

Bill No. 4773

Ordinance No. _____

Requested by: Michael Hurlbert

Sponsored by: John White

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE COUNTY OF ST. CHARLES, MISSOURI, BY REZONING LAND FROM A, AGRICULTURAL DISTRICT, WITH DENSITY FLOODWAY OVERLAY DISTRICT, TO C2, GENERAL COMMERCIAL DISTRICT, WITH DENSITY FLOODWAY OVERLAY DISTRICT, PER APPLICATION RZ19-11

WHEREAS, the St. Charles County Charter, Article II, Section 2.529, grants to the County Council legislative power pertaining to planning and zoning in the part of the County outside incorporated cities, towns and villages; and

WHEREAS, a change in zoning of land located at 7370 Weber Lake Road was requested by Holly Stumpf, property owner, and Paul Stumpf, applicant, through Application RZ19-11; and

WHEREAS, the tract to be rezoned is a 3.70-acre parcel currently zoned A, Agricultural District, with Density Floodway Overlay District; and

WHEREAS, the zoning sought for the tract to be rezoned is C2, General Commercial District, with Density Floodway Overlay District; and

WHEREAS, adjacent land to the north is zoned A, Agricultural District with Density Floodway Overlay District and is the site of farmland and a wooded area; adjacent land to

the south is zoned I2, Heavy Industrial with Density Floodway Overlay District and is used for a warehouse and storage; adjacent land to the east is zoned A, Agricultural District with Density Floodway Overlay District and is the site of a wooded area; and adjacent land to the west is zoned A, Agricultural District with Density Floodway Overlay District and is the site of farmland; and

WHEREAS, the Planning and Zoning Commission of the County of St. Charles, Missouri, considered this application and on a vote of 4 ayes to 2 nays recommended the matter for approval to the County Council. A simple majority of the County Council is required for passage of this bill.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The Zoning District Map of the County of St. Charles, Missouri, is hereby amended by making the following change:

A 3.70-acre tract of land located at 7370 Weber Lake Road is hereby rezoned from A, Agricultural District, with Density Floodway Overlay District, to C2, General Commercial District, with Density Floodway Overlay District. The tract of land is more particularly described on **EXHIBIT A**, attached hereto.

Section 2. The Director of the Planning and Zoning Division is hereby authorized to acknowledge approval on Application RZ19-11 as set forth in Section 1., above.

Section 3. The Council hereby receives the following documents into the record: the St. Charles County Master Plan Year 2030; the Unified Development Ordinance of St. Charles County, Missouri; and the documents attached hereto as **EXHIBIT B**, containing the plats and plans and any other documents relied on in reaching this determination of the Council.

Section 4. This ordinance will be in full force and effect from and after the date of its passage and approval.

DATE PASSED

DATE APPROVED BY COUNTY EXECUTIVE

CHAIR OF THE COUNCIL

COUNTY EXECUTIVE

ATTEST:

COUNTY REGISTRAR

EXHIBIT A

APPLICATION RZ19-11

AMENDING THE ZONING DISTRICT MAP
OF SAINT CHARLES COUNTY MISSOURI

APPLICATION NUMBER: RZ19-11

THE PROPERTY IS PRESENTLY ZONED: A, AGRICULTURAL DISTRICT, WITH DENSITY FLOODWAY
OVERLAY DISTRICT

IT IS REQUESTED THAT THIS PROPERTY BE REZONED TO DISTRICT: C2, GENERAL COMMERCIAL DISTRICT, WITH DENSITY FLOODWAY
OVERLAY DISTRICT

OWNER OR OWNERS OF PROPERTY TO BE REZONED: PAUL AND HOLLY STUMPF

LOCATION OF PROPERTY: 7370 WEBER LAKE ROAD, LOCATED ON THE EAST SIDE OF WEBER
LAKE ROAD, APPROXIMATELY 700 FEET NORTH OF INTERSECTION
OF WEBER LAKE ROAD AND PORTAGE ROAD, NEAR PORTAGE DES
SIOUX.

THE PROPERTY CONSISTS OF 3.70 ACRES, AND IS LOCATED IN
COUNCIL DISTRICT 6.

