Recommendation:** *Recommend approval*  
**P&Z Action:** *Review and make a recommendation to City Council*

- 7.** **Presentation of Draft Creekside Technology Center Master Plan – Confluence, Inc.**  
**Location:** North of Highway 20 and Hudson Road Interchange  
**Previous discussion:** None  
**Recommendation:** Review and continue discussion to next meeting  
**P&Z Action:** *Provide direction and comments*

## **Commission Updates**

### **Adjournment**

#### Reminders:

- \* September 25th and October 9th Planning & Zoning Commission Meetings
- \* September 16th and October 7th City Council Meetings

**Cedar Falls Planning and Zoning Commission  
Regular Meeting  
August 28, 2019  
City Hall Council Chambers  
220 Clay Street, Cedar Falls, Iowa**

**MINUTES**

The Cedar Falls Planning and Zoning Commission met in regular session on Wednesday, August 28, 2019 at 5:30 p.m. in the City Hall Council Chambers, 220 Clay Street, Cedar Falls, Iowa. The following Commission members were present: Adkins, Hartley, Holst, Larson, Leeper, Prideaux, Saul and Wingert. Karen Howard, Community Services Manager, David Sturch, Planner III and Iris Lehmann, Planner I, were also present.

- 1.) Chair Holst noted the Minutes from the August 14, 2019 regular meeting are presented. Ms. Prideaux noted that Item 3, paragraph 3 should have the words "the minutes as presented" stricken. Mr. Larson made a motion to approve the Minutes as amended. Mr. Wingert seconded the motion. The motion was approved unanimously with 8 ayes (Adkins, Hartley, Holst, Larson, Leeper, Prideaux, Saul and Wingert), and 0 nays.
- 2.) The first item of business was a public hearing regarding a land use map amendment for West Fork Crossing. Notice of public hearing was published in the Courier on August 21, 2019. Ms. Saul made a motion to open the public hearing. Mr. Wingert seconded the motion. The motion was approved unanimously with 8 ayes (Adkins, Hartley, Holst, Larson, Leeper, Prideaux, Saul and Wingert), and 0 nays.

Chair Holst introduced the item and Mr. Sturch provided background information. He explained the land use map amendment is for 119 acres of land in the A-1 District in the western part of the City along Union Road. He discussed the characteristics of the land use categories within the property and the existing floodplain. He displayed the proposed future land use map with amendments including:

- reduction of greenways/floodplain to follow current floodplain and drainage areas
- creation of areas for open space and parkland
- opportunity to create area for neighborhood park
- change neighborhood commercial to low density residential

Staff recommends approval of the amendment to the future land use map from Greenways/Floodplain and Neighborhood Commercial to Low Density Residential with conformance to all staff recommendations and comments from the Planning and Zoning Commission.

Mike Girsch, 1608 Union Road, expressed objection to the removal of the commercial area on his property as it reduces options for future sale. He feels there is potential for a smaller business to be built in the future.

As there were no further comments from the public, Chair Holst closed the public hearing. Mr. Wingert noted that he will be abstaining from the item.

Mr. Holst asked about the land use to the north of Mr. Girsch's property. Mr. Sturch stated that the NewAldaya development was changed to planned development along with the RP zoning change. The land use doesn't really follow the property lines but the Commission can consider changes as new plans are proposed in the area. Ms. Howard stated that they will have to think

about the long term plan to avoid piecemealing the area. Mr. Leeper noted that he is sensitive to a more restrictive zone. Ms. Howard suggested maintaining the neighborhood commercial land use to the north of the petitioner's property. Mr. Leeper asked if there has been any contact from the property owners to the south. Mr. Sturch stated that a notification was sent out and he has not heard anything from those property owners. Mr. Holst stated that he would be supportive of the change to low density residential while maintaining the small neighborhood commercial land use.

Ms. Saul moved to approve the land use map amendment from neighborhood commercial and greenways/floodplain to low density residential and maintain the neighborhood commercial to the north of the petitioner's property on Union Road. Ms. Adkins seconded the motion.

Ms. Prideaux asked when the Commission would consider parks and greenspace. Ms. Howard stated that comments regarding future use of greenway and open spaces are appropriate to speak to at this time. Ms. Prideaux noted that she would like to see parkland added. Ms. Saul asked how that would affect what the developer does on that land. Ms. Howard stated that developers typically look at the piece of land to include elements of a healthy neighborhood and it can all be determined when the actual preliminary plat is submitted for review by staff and the Commission. She clarified that the current request is to change the land use map designations and the zoning would be discussed during the rezoning hearing.

Mr. Larson asked for clarification on the motion that was made. It was to amend the land use map with the exception of the areas to the north.

The discussion ended and the motion to recommend approval of the land use map amendment was approved with 7 ayes (Adkins, Hartley, Holst, Larson, Leeper, Prideaux and Saul), one abstention (Wingert), and 0 nays.

- 3.) The next item for consideration by the Commission was a public hearing for a rezoning request from A-1 to R-1 at West Fork Crossing. Mr. Leeper made a motion to open the public hearing and Ms. Adkins seconded the motion. The motion was approved unanimously with 8 ayes (Adkins, Hartley, Holst, Larson, Leeper, Prideaux, Saul and Wingert), and 0 nays.

Chair Holst introduced the item and Mr. Sturch provided background information. He explained that it is a rezoning request of 119 acres from A-1, Agriculture to R-1, Residential and explained the rezoning criteria used in the process. He noted that the request must be consistent with the Future Land Use Map and Comprehensive Plan, the property must be readily accessible to sanitary sewer service and have adequate roadway access. He discussed the previously approved land use map amendment and what it means for the rezoning. The area is prime for growth, all requirements for rezoning are met, and the rezoning makes sense for the location. Mr. Sturch also discussed needs that will be caused by rezoning, which included a potential high school, efficient delivery of public services, open space, parks, trail connections and a well-connected street network. Rezoning is the first step in the developmental process, which is followed by subdivision platting and stormwater review. Staff recommends approval with conformance with all staff recommendations and comments from the Planning and Zoning Commission.

Mr. Wingert noted that he is abstaining for the discussion. Johnathon Klein, developer with ISG, spoke about how Cedar Falls is growing quickly and how this is a great location for future development. They intend to incorporate parks and greenways, connect to future trails, as well as to meet all regulations and stormwater management.

Mike Girsch asked how this will affect his property and concerns with the stormwater runoff



from the development. Mr. Holst stated that his property is not included in the request. As there were no further comments from the public, Chair Holst closed the public hearing. Mr. Wingert noted that he will be abstaining from the item. Mr. Larson made a motion to approve the rezoning request as submitted. Ms. Saul seconded the motion.

Mr. Leeper feels that this is an appropriate change and supports the rezoning. Ms. Saul agreed. Ms. Prideaux asked what the City's requirements are for setting aside land for parks. Ms. Howard noted a clause in the subdivision code to set aside adequate open space to meet neighborhood needs. There is no specific numerical calculation for what to set aside, but staff works with developers to come to an appropriate agreement. Mr. Leeper encouraged the developer to consider the traffic for the development with the high school.

The discussion ended and the motion to recommend approval of the rezoning request was approved with 7 ayes (Adkins, Hartley, Holst, Larson, Leeper, Prideaux and Saul) 1 abstention (Wingert), and 0 nays.

- 4.) The Commission then considered a facade review for The Pump Haus at 311 Main Street. Chair Holst noted that he will be abstaining from the discussion and passing the Chair to Vice-Chair Leeper. He introduced the item and Ms. Lehmann provided background information. She explained that the owner is requesting a site plan review for a proposed façade change to the front of the building. It is proposed to replace the storefront windows with two glass industrial garage doors and to install a new awning over the recently approved sidewalk café. The property falls within the Central Business Overlay District, which triggers Planning and Zoning and City Council approval. Ms. Lehmann displayed a rendering of the current storefront and the proposed storefront. She explained that the property was built in 1893 and a number of substantial improvements have been made since then; these changes have made the structure non-contributing to the downtown historic district. She discussed both proposed modifications separately, starting with the criteria for the garage doors.

She explained that the proposed alteration of the storefront windows goes against a number of the districts design criteria, including: proportion, pattern, windows and transparency, and architectural features. Large display windows allow for unimpeded views into the interior of buildings, which is ideal for retail and restaurant uses, and is the most important element of building design of storefronts. The smaller glass lites in the garage door will be less transparent and may not be ideal for retail uses if the use of the space were to change in the future. She noted that staff understands that operable windows could be an attractive feature for a restaurant during summer months and would be appropriate and attractive in a different context, such as along a side street, where a storefront does not currently exist, or a repurposed industrial building. However, changing out the classic storefront window configuration with modern glass, industrial garage doors would be a substantial change that is not in keeping with the historic character of the building or the district. The proportions of the garage doors do not fit in with the existing proportions of the façade and will disrupt the architectural features and design of the building. Staff has encouraged the applicant to consider other options, such as swivel windows that will open within the existing openings, or similar. Staff is not opposed to the use of glass garage doors in general, however, it is not compatible with the classic storefronts on Main Street downtown.

Ms. Lehmann then discussed the second part of the proposal, the awning. It is proposed to be a 10' x 20' gray, lightweight canvas mounted to the building ten feet above the sidewalk and will have a clearance of 8' off the sidewalk at the point of full extension, which does meet minimum clearance requirements. Awnings are allowed downtown, however this is proposal is unique in its scale and will require discussion by the Commission. Staff feels that this kind of improvement could be appropriate with the requirement that if the sidewalk café were ever removed, the awning be retracted to 5 feet or taken down. Another stipulation of approval

would be that the applicant work closely with the building official to ensure that the awning is commercial quality and is safely and properly mounted to handle wind loads.

Staff recommends denial of the garage door portion of the proposal based on the aforementioned reasons. Staff recommends approval of the proposed awning with the stipulations that the applicant coordinates with the Building Department to ensure quality and safe attachment and that the awning be retracted or taken down when the café is removed.

Bruce and Johna Petersen, 1607 River Bluff Drive, stated that they changed their original design from one door to two in an effort to appease the review committee. They feel that this design is a new trend that gives a vibrant feel that allows guests to feel like they are indoors and outdoors. Ms. Petersen read an email from Carol Lilly of Community Main Street to Brandon of Christie Door Company, explaining that she likes and supports the concept of garage door type openings in restaurants and that the downtown design committee members are supportive as well. She explained the Downtown Overlay District and its purpose, and stated that she reached out with the intent to help business owners reach their goals while adhering to the ordinance. Ms. Petersen stated that they would like to stay current and on-trend and noted that they received a facade grant to help with the cost. She also noted that this is not irreversible and does not believe that this change would reduce window coverage.

Mr. Larson stated that he is in support of the project and noted that he instinctually would have chosen one garage door. Ms. Saul agreed that she likes the project and she prefers one garage door. Ms. Prideaux stated that she feels that the single garage door would be the option that would work the best and that it would give a personal identity to the Pump Haus and some variation to Main Street. Mr. Larson also noted that the garage door is essentially storefront windows with breaks and hinges that allow it to retract. He also noted that as this storefront is not historically significant and the windows are inset, he feels this change does not disrespect the storefront's current design. He added that this type of improvement should be reviewed on a case by case basis. Ms. Adkins also prefers the single garage door and feels that it allows for more transparency. Mr. Leeper thinks it's a great idea, but doesn't like the implementation. He feels the canopy is too large. Mr. Larson stated that if all businesses had large canopies, it would be unappealing, but to have just one would give it more interest. He asked if there is anything about this kind of awning that goes against code. Ms. Lehmann stated that the code speaks to projections over the sidewalk, but only really specifies signage. Awnings do not have specific language, but it has been staff practice to treat them the same to allow for clearance and walkability. There are also specific requirements for sidewalk cafés, which could also help dictate what is allowed. Ms. Howard stated that part of the reason that the awning needs to be approved by the Planning and Zoning Commission and City Council is because it extends into public property and needs to be appropriate in quality and construction.

Ms. Saul made a motion to approve both proposed changes to the façade, with the change of making it a single garage door and with the stipulations noted in the staff report for the awning. Ms. Adkins seconded the motion. The motion was approved with 6 ayes (Adkins, Hartley, Larson, Prideaux, Saul and Wingert), 1 abstention (Holst) and 1 nay (Leeper).

- 5.) The next item of business was a preliminary plat for Panther West. Chair Holst introduced the item and Mr. Wingert noted that he would abstain from the discussion. Ms. Lehmann provided background information, explaining that the Panther Farms LLC proposes to subdivide approximately 40 acres of land in an R-1, Residential zone with the intent to develop 98 new residential lots similar to neighboring subdivisions. At this time the plat is being presented for discussion only. Ms. Lehmann provided a rendering of the four phases proposed within the plat and explained the breakdown of each section. The proposed plan coordinates the development with the installation of utilities, public services and streets. A stipulation is in

place that the Arbors Drive connection to Greenhill Road is in place before the final plat for subdivision is approved. She also discussed the sidewalk connections, as well as a proposed traffic circle at the intersection of Madeline and Arbors Drive, that is under review by the Engineering Division. Stormwater is also under review by the Engineering Division and the Corps of Engineers, which may change the layout of the plat.

Ms. Saul asked if the northeast corner needs to be platted before this plat. Ms. Lehmann noted that it should be done the same time or before. Ms. Saul also asked about Arbor Drive and how far it will be completed. Ms. Prideaux asked about additional traffic calming measures, such as additional cross walks, etc. Steve Trosky with CGA Engineers stated that a traffic calming circle has been added and they are willing to consider additional measures if there is room available. Mr. Leeper asked if the developer has any sense of timing of the phases. Mr. Trosky said that he does not at this time but could present it at the next meeting. Ms. Saul asked staff if the road in front of the school would be changed, as it is currently very narrow. Ms. Howard stated that it is considered more of a boulevard with a median in the middle. The width is also intended to slow people down. As the Commission had no further questions, the discussion was moved to the next Planning and Zoning Commission meeting.

- 6.) As there were no further comments, Mr. Leeper made a motion to adjourn. Mr. Wingert seconded the motion. The motion was approved unanimously with 8 ayes (Adkins, Hartley, Holst, Larson, Leeper, Prideaux, Saul and Wingert), and 0 nays.

The meeting adjourned at 6:54 p.m.

Respectfully submitted,

Karen Howard  
Community Services Manager

Joanne Goodrich  
Administrative Clerk



DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls
220 Clay Street
Cedar Falls, Iowa 50613
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Fax: 319-273-8610
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MEMORANDUM

Planning & Community Services Division

TO: Planning & Zoning Commission
FROM: Shane Graham, Economic Development Coordinator
Matt Tolan, Civil Engineer II
DATE: September 5, 2019
SUBJECT: The Pointe at Henry Farms, Preliminary & Final Plats

REQUEST: Request to approve the preliminary and final plat of The Pointe at Henry Farms

PETITIONER: VEREIT Real Estate, LP (Owner); VJ Engineering (Surveyor)

LOCATION: Southwest Corner of Highway 58 and W. Ridgeway Avenue

PROPOSAL:

The petitioner is requesting approval of a preliminary and final plat in order to subdivide the 50-acre parcel of land located at the southwest corner of Highway 58 and W. Ridgeway Avenue into five (5) developable lots, for the purpose of creating a new commercial development on the property. The plat would also create several tracts for storm water detention, wetland protection, and for future right-of-way.



BACKGROUND:

VEREIT Real Estate, LP purchased the 50-acre farm ground property in December 2018. Prior to the purchase of the property, the previous owners requested to have the property rezoned from A-1 Agricultural District to HWY-1 Highway Commercial District, in order to allow for commercial development on this property. The Planning & Zoning Commission recommended approval of the rezoning on July 25,

2018, and City Council approved the rezoning on November 5, 2018. Along with the rezoning of the property, a site plan was also submitted showing the proposed development on Lots 1 and 3 of the property. The site plan showed a new Fleet Farm retail store on Lot 1, and a Fleet Farm Convenience Store/Gas Station on Lot 3. Lot 2 was shown as being developed with a future 55,000 square foot multi-tenant retail store and Lots 4 and 5 were shown for future commercial development. The site plan for the property was recommended for approval by the Planning & Zoning Commission on October 24, 2018, and City Council approved the site plan on November 5, 2018.

At the time that the rezoning was approved, a Conditional Zoning Agreement was also entered into in order to address certain development aspects of the property that were above and beyond the normal requirements of the zoning ordinance. These conditions included the dedication of any right-of-way to the City for any road purposes, designating Tract "E" on the plat as open space for future highway right-of-way, providing an access easement to the property to the west if it redevelops in the future, installing sidewalk along the street frontage of W. Ridgeway Avenue, and installing sidewalks throughout the interior of the property to provide a continuous network between all commercial buildings on the property.

STAFF ANALYSIS

The applicant, VEREIT Real Estate, LP, which owns the 50.16 acre parcel, is proposing to subdivide five (5) lots ranging in size from 25.546 acres for the Fleet Farm retail store site, 2.074 acres for the Fleet Farm Gas Station site, 4.765 acres for the multi-tenant retail store site, and 1.504 and 1.531 acres for the two future commercial development sites. At this time the owner would maintain ownership of all of the lots, but would lease Lot 1 and 3 to Fleet Farm for their retail store and convenience store/gas station.

As indicated in the Background section, the property is zoned HWY-1 Highway Commercial District. The purpose of this zoning district is to promote and facilitate comprehensively planned commercial developments which are harmoniously located adjacent to major transportation corridors and interchanges. It is further the purpose of these regulations to encourage high standards of building architecture and site planning, which will foster commercial development that maximizes pedestrian convenience, comfort and pleasure.

The proposed preliminary and final plat of The Pointe at Henry Farms will split off 50.16 acres into five (5) developable parcels, along with a number of Tracts, which will not be developable. Tracts B, C and D will be utilized for storm water detention basins, while Tracts A, F and G will be utilized for wetland protection and surface drainage of storm water. The remaining tract, Tract E, is for future right-of-way purposes. As indicated earlier, a HWY-1 District site plan has been approved for Lots 1 and 3. Any development on Lots 2, 4 and 5 will require similar site plan approval by City Council at the time they are ready to be developed.

The plat shows two access points to W. Ridgeway Avenue, and they are both coming from Lot 1. Therefore, an access easement is being shown along the main drive lanes

on the property, in order for the remaining lots who do not have street access to gain access to W. Ridgeway Avenue.

For subdivisions, a deed of dedication is normally submitted which includes language that outlines any easements or restrictions for the property, as well as what public improvements will be made as part of the plat. Public improvements typically include the construction of streets, sanitary sewer mains, water mains, storm sewer mains, etc. In the case of this plat, no public improvements are being proposed, as there are no public roads being constructed, and the utilities such as sanitary sewer, water, storm sewer, etc. will be extended from the public street to this property and will be privately owned. In lieu of a deed of dedication, the owner has submitted a Declaration of Reciprocal Easement Agreement (REA) with the plats. This document outlines easements and restrictions for each of the lots within the development, and includes items such as ingress and egress easements, utility easements, storm water drainage easements, maintenance of the lots and buildings, and common area maintenance. This document would pertain to any current or future owner of any of the lots within the plat.

Typically a preliminary plat would be submitted and approved first prior to the final plat being submitted. This allows for the installation of any required public infrastructure, such as streets, sewers and other public utilities. However, this subdivision does not include the construction of any new public infrastructure, so the applicant has requested that both plats be reviewed at the same time.

TECHNICAL COMMENTS

After a review of the preliminary and final plats by the City Surveyor, comments were sent to the applicant’s surveyor. An updated preliminary and final plat was submitted by the applicant’s surveyor, and has been reviewed and approved by the City Surveyor.

Water, electric, gas, and communications utility services are available to the site in accordance with the service policies of Cedar Falls Utilities. Water construction plans, prepared by the developer’s engineer have been approved and the construction permit has been issued by the Iowa Department of Natural Resources. The developer will install, own, and maintain the water mains and service lines. Electric lines serving transformer locations and communication high-speed fiber optic lines serving pedestals will be installed and owned by CFU. Electric lines and communication service lines from the buildings to the transformers and pedestals will be installed and owned by the Developer. Gas mains and services will be installed and owned by CFU.

A final storm water management report has been submitted and reviewed for the property. A total of three (3) storm water detention basins will be located on the property to collect the storm water runoff from the site. Tract “C” as shown on the plat is located within the main parking lot area, east of Lot 2. This basin will collect water from a majority of the development site. The water from this basin will be released at a controlled rate via a pipe into the detention basin located within Tract “B”. Tract “B” as shown on the plat is located just west of Lot 3 and north of the main parking lot. This basin will collect water from the convenience store located on Lot 3, and also the water from basin within Tract “C”. The water will then be released at a controlled rate into

Tract "A", which is the drainage way and wetland area located along the north side of the property along W Ridgeway Avenue. Tract "D" as shown on the plat will collect water from the remaining southern half of the development. The water will then be released at a controlled rate into the drainage ditch to the east along Highway 58.

Since the storm water detention basins will be located on private property, an easement for the City to access these basins will be required, in the event that the City needs to access the basins for maintenance, etc. An easement document has been drafted by the City Engineering Department, and will be forwarded to the owner for review. Please note that the plats will not be forwarded to City Council until the easement agreement has been reviewed and approved by the owner. However, staff feels that the plats may go through the review process from the Planning & Zoning Commission at this time, and will wait to send the request to City Council until the easement agreement has been approved by the owner.

**STAFF RECOMMENDATION:**

The Community Development Department recommends approval of the preliminary and final plat of The Pointe at Henry Farms, subject to the following stipulations:

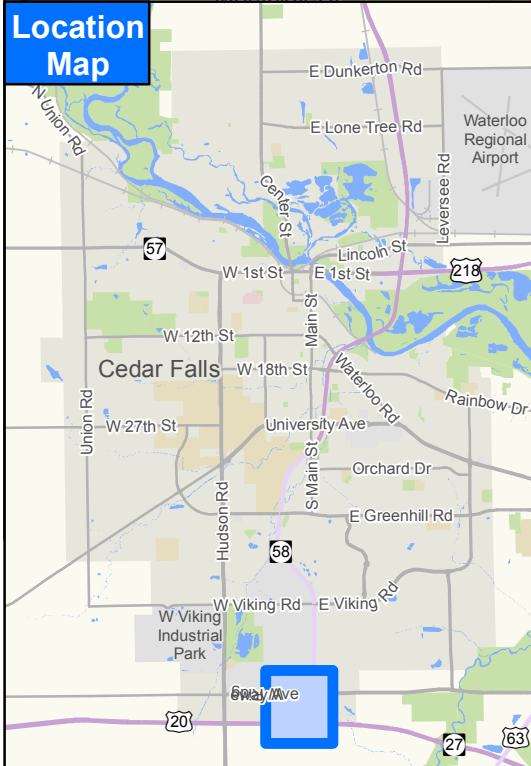
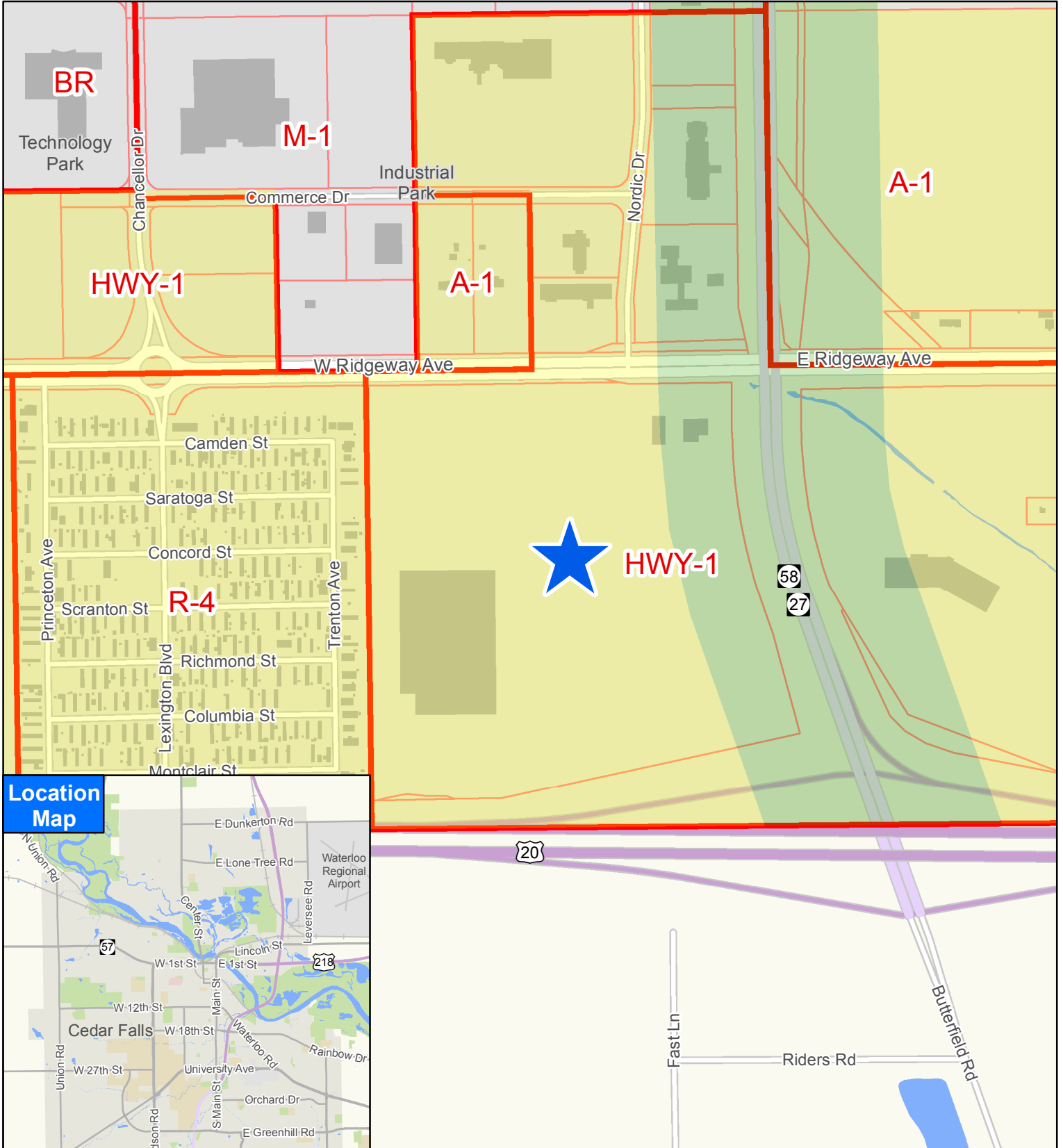
- 1. Any comments or direction specified by the Planning & Zoning Commission.
- 2. Conform to all city staff recommendations and technical requirements.

**PLANNING & ZONING COMMISSION**

Discussion/  
Vote  
9/11/2019

# Cedar Falls Planning & Zoning Commission September 11, 2019

Item 3.