LEGAL DESCRIPTION OF PROPERTY TO BE REZONED:

A TRACT OF LAND BEING PART OF U.S. SURVEY NO. 1692 IN TOWNSHIP 48 NORTH, RANGE 6 EAST OF THE FIFTH PRINCIPAL MERIDIAN, ST. CHARLES COUNTY, MISSOURI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND 1" IRON ROD WHICH MARKS THE NORTHWEST CORNER OF U.S. SURVEY NO. 125 OF THE "PORTAGE DES SIOUX COMMON FIELDS"; THENCE NORTH 22 DEGREES EAST, A DISTANCE OF 39.60 FEET TO A POINT; THENCE NORTH 68 DEGREES WEST, A DISTANCE OF 23.10 FEET TO A FOUND 3/4" IRON ROD IN THE WESTERLY LINE OF WEBER LAKE COUNTY ROAD, WHERE SAID WESTERLY LINE INTERSECTS WITH THE NORTHERLY LINE OF PORTAGE (40 FOOT WIDE) ROAD; THENCE ALONG SAID WESTERLY LINE, NORTH 24 DEGREES 15 MINUTES 00 SECONDS EAST, A DISTANCE OF 530.88 FEET TO THE MOST NORTHERLY CORNER OF A TRACT OF LAND CONVEYED TO ERVIN DAVIS AND GERALD E. OHLMS IN DEED BOOK 816 ON PAGE 309 IN THE RECORDER OF DEED'S OFFICE OF ST. CHARLES COUNTY, MISSOURI, SAID POINT BEING THE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; THENCE CONTINUING NORTH 24 DEGREES 15 MINUTES 00 SECONDS EAST, A DISTANCE OF 462.12 FEET TO A POINT, SAID POINT BEING 50.04 FEET FROM THE MOST WESTERLY CORNER OF A 7.36 ACRE TRACT OF LAND CONVEYED IN DEED BOOK 1459 ON PAGE 1350 IN SAID RECORDER OF DEED'S OFFICE; THENCE SOUTH 68 DEGREES 00 MINUTES 00 SECONDS EAST AND 50.00 FEET PARALLEL TO THE SOUTHWESTERLY LINE OF SAID 7.36 ACRE TRACT OF LAND, A DISTANCE OF 355.97 FEET TO A POINT; THENCE SOUTH 23 DEGREES 55 MINUTES 40 SECONDS WEST, A DISTANCE OF 478.19 FEET TO THE MOST EASTERLY CORNER OF SAID ERVIN DAVIS AND GERALD E. OHLMS TRACT OF LAND; THENCE ALONG THE NORTHEASTERLY LINE OF SAID TRACT OF LAND, NORTH 65 DEGREES 24 MINUTES 57 SECONDS WEST, A DISTANCE OF 358.39 FEET TO THE POINT OF BEGINNING.

CHAIRPERSON P. ROGER ELLIS

SECRETARY THOMAS KUHN

ST. CHARLES COUNTY PLANNING AND ZONING COMMISSION

EXHIBIT B
AMENDING THE ZONING DISTRICT MAP
OF SAINT CHARLES COUNTY MISSOURI

Application RZ19-11

REZONING REQUEST - 7370 WEBER LAKE ROAD

Application No:	RZ19-11
Applicant:	Paul and Holly Stumpf
Property Owner:	Holly Stumpf
Existing Zoning:	A, Agricultural District, with Density Floodway Overlay District
Requested Zoning:	C2, General Commercial District, with Density Floodway Overlay District
2030 Master Plan:	Recommends Agricultural Use
Parcel Size:	3.70 acres
Location:	On the east side of Weber Lake Road, approximately 700 feet north of intersection of Weber Lake Road and Portage Road; near the town of Portage Des Sioux
Council District:	6
Account No.:	856320A000

CONTENTS:

- Synopsis
- Staff Recommendation
- Photo(s) of Site
- Aerial Photo
- Surrounding Zoning Map
- Future Land Use Map
- Letters received
 - ◆ None
- Planning and Zoning Commission minutes from September 18, 2019 meeting