Preliminary and Final Plat of  
The Pointe at Henry Farms



**Preliminary Plat**  
**The Pointe at Henry Farms**  
 Cedar Falls, Black Hawk County, Iowa

Part of the East 1/2, NW Fr. 1/4 &  
 Part of the West 1/2, NE Fr. 1/4  
 Section 2-T88N-R14W  
 Cedar Falls, Black Hawk County, Iowa

**Legal Description:**  
 All that part of the East 1/2 of the Northwest Fractional Quarter of Section 2, Township 88 North, Range 14 West of the 5th P.M., Black Hawk County, Iowa, lying Northerly of Highway No. 20 described in 539 LD 76 and 571 LD 973, except those parts conveyed for public highway in 113 LD 199 and 539 LD 85, and also except that part thereof conveyed to the City of Cedar Falls, Iowa, in Doc. No. 2011-00009788.

AND

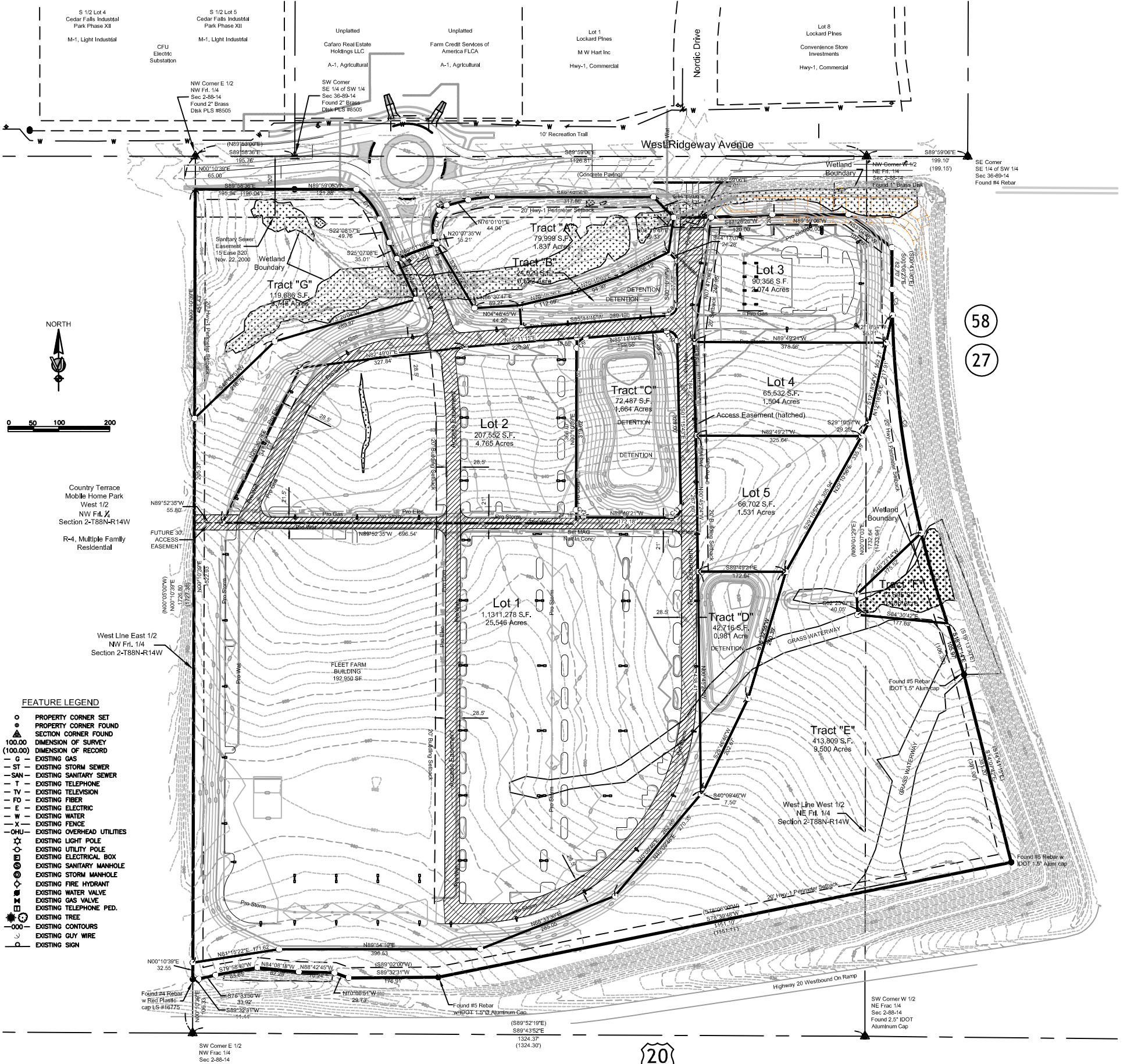
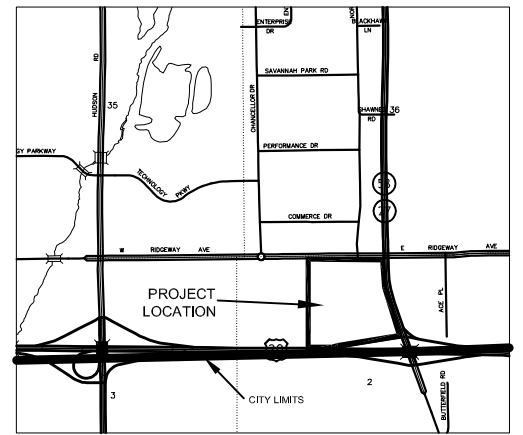
All that part of the West 1/2 of the Northeast Fractional Quarter of Section 2, Township 88 North, Range 14 West of the 5th P.M., Black Hawk County, Iowa, lying Northerly and Westerly of Highway No. 20 described in 539 LD 76 and lying Westerly and Southerly of the public highway described in 569 LD 205 and 539 LD 85.

Excepting therefrom acquisition Parcel "C" for the West Ridgeway Reconstruction project, Project RC-293-3172, in the Northwest Fractional Quarter and the Northeast Fractional Quarter of Section 2, Township 88 North, Range 14 West, Black Hawk County, Iowa, as described in the Quit Claim Deed filed June 10, 2019 as Doc. #2019 018572 in the records of Black Hawk County, Iowa

**Current and Proposed Zoning:**  
 Hwy-1, Highway Commercial District

**Owner:**  
 VEREIT Real Estate, L.P.,  
 c/o VEREIT, Inc.,  
 2325 E. Camelback Road, Suite 1100  
 Phoenix, AZ 85016

**Developer:**  
 Midland Atlantic Development Co, LLC  
 8044 Montgomery Rd., Suite 370  
 Cincinnati, OH 45236



- FEATURE LEGEND**
- PROPERTY CORNER SET
  - PROPERTY CORNER FOUND
  - ▲ SECTION CORNER FOUND
  - 100.00 DIMENSION OF SURVEY
  - (100.00) DIMENSION OF RECORD
  - G - EXISTING GAS
  - ST - EXISTING STORM SEWER
  - SAN - EXISTING SANITARY SEWER
  - T - EXISTING TELEPHONE
  - TV - EXISTING TELEVISION
  - FO - EXISTING FIBER
  - E - EXISTING ELECTRIC
  - W - EXISTING WATER
  - X - EXISTING FENCE
  - OHU - EXISTING OVERHEAD UTILITIES
  - ★ EXISTING LIGHT POLE
  - EXISTING UTILITY POLE
  - EXISTING ELECTRICAL BOX
  - EXISTING SANITARY MANHOLE
  - EXISTING STORM MANHOLE
  - EXISTING FIRE HYDRANT
  - EXISTING WATER VALVE
  - EXISTING GAS VALVE
  - EXISTING TELEPHONE PED.
  - EXISTING TREE
  - EXISTING CONTOURS
  - EXISTING GUY WIRE
  - EXISTING SIGN

- Feature Legend**
- Set 5/8"Ø x 24" Rebar w/ Orange Cap L.S. #2261
  - Property Corner Found
  - ▲ Set Section Corner
  - ▲ Section Corner Found
  - 100.00 Dimension of Survey
  - (100.00) Dimension of Record

Sanitary Manhole	Rim	Invert
SA-1	909.85	908.88 (42" RCP)
SA-2	913.99	912.44 (E-W)
SA-3	917.30	916.05 (E-W)
SA-4	922.15	919.84 (E-W)
SA-5	931.20	928.72 (N)
SA-6	934.88	932.80 (E)
SA-7	946.45	945.50 (E)

CURVE	LENGTH	DELTA	RADIUS	CHORD	DIRECTION
C1	75.27	31°03'49"	138.83	74.35	N37°40'46"W
C2	55.80	59°12'03"	54.00	53.35	S10°13'53"W
C3	18.31	36°10'59"	29.00	18.01	S57°55'24"W
C4	47.41	14°00'07"	194.00	47.39	S89°00'57"W
C5	50.40	1°23'42"	2070.00	50.40	S89°50'12"E
C6	433.70	12°00'18"	2070.00	432.91	S87°32'16"E
C7	185.42	5°07'56"	2070.00	185.35	S18°06'22"E
C8	28.67	85°00'36"	20.00	27.03	N42°40'57"E
C9	28.93	85°00'36"	19.50	26.35	S42°40'57"W
C10	31.84	83°33'02"	19.50	28.42	N48°02'14"W
C11	31.12	91°28'21"	19.50	27.92	N44°27'28"E
C12	22.78	90°00'00"	14.50	20.51	S44°48'21"E

- Tracts:**
- 1.) Tract "A" is for wetland protection and surface drainage of storm water.
  - 2.) Tract "B" is for storm water detention and water quality functions.
  - 3.) Tract "C" is for storm water detention and water quality functions.
  - 4.) Tract "D" is for storm water detention and water quality functions.
  - 5.) Tract "E" is for other future development or highway right-of-way.
  - 6.) Tract "F" is for wetland protection and surface drainage of storm water.
  - 7.) Tract "G" is for wetland protection and surface drainage of storm water.

- Notes:**
- 1.) The South line of East 1/2 of the NW Fr. 1/4 of Section 2-T88N-R14W was assumed to bear N89°43'32"W, utilizing the Iowa Regional Coordinate System, Zone 5
  - 2.) All dimensions are in US Survey feet and decimals thereof.
  - 3.) The error of closure is better than 1:10,000
  - 4.) Found property monuments were a #4 Rebar w/ Yellow Plastic; Cap L.S. #8505, unless noted otherwise.
  - 5.) Proprietor: VEREIT Real Estate, L.P.
  - 6.) Survey Requested by: Bob Galtrock w/Bayer Becker
  - 7.) Field work was completed: 1/19/2018
  - 8.) Proposed gas, electric, and communication utilities are shown as provided by CFU. Blanket easements will be 10 feet on both sides of location as installed.
  - 9.) Wetlands are shown as delineated in the Wetlands Delineation Report by VJ Engineering, revised December 13, 2018. Nationwide Permit CE4NR-004P-20108-0812 was issued on August 3, 2018 for wetland impacts in connection to the construction of the two drives. Any impacts due to road improvements on Ridgeway Avenue will be addressed separately by the contracting authority.
  - 10.) All property corners will be set upon completion of construction, but no later than one year from filing of the plat.

LOT #	NW Fr 1/4 2-88-14	NE Fr 1/4 2-88-14	TOTAL AREA
LOT 1	20.986 AC	0.000 AC	20.986 AC
LOT 2	4.765 AC	0.000 AC	4.765 AC
LOT 3	1.842 AC	0.232 AC	2.074 AC
LOT 4	1.422 AC	0.082 AC	1.504 AC
LOT 5	1.531 AC	0.000 AC	1.531 AC
TRACT A	1.836 AC	0.000 AC	1.836 AC
TRACT B	0.952 AC	0.000 AC	0.952 AC
TRACT C	1.684 AC	0.000 AC	1.684 AC
TRACT D	0.981 AC	0.000 AC	0.981 AC
TRACT E	6.147 AC	3.353 AC	9.500 AC
TRACT F	0.019 AC	0.387 AC	0.406 AC
TRACT G	2.748 AC	0.000 AC	2.748 AC
TOTAL	44.493 AC	4.054 AC	48.547 AC

Matthew A. Kofka, P.L.S.  
 License number 22561  
 My license renewal date is December 31, 2020  
 Pages or sheets covered by this seal

188072

1" = 100'  
 Scale  
 dwg. by  
 W.J.L.  
 approved by  
 W.J.L.  
 date  
 2-20-2019  
 revisions  
 3-20-2019  
 4-08-2019  
 4-22-2019  
 7-19-2019

**Preliminary Plat**  
**The Pointe at Henry Farms**  
 Part of E 1/2 NW Fr 1/4 & W 1/2 NE Fr 1/4 Sec 3  
 Cedar Falls, Black Hawk County, Iowa

**VJ Engineering**  
 1501 Technology Parkway  
 Cedar Falls, Iowa - 319-266-5813

188072

**Final Plat**  
**The Pointe at Henry Farms**

Cedar Falls, Black Hawk County, Iowa

Part of the East 1/2, NW Fr. 1/4 &  
Part of the West 1/2, NE Fr. 1/4  
Section 2-T88N-R14W  
Cedar Falls, Black Hawk County, Iowa

**Legal Description:**

All that part of the East 1/2 of the Northwest Fractional Quarter of Section 2, Township 88 North, Range 14 West of the 5th P.M., Black Hawk County, Iowa, lying Northerly of Highway No. 20 described in 539 LD 76 and 571 LD 973, except those parts conveyed for public highway in 113 LD 199 and 539 LD 85, and also except that part thereof conveyed to the City of Cedar Falls, Iowa, in Doc. No. 2011-00009788.

AND

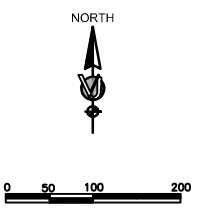
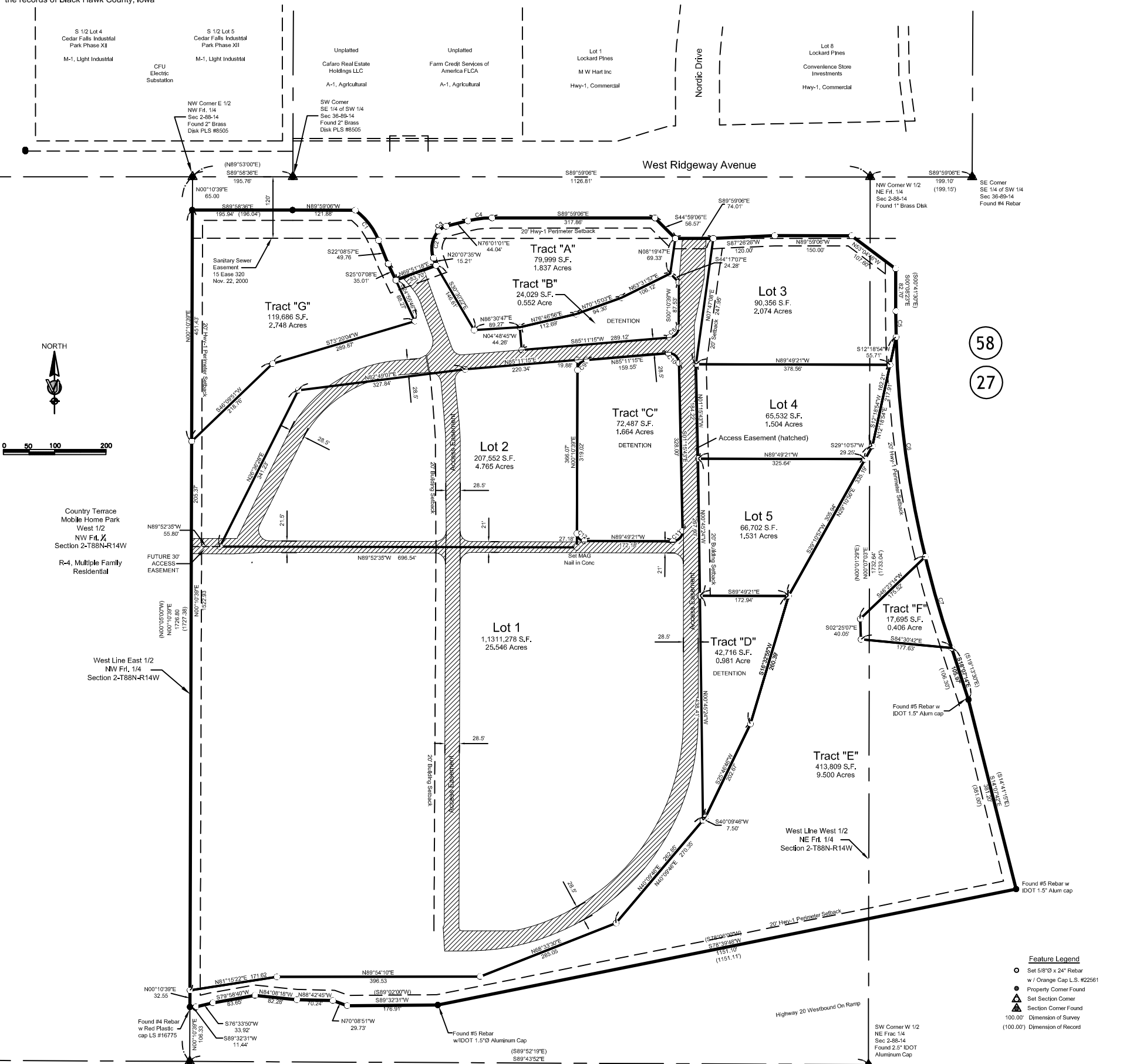
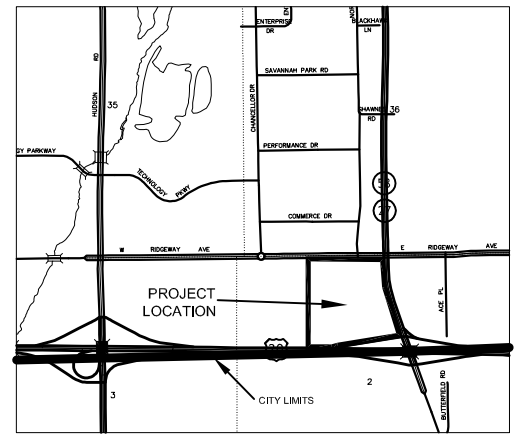
All that part of the West 1/2 of the Northeast Fractional Quarter of Section 2, Township 88 North, Range 14 West of the 5th P.M., Black Hawk County, Iowa, lying Northerly and Westerly of Highway No. 20 described in 539 LD 76 and lying Westerly and Southerly of the public highway described in 569 LD 205 and 539 LD 85.

Excepting therefrom acquisition Parcel "C" for the West Ridgeway Reconstruction project, Project RC-293-3172, in the Northwest Fractional Quarter and the Northeast Fractional Quarter of Section 2, Township 88 North, Range 14 West, Black Hawk County, Iowa, as described in the Quit Claim Deed filed June 10, 2019 as Doc. #2019 018572 in the records of Black Hawk County, Iowa

**Current and Proposed Zoning:**  
Hwy-1, Highway Commercial District

**Owner:**  
VEREIT Real Estate, L.P.,  
c/o VEREIT, Inc.  
2325 E. Camelback Road, Suite 1100  
Phoenix, AZ 85016

**Developer:**  
Midland Atlantic Development Co. LLC  
8044 Montgomery Rd, Suite 370  
Cincinnati, OH 45236



58  
27

- Feature Legend**
- Set 5/8" x 24" Rebar w/ Orange Cap L.S. #22561
  - Property Corner Found
  - ▲ Set Section Corner
  - ▲ Section Corner Found
  - 100.00' Dimension of Survey
  - (100.00') Dimension of Record

CURVE	LENGTH	DELTA	RADIUS	CHORD	DIRECTION
C1	75.27	31°03'49"	138.83	74.35	N37°40'46"W
C2	55.80	59°12'03"	54.00	53.35	S10°13'53"W
C3	18.31	36°10'59"	29.00	18.01	S57°55'24"W
C4	47.41	14°00'07"	194.00	47.29	S83°00'57"W
C5	50.40	1°23'42"	2070.00	50.40	S00°50'17"E
C6	433.70	12°00'16"	2070.00	432.91	S07°32'16"E
C7	185.42	5°07'56"	2070.00	185.35	S16°08'22"E
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LOT 5	1,531 AC	0.000 AC	1,531 AC
TRACT A	1,836 AC	0.000 AC	1,836 AC
TRACT B	0.552 AC	0.000 AC	0.552 AC
TRACT C	1,664 AC	0.000 AC	1,664 AC
TRACT D	0.981 AC	0.000 AC	0.981 AC
TRACT E	6.47 AC	3.353 AC	9,823 AC
TRACT F	0.019 AC	0.387 AC	0.406 AC
TRACT G	2,748 AC	0.000 AC	2,748 AC
TOTAL	44,493 AC	4,054 AC	48,547 AC

- Notes:**
- 1.) The South line of East 1/2 of the NW Fr. 1/4 of Section 2-T88N-R14W was assumed to bear N89°43'52"W, utilizing the Iowa Regional Coordinate System, Zone 5.
  - 2.) All dimensions are in US Survey feet and decimals thereof.
  - 3.) The error of closure is better than 1:10,000.
  - 4.) Found property monuments were a #4 Rebar w Yellow Plastic Cap L.S. #5605, unless noted otherwise.
  - 5.) Proprietor: VEREIT Real Estate, L.P.
  - 6.) Survey Requested by: Bob Garlock w/Bayer Becker
  - 7.) Field work was completed: 11/09/2018
  - 8.) Proposed gas, electric, and communication utilities are shown as provided by CFU. Blanket easements will be 10 feet on both sides of location as installed.
  - 9.) Wetlands are shown as delineated in the Wetlands Delineation Report by VJ Engineering, revised December 13, 2018, Natickville Permit CEMW-004-2018-0812 was issued on August 3, 2018 for wetland impacts in connection to the construction of the two drives. Any impacts due to road improvements on Ridgeway Avenue will be addressed separately by the contracting authority.
  - 10.) All property corners will be set after completion of construction, but no later than one year after the filing of the plat.

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Iowa.

Matthew A. Kofka, P.L.S.  
License number 22561  
My license renewal date is December 31, 2020  
Pages or sheets covered by this seal: \_\_\_\_\_ Date: \_\_\_\_\_

188072

1 of 1

Scale 1" = 100'

Drawn by: W.J.L.

Checked by: W.J.L.

2-20-2019

3-20-2019

4-08-2019

4-22-2019

7-19-2019

**Final Plat**  
**The Pointe at Henry Farms**  
Part of E 1/2 NW Fr. 1/4 & W 1/2 NE Fr. 1/4 Sec 3  
Cedar Falls, Black Hawk County, Iowa

VJ Engineering  
1501 Technology Parkway  
Cedar Falls, Iowa - 319-266-5814

188072

**DECLARATION OF  
RECIPROCAL EASEMENT AGREEMENT**

THIS DECLARATION OF RECIPROCAL EASEMENT AGREEMENT (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2019, by VEREIT REAL ESTATE, L.P., a Delaware limited partnership (“Declarant”).

**RECITALS**

A. Declarant is the owner of that certain real property situated in the City of Cedar Falls, County of Black Hawk, State of Iowa, more particularly described on Exhibit A attached hereto and incorporated herein by this reference ( collectively described as the “Property”).

B. The Property is to be developed as a mixed-use project to be known as The Pointe at Henry Farms (the “Project”) as depicted on the preliminary site plan attached as Exhibit B hereto and incorporated herein by reference, as may be amended by Declarant as herein provided.

C. Pursuant and subject to the terms of this Agreement, Declarant desires to impose certain easements upon the Property for the mutual and reciprocal benefit and complement of the Project and the present and future owners and occupants thereof.

C. Declarant desires to establish certain covenants, conditions and restrictions encumbering portions of the Property as hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing recitals and of the covenants herein contained, Declarant, on behalf of itself and its respective successors and assigns, declares as follows:

**AGREEMENTS**

1. Definitions. For purposes hereof:

1.1. The term “Owner” or “Owners” shall mean the Declarant and any and all successors or assigns of such persons as the record owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including persons having such interest merely as security for the performance of any obligation.

1.2. The term “Lot” or “Lots” shall mean each and separately identified lot of real property now constituting a part of the Property subjected to this Agreement as legally described on Exhibit C attached hereto and designated as Lot 1, Lot 2, Lot 3, Lot 4, and Lot 5 on the Site Plan.

1.3. The term “Tract” or “Tracts” shall mean each and separately identified tract or parcel of real property now constituting a part of the Property subjected to this Agreement as



legally described on Exhibit D attached hereto and designated as Tract “A”, Tract “B”, Tract “C”, Tract “D”, Tract “E”, Tract “F”, Tract “G” on the Site Plan.

1.4. The term “Occupant” shall mean any person or entity from time to time entitled to the use and occupancy of any Lot or any improvements thereon by virtue of ownership thereof or under any lease, sublease, license, or other similar agreement.

1.5. The term “Permittees” shall mean the Occupant(s) of a Lot, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Lot, and/or (ii) such Occupant(s) including, without limitation, Fleet Farm (as defined below).

1.6. The term “Common Area” shall mean those portions of the Lots that are outside of exterior walls of buildings, or other structures from time to time located on the Lots (including any appurtenant canopies, supports, drive-thru lanes, loading docks, truck ramps or other outward extensions of buildings), and which are either unimproved, or are improved as (without limitation) parking areas, landscaped areas, driveways, roadways, walkways, light standards, curbing, paving, entrances, exits, common signs and other similar exterior site improvements, which are intended for the common use of Permittees and Owners. The Tracts shall also be considered Common Areas, with Tract “B”, Tract “C”, and Tract “D” being used for water quality functions and Stormwater Detention Facilities (as hereinafter defined), and Tract “A”, Tract “F”, and Tract “G” being used for wetland protection and surface drainage of storm water. Declarant shall further have the right to limit or prohibit the use of Tract “E” which is reserved for future development or highway right-of-way use. Common Areas shall not include landscaping and sidewalks located adjacent to a building structure or between a building structure and any parking areas.

1.7. The term “Common Improvements” means (i) all common utility lines and facilities and all common storm drainage lines and facilities located within the Property which are not dedicated and accepted for maintenance by the appropriate public utility and/or governmental body, (ii) all Stormwater Detention Facilities, and (iii) the Access Drives and any related landscaped and planted areas, sprinkler or irrigation system, and lighting standards.

1.8. The term “Site Plan” shall mean that preliminary site plan of the Project attached hereto as Exhibit B and by reference made a part hereof. Except as may be otherwise provided in this Agreement, the Site Plan is for identification purposes only.

1.9. The term “Access Drives” shall mean those driveways and driveway improvements, paving, curbing, entrances and exits, to be constructed on the Property in the locations as shown cross-hatched or otherwise marked on the Site Plan, and other portions of the Project intended for use for vehicular access to and between the Lots as marked on the Site Plan.