September 27, 2019

This communication summarizes the following bill to be introduced at the October 15, 2019 County Council meeting:

REZONING REQUEST - 7370 WEBER LAKE ROAD

Application No: RZ19-11
Applicants: Paul and Holly Stumpf
Property Owner: Holly Stumpf
Existing Zoning: A, Agricultural District, with Density Floodway Overlay District
Requested Zoning: C2, General Commercial District, with Density Floodway Overlay District
2030 Master Plan: Recommends future agricultural/floodplain uses
Parcel Size: 3.70 acres
Location: On the east side of Weber Lake Road, approximately 700 feet north of Portage Road; near the town of Portage Des Sioux
Council District: 6
Account No.: 856320A000

Approval of this bill would amend the zoning map for this 3.70-acre parcel from A, Agricultural District, to C2, General Commercial District. The Density Floodway Overlay zoning would remain.

A 6,000 square foot farm utility building was constructed on this parcel in 2003 when the parcel was zoned I2, Heavy Industrial District. At the request of the property owner, the parcel was in 2008 rezoned from I2 to A to build a residence, but which was never constructed. An auction house open to the public has opened in the building but as a prohibited land use in the A District cannot legally operate. Consequently, the owner has applied to rezone to C2, General Commercial District. Should this zoning request be approved, commercial usage will additionally require building and occupancy code compliance.

Although this parcel was once zoned I2, Heavy Industrial District, and is adjacent to a parcel with existing I2 zoning, the property is located within the County's Density Floodway Overlay District where Missouri River flood waters periodically flow north overland and into the Mississippi River. Weber Lake Road and most of this parcel were flooded during the summer of 2019 although the applicant states the building itself was not flooded.

The Planning and Zoning Commission held a public hearing on this rezoning application on September 18, 2019, and received the following public input:

Speakers: 2 Support 0 Opposed 0 Concerns
Letters on file: 0 Support 0 Opposed 0 Concerns

Having conducted the public hearing, the Planning & Zoning Commission voted to recommend as follows:

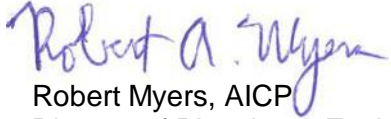
4 Approval 2 Denial 0 Abstentions

Recommendation:

The Planning & Zoning Commission recommends approval of this rezoning request.

The Planning and Zoning Division recommends denial of this application based on the 2030 Master Plan's future land use policies, the parcel's location within the Density Floodway, and Weber Lake Road being flood prone.

Sincerely,



Robert Myers, AICP
Director of Planning & Zoning

cc: Steve Ehlmann, County Executive
Joann Leykam, Director of Administration
John Watson, County Counselor

STAFF RECOMMENDATION

To: County Planning & Zoning Commission

Prepared by: Ellie Marr, CFM

Application No.: RZ19-11

Date: September 18, 2019

GENERAL INFORMATION

Owner: Holly Stumpf

Requested Actions: A zoning map amendment to rezone a parcel from A, Agricultural District (5 acre minimum lot size) with Density Floodway Overlay to C2, General Commercial District with Density Floodway Overlay

Location: East side of Weber Lake Road approximately 700 feet north of intersection of Weber Lake Road and Portage Road; near the town of Portage Des Sioux

Current Zoning: A, Agricultural District with Density Floodway Overlay

Current Land Use: Pole barn used as an auction house

Adjacent Land Use and Zoning:

Direction	Zoning	Land Use
North	A, Agricultural District with Density Floodway Overlay	Farm and wooded area
South	I2, Heavy Industrial with Density Floodway Overlay	Warehouse/storage
East	A, Agricultural District with Density Floodway Overlay	Wooded area
West	A, Agricultural District with Floodway Fringe Overlay	Farm

2030 Master Plan: Agricultural land use (5 acres)

Public Services: County Council District 6 – Vacant
School District – Orchard Farm School District
Fire District – Rivers Pointe Fire District

Utilities: Water – Individual well
Sewer – Individual wastewater treatment system

Zoning History: This property was zoned A, Agricultural in 1959 with the inception of zoning. In 1969, the property was rezoned to M-2 by zoning application #371. In 1999, with the adoption of the Unified Development Ordinance, the overlay flood district of DF, Density Floodway was added and the M-2 designation was changed to I-2. In 2008, the property was rezoned to A, Agricultural zoning with Density Floodway overlay.