1.10 The term “Fleet Farm Lease” shall mean that certain Lease for the Property dated December 21, 2018, by and between Declarant and Mills Properties LLC ( Mills Properties LLC, its successors and assigns shall be referred to herein as “Fleet Farm”). Fleet Farm executes this Declaration for the purposes of acknowledging its agreement to the terms hereof.

2. Easements.

2.1. Grant of Easements. Subject to any express conditions, limitations or reservations contained herein, Declarant hereby grants, establishes, covenants and agrees that the Lots, and all Owners and Occupants of the Lots, shall be benefited and burdened by the following nonexclusive, perpetual easements appurtenant to the Lots, which are hereby imposed upon the Lots:

(a) Ingress and Egress. An easement for reasonable vehicular and pedestrian ingress and egress over all driveways and roadways, as presently or hereafter constructed, and constituting a part of the Common Areas, and to and from all abutting streets or rights of way furnishing access to such Lots.

(b) Storm Water Drainage. An easement upon, under, over, above and across the Common Areas for the discharge, drainage, use, detention and retention of storm water runoff, and to install, maintain, repair and replace storm water collection, retention, detention and distribution lines, conduits, pipes and other apparatus ("Stormwater Detention Facilities") under and across the Common Areas, as well as an easement for drainage of storm and surface water runoff from the Lots and the improvements thereon to flow and run through, into and out of such Stormwater Detention Facilities. Each Owner shall maintain or cause to be maintained the lines, conduits, pipes and other facilities exclusively serving such Owner's Lot and connecting to the common Stormwater Detention Facilities, whether located on such Owner's Lot or on the Lots of other Owners. Once constructed, the Stormwater Detention Facilities shall not be materially modified, altered, relocated or otherwise changed, without the prior written consent of the Lot 1 Owner, the Owner of the Lot or Tract on which such Stormwater Detention Facilities are located, and the City of Cedar Falls.

(c) Utilities. An easement under and across those parts of the Common Areas that are not within the permissible building envelope for each Lot depicted on the Site Plan as the "Permissible Build Areas", for the installation, maintenance, repair and replacement of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas lines and other utility facilities necessary for the orderly development and operation of the Common Areas and each building from time to time located within the Lots; provided that (i) the rights granted pursuant to the easements provided in this Section 2(c) shall at all times be exercised in such a manner as not to interfere materially with the normal operation of a Lot and the businesses conducted therein, (ii) the exact location and specifications of any lines and facilities shall be subject to the approval of the Owner(s) of the burdened Lot(s) or Tract(s), and (iii) except in an emergency, the right of any Owner to enter upon the Lot or Tract of another Owner for the exercise of any right pursuant to the easements provided in this Section 2(c) shall be conditioned upon providing reasonable prior advance written notice to the other Owner as to the time and manner of entry. All such systems, structures, mains, sewers, conduits, lines and other public utilities shall be installed and maintained below the ground level or surface of a burdened Lot (except for such parts thereof that cannot and are not intended to be placed below the surface, such as transformers and control panels, which shall be placed in such location as approved by the Owner of the affected Lot).

2.2. Indemnification. Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold the Owner whose Lot or Tract is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property caused by the negligent, intentional or willful acts or omissions of such Owner and the agents, contractors, employees, and licensees of such Owner arising out of the exercise of the easement rights set forth in this Agreement.

2.3. Access Opening. The opening(s) and access point(s) contemplated for the Access Drives are shown on the Site Plan and such opening(s) and access point(s) between the Lots for use of the Access Drives, as contemplated pursuant to Section 2.1(a) above, are hereinafter called the "Access Openings." The Access Openings shall in no event be blocked, closed, altered, changed or removed and shall at all times remain in place as shown on the Site Plan. Except with respect to the Access Openings, each Owner shall be permitted to maintain curbing, landscaping or other improvements along the boundary line of its Lot.

2.4. Reasonable Use of Easements.

(a) The easements herein above granted shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Lot, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

(b) Once Stormwater Detention Facilities are installed pursuant to the easements granted in Section 2.1(b) hereof, and/or utility lines, systems and equipment are installed pursuant to the easements granted in Section 2.1(c) hereof, no permanent building, structures (excluding paving, cement walks, drives, or patios, other similar material), or trees inconsistent with the use and enjoyment of such easements (excluding improvements typically found in common areas of shopping centers) shall be placed over or permitted to encroach upon such Stormwater Detention Facilities or utility installations. The Owner of the Lot served by such installations shall not unreasonably withhold its consent to the reasonable relocation of such installations requested by the Owner of a Lot or Tract where such installations are located, at such requesting Owner's sole cost and expense, so long as water detention and drainage services or utility services, as applicable, to the other Owner's Lot are not unreasonably interrupted or diminished and are otherwise in compliance with the requirements of Section 2.1.

(c) Once commenced, any construction undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Lot or Tract of another Owner for the exercise of any right pursuant to the easements set forth, or to prosecute work on such Owner's own Lot if the same interferes with utility or drainage easements or easements of ingress, egress or access to or in favor of another Owner's Lot, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees. In such case, no affirmative monetary obligation shall be imposed upon the other Owner, and the Owner undertaking or causing such work shall with due diligence repair at its sole cost and expense any

and all damage caused by such work and restore the affected portion of the Lot upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the commencement of such work. In addition, the Owner undertaking or causing such work shall pay all costs and expenses associated therewith and shall indemnify and hold harmless the other Owner(s) and its Permittees from all damages, losses, liens or claims attributable to the performance of such work.

2.5 Easement Protections.

(a) Neither the Declarant nor any Owner shall alter, relocate, close, or otherwise impair ingress and egress to a Lot or the Access Drives without obtaining the prior written consent of all of the affected Owners. Each Owner grants the Lot 1 Owner the right to install, maintain, repair and replace directional signs related to the Access Drives, as part of the Common Area Services (as hereinbelow defined).

(b) Neither the Declarant nor any Owner shall construct or erect within the No-Build Area shown on the Site Plan any buildings, vertical structures or other vertical improvements without the prior written consent of the Owner of Lot 1 and, during the term of the Fleet Farm Lease (including any extension or renewal thereof), Fleet Farm.

(c) Notwithstanding anything to the contrary contained in this Agreement, in the event vehicular access to any Lot is obstructed (an "Obstruction Default") due to an obstruction on another Lot or Tract (including, but not limited to, the Access Drives) or an activity of another Owner or such Owner's Permittee(s) (an "Obstructing Party"), the Owner of such obstructed Lot (or during the term of the Fleet Farm Lease, as may be extended or renewed, Fleet Farm) (a "Non-Obstructing Party"), may notify such Obstructing Party by any means reasonable under the circumstances, including electronic mail or telephone, of the Obstruction Default and demand that the Obstruction Default be remedied. If, after 24 hours after such notice has been provided, such Obstructing Party has not (i) remedied the Obstruction Default or (ii) commenced to remedy the Obstruction Default and thereafter remedied such Obstruction Default within 24 hours, the Non-Obstructing Party shall have the right (but not the obligation) to remedy or cause the remedy of the Obstruction Default (including the right to enter upon the Lot or Tract of the Obstructing Party) and shall be reimbursed by the Obstructing Party for the reasonable costs for such remedy in accordance with the provisions of Section 9 below.

3. Maintenance.

3.1. General. Until such time as improvements are constructed on a Lot, the Owner of such Lot or in the case of Lots owned by Declarant, Fleet Farm, shall maintain the same in a seeded, mowed, clean and neat condition and shall take such measures as are necessary to control grass, weeds, blowing dust, dirt, litter or debris.

3.2. Buildings and Appurtenances Thereto. Each Owner covenants to keep and maintain, at its sole cost and expense, the building(s), signs, landscaping and sidewalks located adjacent to a building structure or between a building structure and any parking area or Access Drive, and any and other improvements located from time to time on its respective Lot in good order, condition and repair, consistent with first class retail development facilities in the county

in which the Project is located. Once constructed, in the event of any damage to or destruction of a building on any Lot, the Owner of such Lot shall, within one hundred eighty (180) days after such damage or destruction, commence, or cause its Occupant(s) to commence, and thereafter pursue with due diligence, either (a) the repair, restoration and rebuilding of such building (with such changes as shall not conflict with this Agreement), or (b) the demolition and removal of all portions of such damaged or destroyed building then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition, and either pave or seed the affected area. Nothing contained in this Section 3.2(b) shall be deemed to allow an Owner to avoid a more stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between an Owner and such Owner's Occupant(s).

3.3. Parking Requirements. Each Lot shall comply with applicable governmental parking ratio requirements without taking into account the parking provided on any other Lot, such that each Lot shall be self-sufficient for vehicular parking. This Agreement is not intended to, and does not, create for the benefit of any Lot or any Permittee thereof any right, license, or easement for parking purposes upon another Lot.

3.4. Common Area, Access Drives and Stormwater Detention Facilities Maintenance.

(a) Each Owner of a Lot shall, in accordance with the provisions of this Section 3.4, repair, replace and maintain or cause to be repaired, replaced, and maintained, all portions of the Common Area on such Owner's Lot for the common use of the Lots in good repair and in a safe, sound and functional condition, free from refuse, rubbish, dirt, snow and ice and in conformity with all competent governmental regulations. Operation and maintenance shall include, but not be limited to, the furnishing of and/or payment of or for electricity, water, gas, sewer use fees, if any, labor, cleaning, policing, maintenance equipment and tools and any personal property taxes assessed to such maintenance equipment and tools, insurance and anything else necessary for the routine maintenance of the Common Areas on the Owner's Lot in the manner and to the standards set forth in the preceding sentences. In connection with the maintenance of its Lot, each Lot Owner shall:

- (i) Clear snow in the Common Areas on its Lot so as to provide safe functional use of such areas at all times;
- (ii) Mow or otherwise trim and regularly water and tend landscaped areas and replace landscaping material in the Common Areas on its Lot;
- (iii) Restripe and replace markings on the surface of the parking areas and driveways located on its Lot, patch, repave and reseal all such paved areas as necessary, and replace all directional signs and pavement signs located on its Lot from time to time so as to provide for the orderly parking and flow of traffic of motor vehicles on such Owner's Lot. Paving and striping materials used for any partial restriping or repaving shall be consistent with that used in the remainder of the Lots;



- (iv) Maintain and replace the lighting fixtures within the Common Areas located on its Lot, including, but not limited to, bulb replacement, fixture repairs and replacement and painting of such fixtures;
- (v) Maintain the liability insurance on Common Areas on its Lot;
- (vi) Pay utility charges related to the Common Areas on its Lot to the extent not separately metered;
- (vii) Pay any permits or license fees necessary to operate the Common Areas on its Lot; and,
- (viii) Maintain, repair and replace the stormwater drainage facilities located exclusively on such Owner's individual Lot and not maintained by Fleet Farm or the Owner of Lot 1 in accordance with Section 3.4(b) below and in accordance with the requirements of the Storm Water Maintenance and Repair Agreement between the City and Declarant.

Except as otherwise expressly provided in this Agreement, once constructed, in the event of any damage to or destruction of all or a portion of the Common Improvements on any Lot or Tract, the Owner of such Lot or Tract shall, with due diligence and continuity repair, restore and rebuild (or cause to be repaired, restored, and rebuilt) such Common Improvements to their condition prior to such damage or destruction (in which event all construction activities undertaken in connection therewith shall be conducted so as to minimize interference with any Owner's or Permittees' use of its respective Lot). Each Owner reserves the right to alter, modify, reconfigure, relocate and/or remove the Common Improvements, Common Areas, or building areas on its Lot, subject to the following conditions: (i) the reciprocal easements between the Lots pursuant to Section 2.1(a) shall not be closed or materially impaired; (ii) ingress and egress to and from adjacent streets and roads, shall not be altered, modified, relocated, blocked and/or removed without the express written consent of all Owners (and, during the term of the of the Fleet Farm Lease [and any extensions or renewals thereof], Fleet Farm); and (iii) the same shall not violate any of the provisions and easements granted in Section 2.

(b) The Owner of Lot 1 or, for so long as the Fleet Farm Lease is in effect (and any extension or renewal thereof), Fleet Farm or a property management company designated by Fleet Farm ("Project Manager") shall (i) maintain and operate all the Access Drives in the Project, so as to keep such areas at all times in good and functional condition under the standards of similar first-class commercial properties in the Cedar Falls metropolitan area and otherwise as set forth in this Article 3; (ii) install, maintain and operate the Stormwater Detention Facilities on Tracts "B", "C" and "D" in accordance with the requirements of the Storm Water Maintenance and Repair Agreement between the City of Cedar Falls and Declarant and all other governmental rules or regulations; and (iii) shall maintain and operate Tract "E" in the manner required by governmental rules and regulations (such installation, maintenance and operation obligations set forth in (i), (ii), and (iii) of this Section 3.4(b), collectively, the "Common Area Services").

(c) The location(s) and design of common signage of the Project (“Common Signage”) must be approved by the Owner of Lot 1 and, for so long as the Fleet Farm Lease is in effect (and any extension or renewal thereof), by Fleet Farm. The Lot Owner on which Lot Common Signage is located shall be responsible for performance of the installation and maintenance of the Common Signage unless otherwise agreed upon by the Owners using the Common Signage. The cost of installation, maintenance and utilities for the Common Signage shall be shared equally between the Owners with a sign panel on the Common Signage. The initial Project Common Signage shall be as depicted on Exhibit E attached hereto and incorporated herein.

(d) Each Owner, subject to Section 3.4(e) below, shall pay its “Share” of the costs incurred by Lot 1 Owner or Fleet Farm, as applicable, in performing the Common Area Services (collectively, “Common Area Services Costs”), which costs shall include all the ordinary operating and maintenance expenditures incurred in connection therewith together with an overhead administration fee not to exceed five percent (5%) of the cost of Common Area Services Costs (excluding therefrom, for the purposes of calculating such fee, real estate taxes and insurance premiums). For purposes of this Agreement, the Owners hereby agree that initially (i) Lot 1’s Share shall be Seventy-three percent (73%); (ii) Lot 2’s Share shall be Twelve percent (12%); (iii) Lot 3’s Share shall be Seven percent (7%); (iv) Lot 4’s Share shall be Four percent (4%); and, (v) Lot 5’s share shall be Four percent (4%). Each Owner acknowledges the foregoing determination of proportionate shares may be revised by Lot 1 Owner or Fleet Farm (whichever party is currently undertaking the Common Area Services from time to time to reflect the gross leaseable area of each Lot or to assess Lots 3, 4 or 5 a flat fee for Common Area Services Costs.

(e) Common Area Services Costs shall include all reasonable actual, costs incurred by Lot 1 Owner or Fleet Farm, as applicable, in performing the Common Area Services set forth herein including, but not limited to: (i) fees for permits, licenses and approvals required with respect to the Access Drives and Stormwater Detention Facilities; (ii) the cost of purchasing or renting movable equipment used solely in performing the Common Area Services; (iii) payments to outside property managers, contractors and personnel in connection with providing the Common Area Services; and (iv) costs for maintaining, operating and repairing the Common Improvements.

(f) Commencing with the month following the month in which Lot 1 Owner or Fleet Farm, as applicable, commences performing Common Area Services, Lot 1 Owner or Fleet Farm, as applicable, shall bill the other Owners for their respective Share of the Common Area Services Costs based upon an estimated basis for the first partial calendar year. Thereafter, the Share of Common Area Services Costs shall be based upon the prior year adjusted for an anticipated increase (if any) for the future year. Lot 1 Owner or Fleet Farm, as applicable, shall provide a reconciliation each year on or before April 1 for the prior calendar year, which such reconciliation shall show in reasonable detail the Common Area Services Costs for such calendar year, together with supporting documentation of all such costs and expenses (collectively, “Reconciliation Documents”). In the event that any Owner has overpaid, then in such event such Owner shall be entitled to a credit against future monthly payments of their Share of Common Area Services Costs. In the event that any Owner owes additional amounts for its Share of Common Area Services Costs for the prior calendar year, then such amount shall be due and

payable upon receipt of such statement. In the event that any amount is not paid when due, then in such event, interest shall accrue at an amount equal to twelve percent (12%) per annum.

3.5 Utilities. Each Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair, at its sole expense, any utility or other installations exclusively serving the Lot of such Owner and from time to time existing on the Lot of another Owner pursuant to an easement described herein.

4. Compliance with Governmental Requirements. Every building (including its appurtenant Common Area improvements), now or in the future constructed on the Lots, shall be constructed, operated and maintained (or caused to be constructed, operated, and maintained) by the Owner thereof so that the same is in compliance with all applicable governmental requirements.

5. Restrictions.

5.1. General. No Lot shall be used or occupied for the Restricted Uses described on Exhibit X, attached hereto and incorporated herein without the written consent of the Lot 1 Owner and, during the term of the Fleet Farm Lease, Fleet Farm, which consent may be withheld in its sole discretion.

5.2 Restriction for the Benefit of Lot 1. For so long as Lot 1 is operated as a General Merchandise and Supply Store (as hereinafter defined), no portion of the Property other than Lots 1 and 3, including without limitation, all or any portion of Lots 2, 4, or 5, shall be leased, used or occupied for the operation of a General Merchandise and Supply Store without the prior written consent of Fleet Farm, its successors or assigns, which consent may be withheld in its sole discretion. The term "General Merchandise and Supply Store" means: means a general merchandise retail store of the type currently operated by Fleet Farm and including by way of example but without limitation, the sale of hunting and fishing equipment and licenses, small appliances, housewares, food, beverages, alcoholic beverages, automotive goods, apparel, hardware, lawn and garden supplies, paint, pet supplies, sporting goods, tools and/or farm supplies and shall expressly prohibit the operation of any of the following stores on any portion of the Property: Menards, Wal-Mart, Blain's Farm and Fleet, Home Depot, Lowes, Runnings, Gander Mountain, Cabela's, Bass Pro Shop, and/or Thiesen's store (and/or their successors).

5.3 Restriction for the Benefit of Lot 3. For so long as any portion of Lot 3 is operated by Fleet Farm, its successors or assigns as a Fuel Business or a Convenience Store (each as hereinafter defined), without the prior written consent of Fleet Farm, its successors or assigns, which consent may be withheld in the sole discretion of Fleet Farm, its successors or assigns, no portion of the Property other than Lots 1 and 3, including without limitation, all or any portion of Lots 2, 4, or 5, shall be leased, used or occupied for the operation of or used (directly or indirectly for): (i) an automobile service station, petroleum station, gasoline station or car wash (automatic or manual), automobile detailing or car cleaning services or for the purpose of conducting or carrying on the business of selling, advertising, offering for sale, storage, handling, distributing or dealing petroleum, gasoline, motor vehicle fuel, diesel fuel, kerosene, lubricating oils or any fuel used for an internal combustion engines or other petroleum-

related products, or offering electric charging stations or other alternative energy means for supplying energy to automobiles (collectively any or all of the activities or businesses listed, with the exception of a Convenience Store, shall be referred to as a “Fuel Business”); or, (ii) for use as a general merchandise store devoting less than five thousand (5,000) square feet to the sale of food, food products, beverages, and packaged consumer items (“Convenience Store”) and shall include in the determination of square footage any portion of the Convenience Store dedicated for use as a sit-down restaurant. Notwithstanding the foregoing, this restriction shall not prohibit the operation of a coffee shop, including but not limited to a Starbucks, Dunkin Donuts, Caribou, Panera Bread and Sidecar Coffees Shops or any similar operation whether franchised or independent, as long as the operation does not include a Fuel Business.

6. Insurance. Throughout the term of this Agreement, each Owner shall procure and maintain commercial general liability insurance occurring upon such Owner's Lot, with single limit coverage of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate, which can be accomplished in conjunction with an umbrella policy, and including each other Owner (provided the Owner obtaining such insurance has been supplied with the name of such other Owner in the event of a change thereof), and for during the term of the Fleet Farm Lease (as it may be extended or renewed), Fleet Farm its successors and assigns, as additional insureds, which insurance amount may be reasonably increased to a level consistent with insurance amounts for other similar Lots from time-to-time, by written notice from Lot 1 Owner or, during the term of the Fleet Farm Lease, Fleet Farm.

7. Taxes and Assessments. Each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Lot.

8. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of any Lot or Tract. Notwithstanding anything to the contrary contained herein, the Owners shall have the right to temporarily close Common Areas on their Lots and the Owner of Lot 1 to close the Access Drives for as long as reasonably necessary, but no longer, to prevent the general public from acquiring any rights in the same. No easements, except those expressly set forth herein shall be implied by this Agreement.

9. Remedies and Enforcement.

9.1. All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by any Owner of any of the terms, covenants, restrictions or conditions hereof, the other Owner(s) shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance, and/or injunctive relief.

9.2. Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Agreement within thirty (30) days following receipt of written notice thereof by an Owner (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), any Owner shall have the right to perform such obligation contained in this

Agreement on behalf of such defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof (which such written demand shall include reasonable supporting documentation of such costs) together with interest at the prime rate charged from time to time by Associated Bank (its successors or assigns), plus two percent (2%) (not to exceed the maximum rate of interest allowed by law). Notwithstanding the foregoing, in the event of (i) an emergency or (ii) blockage or material impairment of the easement rights relating to the Access Drives, an Owner may immediately cure the same and be reimbursed by the other Owner upon demand for the reasonable cost thereof together with interest at the prime rate, plus two percent (2%), as above described.

9.3. Lien Rights. Any claim for reimbursement, including interest as aforesaid, and all costs and expenses including reasonable attorneys' fees awarded to any Owner in enforcing any payment in any suit or proceeding under this Agreement shall be assessed against the defaulting Owner in favor of the prevailing party and shall constitute a lien ("Assessment Lien") against the Lot of the defaulting Owner until paid, effective upon the recording of a notice of lien with respect thereto in the Office of the Register of Deeds of Blackhawk County, Iowa; provided, however, that any such Assessment Lien shall be subject and subordinate to (i) liens for taxes and other public charges which by applicable law are expressly made superior, (ii) all liens recorded in the Office of the Register of Deeds of Blackhawk County, Iowa prior to the date of recordation of said notice of lien, and (iii) all leases entered into (including, without limitation, the Fleet Farm Lease), whether or not recorded, prior to the date of recordation of said notice of lien. All liens recorded subsequent to the recordation of the notice of lien described herein shall be junior and subordinate to the Assessment Lien. Upon the timely curing by the defaulting Owner of any default for which a notice of lien was recorded, the party recording same shall record an appropriate release of such notice of lien and Assessment Lien. Notwithstanding anything to the contrary set forth in this Agreement, any and all Assessments Liens shall automatically be subject and subordinate to any current or future mortgage (or similar security instrument) recorded against any of the Lots, and, although not necessary for subordination, the Lot Owners shall nonetheless execute, upon request, documentation evidencing and confirming the subordination of the Assessment Lien.

9.4. Remedies Cumulative. Except as otherwise provided in Section 9.7 below, the remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

9.5. No Termination for Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Agreement. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Lot made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Lot covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

9.6. Irreparable Harm. In the event of a violation or threat thereof of any of the provisions of Sections 2 and/or 5 of this Agreement, each Owner agrees that such violation or threat thereof shall cause the nondefaulting Owner and/or its Occupants to suffer irreparable harm and such nondefaulting Owner shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of Sections 2 and/or 5 of this

Agreement, the non-defaulting Owner (and, during the term of the Fleet Farm Lease [and any extensions or renewals thereof], Fleet Farm), in addition to all remedies available at law or otherwise under this Agreement, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of Sections 2 and/or 5 of this Agreement.

9.7 Limitation of Liability. Notwithstanding anything contained in this Agreement to the contrary, in any action brought to enforce the obligations of the Owner of any Parcel, any money judgment or decree entered in any such action shall, to the extent provided by law, be a lien upon and shall be enforced against and satisfied only out of (i) the proceeds of sale produced upon execution of such judgment and levy thereon against such Owner's interest in its Lot and the improvements thereon, (ii) the rents, issues or other income receivable from such Owner's Lot, and (iii) insurance and condemnation proceeds with respect to such Owner's Lot, and no Owner shall have personal or corporate financial liability for any deficiency; provided all Owners shall be entitled to obtain equitable relief, and to obtain personal judgment necessary to implement the relief (as used here, "equitable relief" does not include a claim for damages even if based on equitable grounds).

9.8 Certificates of Compliance. Within twenty (20) days following written request by an Owner or Occupant of another Lot, an Owner shall issue to such requesting Owner or Occupant or to a prospective or existing lender of such requesting Owner or to a prospective successor in title to such requesting Owner, a certificate in recordable form setting forth the amounts of any unpaid Common Area Services Costs, if any, owed by the requesting Owner and setting forth whether or not the requesting Owner is in violation of any of the terms and conditions of this Agreement. Said written statement shall be conclusive upon the Owner issuing such certificate in favor of the persons who rely thereon in good faith. In addition, within twenty (20) days following written request by an Owner or Occupant of another Lot, an Owner shall issue to the requesting Owner or Occupant or to a prospective or existing lender of such requesting Owner or to a prospective successor in title to such requesting Owner, a certificate in recordable form stating whether the Owner to whom the request has been directed has given any notice to the requesting Owner of any default or violation of the terms and conditions of this Agreement, and if there are such defaults or violations of which such notice has been given and which remain uncured, specifying the nature thereof. If an Owner does not deliver a certificate of the type described in this Section 9.8 within twenty (20) days after any such written request, then such Owner shall be estopped from claiming against the Owner or Occupant that requested such certificate or lender or successor in title of the requesting Owner that any such default or violation exists.

10. Term. The easements, covenants, conditions and restrictions contained in this Agreement shall be effective commencing on the date of recordation of this Agreement in the office of the Register of Deeds for Blackhawk County, Iowa and shall remain in full force and effect thereafter in perpetuity, unless this Agreement is modified, amended, canceled or terminated by the written consent of all then record Owners of Lot 1, Lot 2, Lot 3, Lot 4 and Lot 5, (and, during the term of the Fleet Farm Lease [and any extensions or renewals thereof], Fleet Farm), in accordance with Section 11.2 hereof.

11. Miscellaneous.

11.1. Attorneys' Fees. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

11.2. Amendment. This Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of all Lots, and during the term of the Fleet Farm Lease (and any extensions or renewals thereof), Fleet Farm, and evidenced by a document that has been fully executed and acknowledged by all such record Owners (and Fleet Farm, as applicable) and recorded in the official records of the Office of the Register of Deeds of Blackhawk County, Iowa.

11.3. Consents. Wherever in this Agreement the consent or approval of an Owner (or Fleet Farm, as applicable) is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld, conditioned, or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the Section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of an Owner (or Fleet Farm, as applicable) under this Agreement, to be effective, must be given, denied or conditioned expressly and in writing.

11.4. No Waiver. No waiver of any default of any obligation by any Owner shall be implied from any omission by any other Owner to take any action with respect to such default.

11.5. No Agency. Nothing in this Agreement shall be deemed or construed by any party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the Owners of the Property.