REZONING ANALYSIS

This property was originally rezoned to the Heavy Industrial (M-2) zoning district in 1969 by application #371 in order to allow a manufacturing concern to expand its production capabilities. No evidence that the expansion ever took place exists. The property has been used for personal storage purposes since 2003, when the owners constructed a pole barn on the property. Prior to that, the property was used for agricultural purposes. In 2008 the property was rezoned to A, Agricultural zoning with Density Floodway overlay. The owners at that time wished to build a residence and continue using the pole barn for personal storage, however, the residence was never built.

During the flood recovery inspection phase of this year's flooding event, planning staff was provided with pictures of every structure that was inspected for flood damages. At that time, it was discovered that the current owner's tenant was running an auction house with building access by the general public. The owner was notified through code enforcement procedures that this business use in the Agricultural zoning district was not permitted without a zoning change along with a change of building occupancy and inspection for commercial use by the Building Division. Consequently, the owner has applied for rezoning to the C2, General Commercial District.

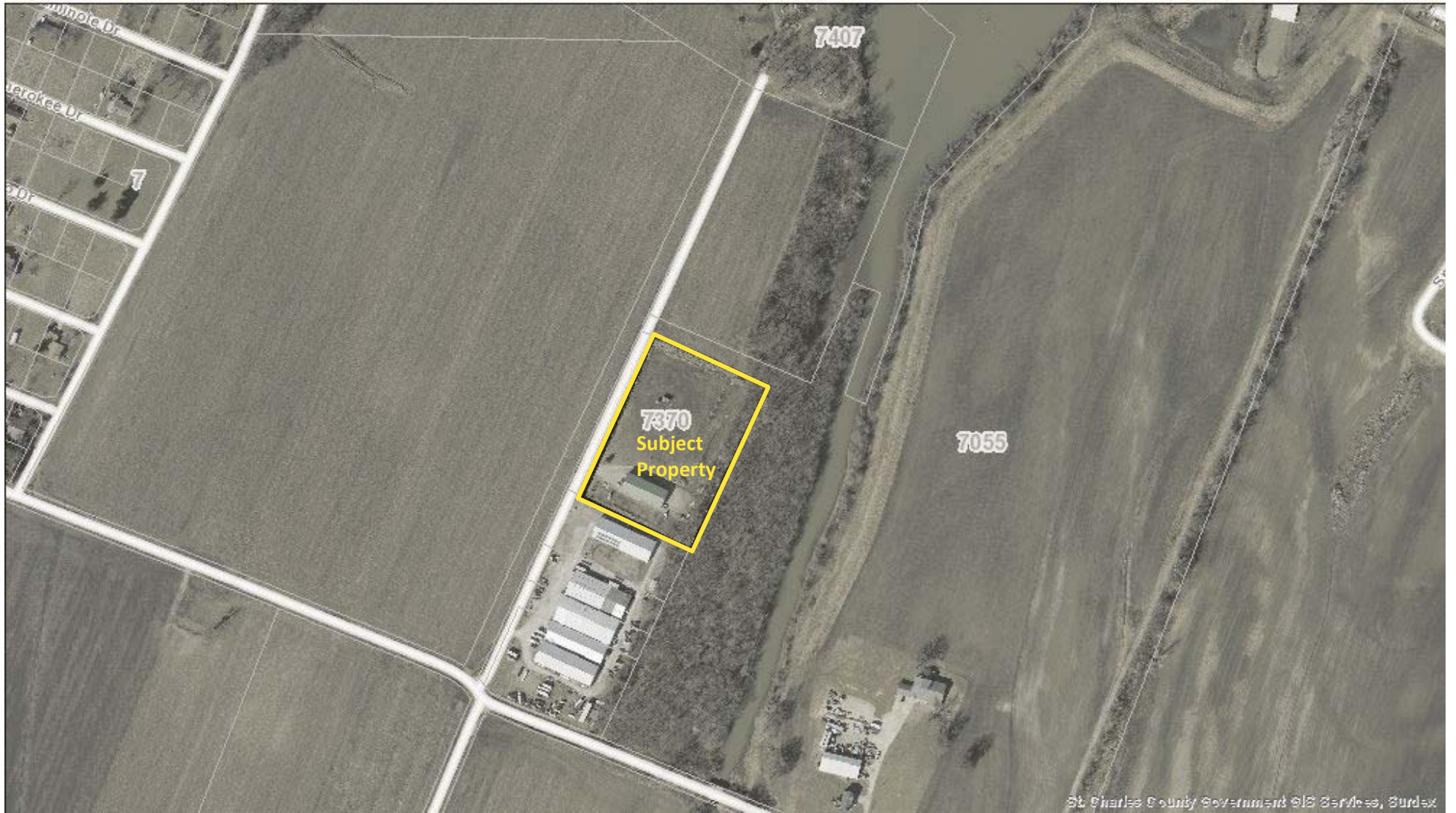
In reviewing the proposed zoning for this property staff has found that the property location is not conducive to either Industrial or Commercial zoning designations. While the pole barn is elevated above the base flood elevation, the property is located north of a minor intersection and in the Density Floodway of the Mississippi/Missouri Rivers floodplain. The roads leading to the property are subject to flooding during river flooding events. The parcel is also surrounded to the north, east, and west by farm fields and other agricultural zoning designations.