11.6. Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

11.7. Grantee's Acceptance. The grantee of any Lot or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from Declarant, Fleet Farm or from a subsequent Owner of such Lot, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

11.8. Severability. Each provision of this Agreement and the application thereof to the Lots are hereby declared to be independent of and severable from the remainder of this Agreement. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Agreement. In the event the validity or enforceability of any provision of this Agreement is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of multiple Lots or Tracts by the same person or entity shall not terminate this Agreement, by merger of title or otherwise, nor in any manner affect or impair the validity or enforceability of this Agreement.

11.9. Time of Essence. Time is of the essence of this Agreement.

11.10. Intentionally Deleted.

11.11. Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each Owner may change from time to time their respective address for notice hereunder by like notice to the other Owners or designated addressees. The notice addresses of the Declarant (as current Owner of all Lots) is as follows:

VEREIT Real Estate, L. P.  
Attn: Legal Department – Real Estate  
2325 E. Camelback Road, 9<sup>th</sup> Floor  
Phoenix, AZ 85016  
Telephone: (602) 778-8700  
Email: [RELegal@vereit.com](mailto:RELegal@vereit.com)

During the term of the Fleet Farm Lease (and any extensions or renewals thereof), a copy of all notices shall be delivered to Fleet Farm at the address below:

Mills Properties LLC  
c/o Mills Fleet Farm Group, LLC  
1300 South Lynndale Drive  
Appleton, WI 54914  
Attn: CFO

with a copy to:

Mills Properties LLC  
c/o Mills Fleet Farm Group, LLC  
1300 South Lynndale Drive  
Appleton, WI 54914  
Attn: Legal Department – Real Estate

11.12. Governing Law. The laws of the State of Iowa, without regard to its choice of law rules, shall govern the interpretation, validity, performance, and enforcement of this Agreement.



11.13. Estoppel Certificates. Each Owner, within ten (10) day of its receipt of a written request from the other Owner(s), shall from time to time provide the requesting Owner, a certificate binding upon such Owner stating: (a) to the best of such Owner's knowledge, whether any party to this Agreement is in default or violation of this Agreement and if so identifying such default or violation; and (b) that this Agreement is in full force and effect and identifying any amendments to the Agreement as of the date of such certificate.

11.14. Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Lot, the parties agree that this Agreement shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

11.15 Exhibits. All Exhibits to and referenced in this Agreement are hereby incorporated herein in their entirety by this reference.

[Signatures Begin on Following Page]





**EXHIBIT A****LEGAL DESCRIPTION OF PROPERTY**

All that part of the East 1/2 of the Northwest Fractional Quarter of Section 2, Township 88 North, Range 14 West of the 5th P.M., Black Hawk County, Iowa, lying Northerly of Highway No. 20 described in 539 LD 76 and 571 LD 973, except those parts conveyed for public highway in 113 LD 199 and 539 LD 85, and also except that part thereof conveyed to the City of Cedar Falls, Iowa, in Doc. No. 2011-00009788.

AND

All that part of the West 1/2 of the Northeast Fractional Quarter of Section 2, Township 88 North, Range 14 West of the 5th P.M., Black Hawk County, Iowa, lying Northerly and Westerly of Highway No. 20 described in 539 LD 76 and lying Westerly and Southerly of the public highway described in 569 LD 205 and 539 LD 85.

[Depending on timing of recording may need to update to exclude .97 acres conveyed to the City for ROW.]

**EXHIBIT B**

**Site Plan**

**EXHIBIT C**

**Legal Description of Lots**

**EXHIBIT D**

**Legal Description of Tracts**

**EXHIBIT E**

**Initial Project Common Signage**



**EXHIBIT X****Restricted Uses**

The following uses are prohibited on any Lot:

- (a) a use or operation that is generally considered to be an environmental risk to any portion of the Lots or surrounding properties;
- (b) a business selling alcoholic beverages for on-premises consumption except for any restaurant (including, without limitation a quick service or fast casual restaurant) or coffee shop selling food and/or non-alcoholic beverages as its primary operation in which the sale of alcoholic beverages does not exceed 50% of its gross sales;
- (c) a laundry or dry cleaning establishment, provided, the foregoing restriction shall not include an establishment for dry cleaning drop-off and pick-up only, with no cleaning services being performed at the subject property;
- (d) any establishment which stocks, displays, sells, rents, or offers for sale or rent any merchandise or material commonly used or intended for the use with or in consumption of: (i) any narcotic, dangerous drug, or other controlled substance, including, without limitation, any hashish pipe, waterpipe, bong, pipe screens, rolling papers, rolling devices, coke spoons or roach clips; (ii) e-cigarettes; (iii) cbd oil or hemp; or (iv) hookah.
- (e) adult book store, an establishment selling or exhibiting pornographic materials or any form of adult entertainment or an operation whose principal use is an exotic dancing and/or massage parlor (provided this restriction shall not prohibit massages in connection with a beauty salon, health club or athletic facility, or a national massage chain such as Massage Envy);
- (f) a pool or billiard hall, arcade, night club, dance club, movie theater or cinema, gyms or health clubs greater than 5,000 square feet, schools or learning centers having more than thirty students at any one time, skating rink or bowling alley;
- (g) children's play or party center, telemarketing, poling and surveying center, or office use; however, the foregoing shall be permitted if there is sufficient parking to maintain a ratio of 6 spaces per 1,000 sq. ft. of gross leasable area;
- (h) a use or operation that performs abortions;
- (i) a pet store;
- (j) a mobile home park, trailer court (except that this provision shall not prohibit the temporary use of construction trailers during any periods of construction, reconstruction or maintenance), mobile home sales lot, living quarters, hotel or apartment building;
- (k) off-track betting establishment, bingo parlor or any gambling use;

- (l) a business which would emit or produce noxious fumes, gases, excessive dust, dirt or loud noises;
- (m) an assembly, manufacturing, distilling, refining, smelting, industrial, agricultural, drilling or mining operation;
- (n) a junk yard, stock yard, animal raising operation, a dump or disposal or any operation for the incineration or reduction of garbage or refuse;
- (o) a pawn shop, a thrift store, consignment shop or “re-sell” shop, “Goodwill” or “Salvation Army” type store, flea market;
- (p) a mortuary or funeral home;
- (q) a church or other place of worship, banquet hall, auditorium or meeting hall;
- (r) carnival, amusement park, or circus.



**VJ Engineering**  
1501 Technology Pkwy, Suite 100  
Cedar Falls, Iowa 50613  
ph: (319) 266-5829 fax: (319) 266-5160

Item 3.

engineering – surveying

March 11, 2019

City of Cedar Falls  
Planning Dept.  
Attn: Shane Graham

Re: The Pointe at Henry Farms – Purpose for Subdivision

Dear Planning Commission:

The proposed subdivision plat known as **The Pointe at Henry Farms** is planned to accommodate the new Fleet Farm store as well as a fuel station near the intersection of Nordic Drive and W. Ridgeway Avenue. In addition, there are three buildings immediately north of the Fleet Farm store, and two separate lots on the east side of the subdivision for sale as individual lots. The three-building lot, as well as the two lots on the easterly side of the subdivision will require a Hwy-1 site plan approval prior to issuance of a building permit.

This will be an outstanding complex located at the main highway entrance to Cedar Falls and will provide a retail destination for much of northeast Iowa.

Sincerely,

Wendell Lupkes, L.S.  
VJ Engineering



DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls  
220 Clay Street  
Cedar Falls, Iowa 50613  
Phone: 319-273-8600  
Fax: 319-273-8610  
www.cedarfalls.com

MEMORANDUM

Planning & Community Services Division

**TO:** Planning and Zoning Commission  
**FROM:** David Sturch, Planner III  
**DATE:** September 4, 2019  
**SUBJECT:** Facade review of property in the College Hill Neighborhood Overlay District

**REQUEST:** Request to approve a College Hill Neighborhood Overlay District Site Plan for new facade treatments at 2211 College Street (Project #DR19-006)

**PETITIONER:** Owner: Emaad LLC

**LOCATION:** 2211 College Street

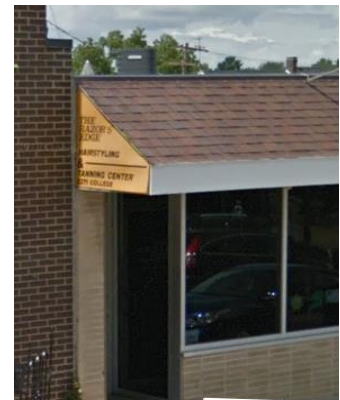
PROPOSAL

This request involves a new facade at 2211 College Street. The property is located in the College Hill Neighborhood Overlay Zoning District and a design review by the Planning and Zoning Commission and City Council is required for facade renovations to commercial buildings in the district.

BACKGROUND

The petitioner purchased this property in January 2019 with the intent to create a new business on College Street. The property owner is currently remodeling the interior portion of the building for a new Hookah Lounge and wants to update portions of the exterior facade facing College Street.

This property is located within the C-3, Commercial District of the College Hill Neighborhood Overlay Zoning District (Section 26-181) and is also subject to the design review regulations. Design review applies to any new construction, building additions, facade renovations or structural alternations to commercial or residential structures in the district.



## ANALYSIS

The existing building at 2211 College Street is a single story structure approximately 12 feet in height. The existing building is 24 feet wide by 64 feet deep (1,616 ft<sup>2</sup>) that resides on a lot that is 24 feet wide by 97 feet deep (2,328 ft<sup>2</sup>). There are two parking stalls behind the building with access to the alley off of W. 22<sup>nd</sup> Street. The plan is to remove the existing roof over the sidewalk and repurpose the wall with new exterior materials and signage. Following is an evaluation of the proposed facade changes according to the review standards in the College Hill Neighborhood Overlay Zoning District:



1. Architectural/neighborhood character: The building is being altered by removing the shingled portion of the roof extension above the windows and doorway. The frame underneath the roof structure will be repurposed for a new awning. Simply removing this roof structure does not alter the character of the building or the neighborhood. The building will still maintain its current use as a commercial structure. **Criterion met.**
2. Roof shape, pitch and direction: The building's roof is not being altered. The existing parapet wall will be extended approximately 16 inches higher to match the wall extension of the neighboring building to the south. **Criterion met.**
3. Pattern, Materials and Textures: The pattern of solid surfaces and openings are not changing with the new facade of a building. The existing shingle roof extension will be removed and the exposed wall behind the roof awning will be refurbished and covered with a granite tile along with the rest of the facade. The other buildings along College Street include brick, EIFS, wood and stone facades. Utilizing a granite panel to cover the facade at 2211 College Street will provide a high quality material that is similar to other buildings in the area.

The existing roof extension is supported by a steel frame overhang that projects two feet over the sidewalk. The plan is to refurbish this steel frame for a covered overhang that is similar to other buildings along College Street. The property slopes downward from the south to the north. This projection maintains an 8-foot vertical clearance above the sidewalk at the southeast corner of the building and a 9.3' vertical clearance above the sidewalk at the northeast corner of the building. **Criterion met.**

4. Color: The granite tiles are gray, copper, and brown tones that swirl together to create a multi-color panel. The awning and fascia will be silver to match the window and door frames. Both are neutral colors that are compatible with the existing colors in the district. **Criterion met.**





5. Windows and transparencies: The windows and front entry of the building will not change; **this criterion does not apply for this review.**
7. Architectural features: As previously mentioned, the existing steel frame that holds the shingled roof will be refurbished to match the color of the window and door frames. This two foot projection over the sidewalk will provide a break in the facade from a flat vertical plane. The top of the parapet wall will create a new cornice that will provide a nice contrast between the silver aluminum fascia and granite tiles. **Criterion met.**
9. Building entries: The entry into this building is not changing; **this criterion does not apply for this review.**
10. Signage: A new wall sign is proposed for this project that satisfies the wall signage requirements of the district. There will be an LED downcast lighting above the sign. **Criterion met.**

### TECHNICAL COMMENTS

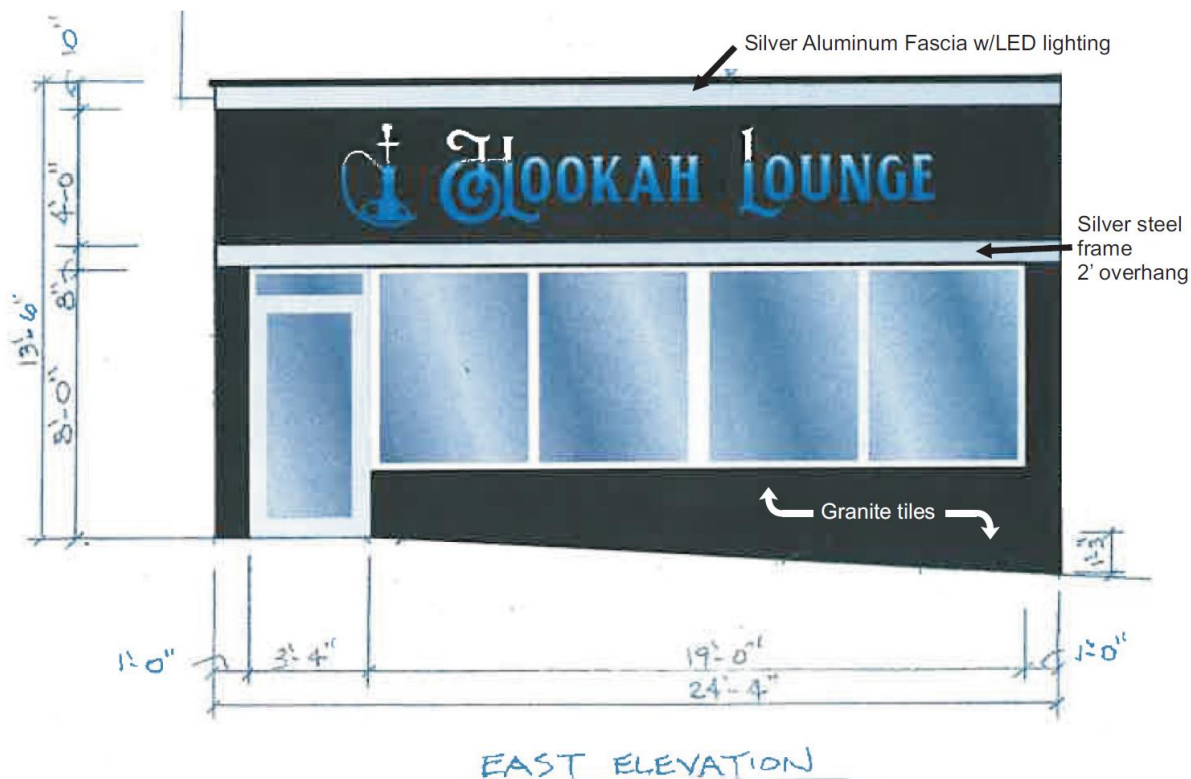
No technical comments were offered.