RECOMMENDATION:

The Planning and Zoning Division recommends that this zoning request from A, Agricultural District, (5 acre minimum lot size) with Density Floodway overlay to C2, General Commercial District with Density Floodway overlay not be approved. Staff finds the proposed zoning is not consistent with the 2030 Land Use Plan and is not a good location for commercial zoning within the County.



7370 Weber Lake Road



RZ19-11 Aerial



RZ19-11 Zoning



RZ19-11 Future Land Use

MINUTES OF REGULAR MEETING

ST. CHARLES COUNTY PLANNING AND ZONING COMMISSION

DATE: SEPTEMBER 18, 2019
TIME: 7:00 P.M.
PLACE: COUNTY EXECUTIVE BUILDING
300 N. THIRD ST.
THIRD FLOOR COUNCIL CHAMBERS
ST. CHARLES, MO 63301

MEMBERS PRESENT: Diane Saale; Roger Ellis; Kevin Cleary; Tom Kuhn; Jim Leonhard; and Craig Frahm

MEMBERS ABSENT: Robert McDonald

STAFF PRESENT: Robert Myers, Director of Planning and Zoning; Ellie Marr, Senior Planner; Megan Murray, Assistant County Counselor; and Sheila Weiss, Recording Secretary

SPEAKERS: **RZ19-11:** Paul Stumpf, applicant, 2910 Starling Drive, St. Charles, MO; and Arnie C. "AC" Dienoff, P.O. Box 1535, O'Fallon, MO

CALL TO ORDER

Chairman Roger Ellis called the meeting to order at 7:00 PM. Following the Pledge of Allegiance, he welcomed the audience; explained the procedures for speakers; and explained the functions of the Planning and Zoning Division, the Planning and Zoning Commission and the County Council. He stated that applications for Rezoning heard during tonight's meeting will be voted on by the Planning and Zoning Commission, and the Commission will then make a recommendation on the applications, which will be submitted to the St. Charles County Council for a final decision. The individual items and bills for this evening's applications are scheduled to be introduced at the Monday, September 09, 2019 County Council Meeting.

Applications for preliminary plats heard during tonight's meeting will also be voted on by the Planning and Zoning Commission During The Meeting. The vote on preliminary plats is final, unless a variance from St. Charles County Ordinances is being requested or the Commission makes a recommendation for denial of a preliminary plat. In those instances, the plat would be introduced at the Monday, September 09, 2019 County Council meeting for a final decision.

Chairman Ellis introduced the following documents into the record: The Unified Development Ordinance of St. Charles County (UDO), including zoning maps; and the 2030 Master Plan for St. Charles County, which includes the 2030 Future Land Use Plan Map.

PUBLIC HEARINGS

REZONING REQUEST - 7370 WEBER LAKE ROAD

Application No:	RZ19-11
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Property Owner:	Holly Stumpf
Existing Zoning:	A, Agricultural District, with Density Floodway Overlay District
Requested Zoning:	C2, General Commercial District, with Density Floodway Overlay District
2030 Master Plan:	Recommends Agricultural Use
Parcel Size:	3.70 acres
Location:	On the east side of Weber Lake Road, approximately 700 feet north of intersection of Weber Lake Road and Portage Road; near the town of Portage Des Sioux
Council District:	6
Account No.:	856320A000

Ellie Marr, Senior Planner, described the subject property and surrounding land uses. During the flood recovery inspection phase of this year's flooding event, planning staff was provided with pictures of every structure that was inspected for flood damages. At that time, it was discovered that the current owner's tenant was running an auction house with building access by the general public. The owner was notified through code enforcement procedures that this business use in the Agricultural zoning district was not permitted without a zoning change along with a change of building occupancy and inspection for commercial use by the Building Division. Consequently, the owner has applied for rezoning to the C2, General Commercial District.

In reviewing the proposed zoning for this property staff has found that the property location is not conducive to either Industrial or Commercial zoning designations. While the pole barn is elevated above the base flood elevation, the property is located north of a minor intersection and in the Density Floodway of the Mississippi/Missouri Rivers floodplain. The roads leading to the property are subject to flooding during river flooding events. The parcel is also surrounded to the north, east, and west by farm fields and other agricultural zoning designations.

The Planning and Zoning Division recommends that this zoning request from A, Agricultural District, (5 acre minimum lot size) with Density Floodway overlay to C2, General Commercial District with Density Floodway overlay not be approved. Staff finds the proposed zoning is not consistent with the 2030 Land Use Plan and is not a good location for commercial zoning within the County.

For the record, staff did not receive any written communications regarding this rezoning request.

Chairman Ellis asked the Commission if they had any questions for County staff.

Craig Frahm asked County staff what will happen to the existing building on this property if this request for rezoning is denied.

Ellie Marr responded that if this request is denied, they will not be allowed to continue running a business out of the building on the property. The building would still be allowed to remain on the property.

There being no further questions for staff, Vice-Chairman Cleary opened the public hearing and asked the applicant or their representative to come forward.

The applicant, Paul Stumpf, was sworn in. Mr. Stumpf has been an Auctioneer for nearly 15 years and has worked out of the St. Charles area and the Winfield area. During that 15 years they have been renting buildings and building their business from scratch. When they purchased this building, it was for the purpose of using it for his auction house. He stated that neither his real estate agent nor the seller informed him at the time of purchase that the property could not be used to run his business. Their sales contract states that it is a commercial contract. They are asking that the property to be rezoned back to either Light Industrial or Commercial so they may continue to run their business. They usually hold auctions on the property once per month, and may perhaps in the future hold auctions twice per month. The remainder of the time the building is used as a storage building. They have spent a significant amount on the purchase of this property, and on making improvements to the property such as adding a parking lot and landscaping. Mr. Stumpf stated that this business serves a significant need in the community and provides services that most auction houses do not provide such as taking anything from one item, to an entire warehouse of items for auction. Their most common customers are typically children of deceased parents that have no idea what to do with their parents personal property. They also personal property appraisers and provide education to people on what their personal property is worth and what they can do with it. They also provide fundraiser auctions for the community for agencies such as Care to Learn and the Megan Meyer Foundation. They also have contracts with local law enforcement agencies such as the U.S. Marshalls, the U.S. Postal Service for appraisal and auction needs. They have approximately eight employees, two of which are full-time, and denying this rezoning request would put those employees out of work and would place them into severe debt. They are very familiar with their neighbors, and Mr. Stumpf stated that they are in favor of this business. They had no malicious intent whatsoever, and were simply uninformed with the proper procedures when purchasing this building.