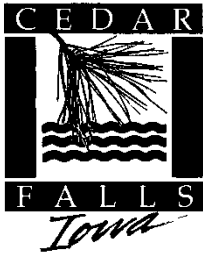
### STAFF RECOMMENDATION

The proposed facade plan meets all of the College Hill Neighborhood Overlay Zoning District and Zoning Ordinance requirements and would not be out of character for this neighborhood. Staff recommends approval of the submitted facade site plan for 2211 College Street.

### PLANNING & ZONING COMMISSION

Discussion/Vote  
9/11/2019





DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls
220 Clay Street
Cedar Falls, Iowa 50613
Phone: 319-273-8600
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www.cedarfalls.com

MEMORANDUM
Planning & Community Services Division

TO: Planning and Zoning Commission
FROM: David Sturch, Planner III
DATE: September 4, 2019
SUBJECT: PO-1 Site Plan Review – All Smiles Sign Amendment

REQUEST: PO-1 Site plan amendment; All Smiles signage plan

PETITIONER: All Smiles Family Dentistry; owner and Levi Architecture; architect

LOCATION: 915 Hudson Road

PROPOSAL

It is proposed to amend the site plan for the All Smiles project at 915 Hudson Road. The property owner wishes to add a freestanding monument sign near the southeast corner of their property.

BACKGROUND

The All Smiles site plan was reviewed by the Planning and Zoning Commission on May 8, 2019. The Commission recommended approval of the site plan and forwarded this request to the City Council. The City Council approved the plan on May 20, 2019. This site plan included the design of the new building, parking lot, landscaping and signage. The signage plan included wall signs on the proposed building with no monument signs by their driveway. The original plan was to include signage on the existing monument sign at the south driveway into the development. Upon further review of the existing monument sign, there is no more room to accommodate additional signage. The owner of the new dental clinic is asking for a separate monument sign to be located along the north side of their driveway.



## ANALYSIS

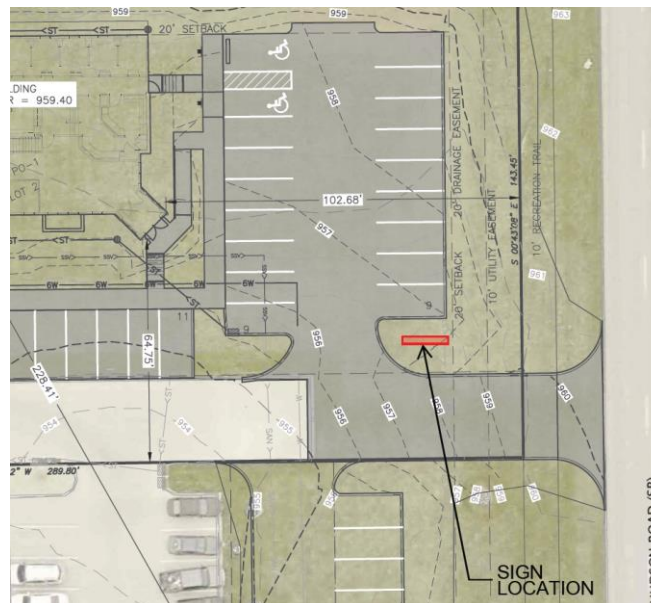
Since this request is a change from the approved site plan, review by the Planning and Zoning Commission and City Council is required. The Planning and Community Services Division have the following comments regarding the proposed monument sign for the All Smiles Family Dentistry:

- 1) Signage: The PO-1 District permits freestanding signs not to exceed 8 feet in height and 40 square feet in area for single use signs on their own property. Multiple use signs containing three or more uses may be established at a maximum height of 12 feet and a maximum area of 60 square feet. The existing sign at the south driveway satisfies this requirement.



The architect indicated that they wish to amend their signage plan to include a second monument sign for the new dental clinic on their property. Since a new driveway was added for this development, a separate monument sign in front of the building makes sense for the owner and their clients. The proposed sign will be 8 feet in height and 40 square feet in area placed upon a 3.4 foot tall brick base. A brick column is included for aesthetic purposes and will support one side of the sign. The materials used in the sign will match the materials found on the building. Proposed sign satisfies the PO-1 district size and design standards.

- 2) Setbacks: The setbacks apply to the building, parking lot and signage. The PO-1 District requires a 10-foot setback from Hudson Road. The site plan shows a 20-foot setback from the east lot line along Hudson Road which is in line with the existing sign at the south driveway. The sign setback satisfies the PO-1 district standards.



## STAFF RECOMMENDATION

The Community Development Department recommends approval of the All Smiles amended signage plan.

## PLANNING & ZONING COMMISSION SUMMARY

Vote

9/11/2019





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MEMORANDUM

Planning & Community Services Division

TO: Planning and Zoning Commission
FROM: Karen Howard, Planning & Community Services Manager
DATE: September 9, 2019
SUBJECT: Temporary Wheat-Pasting Murals in College Hill for UNI Homecoming

REQUEST: Request to approve a College Hill Neighborhood Overlay District Site Plan for multiple temporary mural installations in the College Hill Business District (Project #DR19-007)

PETITIONER: College Hill Partnership

LOCATION: Multiple locations

PROPOSAL

This request is quite unique. It involves multiple temporary mural installations around the College Hill Business District to celebrate the history of UNI and College Hill. The murals are made of a biodegradable, non-destructive artform called wheatpasting, which adheres large prints of paper to the exterior facades of buildings. These installations do not damage or change the façades of the building and can be removed by power washing. This project is funded in part by an Iowa Arts Council Grant, the University of Northern Iowa Alumni Foundation, and the College Hill Partnership.

BACKGROUND

The artist, Mr. Isaac Campbell, will collaborate with professors at UNI and the College Hill Partnership and participating College Hill property owners to select a series of historic images to be featured. In the words of the applicants, "the pastings will be connected with a tasteful, unifying theme." They will be installed by volunteers on October 5 in conjunction with UNI Homecoming festivities.

ANALYSIS

The applicants have submitted a proposal for up to 5 separate installations with a number of potential façade locations throughout the College Hill Business District. These locations have yet to be determined. Potential locations are included in the applicant's proposal, which is attached. Staff notes that while this proposal is for a temporary installation of public art, it is worthy of Planning & Zoning Commission discussion and recommendation. The locations are all located within the College Hill Neighborhood Overlay Zoning District, which requires review of

murals by the Planning & Zoning Commission and the City Council.

The applicable section of the College Hill Overlay Zoning District review standards for the commercial district, states in relevant part, *“Exterior mural wall drawings, painted artwork and exterior painting of any structure within the commercial district shall be subject to review by the Planning and Zoning Commission and approval by the City Council for the purpose of considering scale, context, coloration, and appropriateness of the proposal in relation to nearby facades and also in relation to the prevailing character of the commercial district.”*

Staff finds that the proposal to install photographic images showcasing life in and around College Hill and UNI using wheat-pasting, is an excellent example of public art used for community building. The wheatpastings are consistent with the intent of the ordinance, given these images are not painted or otherwise permanently affixed to building facades, will not damage the building facades, and can be removed by simply washing them off at any time deemed appropriate due to deterioration or for any other reason determined by the property owner. Staff also notes that the images will be chosen by the artist in consultation with professors from UNI and the College Hill Partnership and property owners. Given the short timeframe, staff has suggested to the applicants that a more specific proposal for locations and images be prepared for presentation to the City Council on September 16.

#### STAFF RECOMMENDATION

The proposed facade plan meets all of the College Hill Neighborhood Overlay Zoning District and Zoning Ordinance requirements and would not be out of character for this neighborhood. Staff recommends approval of the proposal for installation of wheat-pasted murals in the College Hill Business District.

#### PLANNING & ZONING COMMISSION

Discussion/Vote  
9/11/2019

## PROPOSAL

# PASTING COLLEGE HILL | HOMECOMING 2019

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INSTALL DATE: OCTOBER 5TH, 2019

## OVERVIEW

To celebrate the 2019 Homecoming festivities, we are proposing a series of temporary mural installations throughout the College Hill district. The murals are made of a biodegradable, non destructive artform called wheatpasting - where water and flour are combined to create a glue which adheres large prints of paper to the exterior facades of buildings. The prints can be removed with a power washer if they become damaged. The project will be lead by UNI Graduate Student Isaac Campbell, whose work has been featured both locally and internationally, and who most recently collaborated with world renowned street artist JR on an installation at the Louvre in Paris, France. This project is funded in part by an Iowa Arts Council Grant, the University of Northern Iowa Alumni Foundation, and the College Hill Partnership.

## DETAILS

Mr. Campbell will collaborate with the Fortepan Iowa Team (Dr. Bettina Fabos and Professor Noah Doely) to select a series of historic images, primarily of people - to be featured as the subjects for the installations. The pastings will be connected with a tasteful, unifying theme. The pastings will be installed by Mr. Campbell and a small team of volunteers on October 5th, in conjunction with the Homecoming Parade and Homecoming Festivities.

## PRICING

Pricing is listed for one pasting and an entire project estimate. All prices are approximated. Printing will be done at Copyworks on the Hill. Boom lift quote is from Black Hawk Rentals in Cedar Falls. Additional suggestions for cheaper boom lift rates are appreciated and welcomed. Artist honorarium (\$1,250) is being provided at no cost with support from the University of Northern Iowa Communications Department for Mr. Campbell's work as a graduate assistant.

One pasting pricing is given to reference the suggested project estimate of 5 pastings. The total number of pastings is up for discussion.

**ONE PASTING** *(estimate as sizes may vary)*

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Printed Materials ( <i>Copyworks</i> )	\$0.50 per square foot + tax 9' x 25'	\$125.00
Water & Flour		\$10.00
Boom Lift ( <i>per day</i> )		\$200.00
Boom Lift Delivery		\$225.00
Artist Honorarium ( <i>time to prepare and install</i> )		-no charge-
<b>GRAND TOTAL</b>		<b>\$560.00</b>

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**PROJECT ESTIMATE** *( 5 installations - estimate as sizes may vary)*

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Printed Materials ( <i>Copyworks</i> )	\$0.50 per square foot + tax (9' x 25') x 5	\$625.00
Water & Flour		\$40.00
Boom Lift ( <i>per day</i> )		\$200.00
Boom Lift Delivery		\$225.00
Artist Honorarium		-no charge-
<b>SUBTOTAL</b>		<b>\$1,090.00</b>
<i>University of Northern Iowa Alumni Association</i>		<i>(-\$300.00)</i>
<i>Iowa Arts Council Funding</i>		<i>(-\$150.00)</i>
<b>GRAND TOTAL</b>		<b>\$640.00</b>

**LOCATION SUGGESTIONS**

Below are suggestions for potential pasting locations. All pasting locations will be secured with permission from building owners through the College Hill Partnership.





























DEPARTMENT OF COMMUNITY DEVELOPMENT

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MEMORANDUM

Planning & Community Services Division

TO: Planning & Zoning Commission
FROM: Shane Graham, Economic Development Coordinator
DATE: September 5, 2019
SUBJECT: Presentation of draft Creekside Technology Center Master Plan by Confluence, Inc.

In 2010 and 2015 the City of Cedar Falls acquired approximately 157 acres of farm ground along the south side of W. Ridgeway Avenue, located to the east and west of Hudson Road (see image below). The purpose of the acquisition of these properties was to control the future anticipated uses on the property, as this is a main entryway into Cedar Falls.



Earlier this year, the City issued a Request for Proposals (RFP) for master planning services for the property. Master planning services included the creation of a master development plan for the property, a market analysis to determine the anticipated land uses, a utilities analysis, a marketing brochure, and a 3D flyover video. The project was awarded to Confluence, Inc. from Des Moines/Cedar Rapids, who have been working on the project for the past several months.

Confluence, Inc. has recently submitted the final draft of the master plan, titled "Creekside Technology Center" to the City for review. Part of the scope of services provided by the consultant is to give a presentation to the Planning & Zoning Commission and City Council to present the draft of the master plan. The presentation of the draft master plan will occur at the September 11, 2019 Planning & Zoning Commission meeting, and is anticipated to be brought back to the Commission on September 25, 2019 to recommend to City Council the adoption of the master plan.

If you have any questions regarding this project, please feel free to let me know.