Chairman Ellis asked the Commission if they had any questions for the applicant.

Seeing none, Chairman Ellis asked if anyone from the audience wished to make public comments on this application.

Arnie C. "AC" Dienoff was sworn in. Mr. Dienoff stated that he hates to go against County staff's recommendation, but he asked that the Planning & Zoning Commission recommend approval of this rezoning request with the condition that floodproofing measures to allow for the free flow of water for the building be required. Mr. Dienoff believes that the Community of Portage Des Sioux and the unincorporated neighborhoods around Portage Des Sioux need some spurred economic development in order to survive.

There being no further speakers from the audience, Chairman Roger Ellis asked if the applicant would like to come back to the podium to address any of the speaker's concerns.

Paul Stumpf came back to the podium. He stated that the building on this property is elevated and no water entered the building at any time during this year's flooding event. He stated that the water would have had to have been 3-4 feet higher than it was to reach the building. If this building were to have been there during the 1993 flood the building would still have been dry. The building also has two large bay doors on the front and back to allow for water to flow through.

Jim Leonhard asked Mr. Stumpf who told him that the building would not have been flooded after the flood of 1993. He stated that everything in Portage Des Sioux was underwater after 1993 flood, and there were homes that had 3-4 feet of water inside of them. He stated there was not a dry spot in Portage Des Sioux between the location of the subject property and his home, which is located at Rees Road and Highway 94.

Paul Stumpf responded that for clarification, the building was not on the property in 1993. He stated that the ground underneath of the building has been built up and the land survey for the property shows that the water level in 1993 would not have reached the height of the building. His neighbors also told him that the water was did not come up high enough in 1993 that it would have flooded the building.

Jim Leonhard stated that in his opinion, this is the worst possible location for a commercial property.

Mr. Stumpf responded that auctions are only being held on the property once per month, and it is easy to make preparations in light of potential flood events. Floods are predictable, and the product stored on the property can be moved. If water were to get inside of the building, it would have little to no significant impact to the structure.

There being no further questions for the applicant, Chairman Ellis closed the public hearing and called for discussion from the Commission.

Kevin Cleary asked County staff if there would be a conditional use that this business could fall under within the current zoning district (A, Agricultural District).

Ellie Marr responded that an auction house would not fall under any type of conditional use allowed by right within the Agricultural Zoning District. Therefore, the applicant was advised that their best option would be to request to rezone the property to C2, General Commercial District. Should this rezoning request be denied, the only other option County staff sees moving forward would be for the applicant to request that the County Council approve an ordinance amendment that would allow this type of business as a permitted use within the Agricultural Zoning District.

Roger Ellis asked if the property to the south that has five buildings located on it is zoned Heavy Industrial.

Ellie Marr responded in the affirmative, and stated that property was rezoned in 1969 to Heavy Industrial District. It is her understanding that the current owner of that property is using it for warehousing and for automobile repair, which are commercial uses rather than industrial uses.

Jim Leonhard stated that some of the buildings on that property were constructed in 1961 and 1962, and he worked there for two years. It was a manufacturing facility for amusement rides and was called Hampton Amusement Company. That business was in operation for many years until the owner passed away. After the owner passed away, a couple of businessmen took over the property and ran the company for a while and ran the company for about three years but it didn't end up working out. He stated that the property is currently being used for auto repair, a limousine service business, and as a storage lot.

Roger Ellis stated that he believes that an auction house seems like it would be a compatible use in conjunction with the current use of the property to the south.

There being no further discussion from the Commission, Kevin Cleary made a motion to recommend approval of Application No. RZ19-11. Tom Kuhn seconded the motion.

The vote on the motion was as follows:

Diane Saale	- Yes	Tom Kuhn	- No	Roger Ellis	- Yes
Kevin Cleary	- Yes	Jim Leonhard	- No	Craig Frahm	- Yes

Application No. RZ19-11 was recommended for **APPROVAL**.

The Vote Count was 4 Yeas, 2 Nays, and 0 Abstentions.

DRAFT