

**ANYTOWN, NEBRASKA**  
**PLANNING COMMISSION REGULAR MEETING**  
**Gering Civic Center**  
**1050 M Street**  
**January 21, 2021 – 12:45 p.m.**  
**AGENDA**

- **Call to Order**
- **Roll Call**
- **Open Meetings Act Announcement**

For the public's reference a copy of the Open Meetings Act has been posted on the north wall of this room in the audience area. This posting complies with the requirements of the Nebraska Legislature.

- **Pledge of Allegiance**

**A. Approval of Meeting Minutes – January 23, 2020**

**B. Public Hearing**  
**Rezone – Kenny Hill**

Now is the date, time, and place to conduct a Public Hearing for the application from Kenny Hill requesting the rezone of Lot 6, Block 2, Custer Addition to the City of Anytown, Nebraska, from RP-3, Planned Residential to C-3 Heavy Commercial.

**C. Public Hearing**  
**Conditional Use Permit – William Roberts**

Now is the date, time, and place to conduct a Public Hearing for the application from William Roberts requesting a Conditional Use permit for a farmers market on a 10-acre parcel of land located in the southwest corner of the southwest corner of Section 22, Township 23 North, Range 47 West of the 6<sup>th</sup> Principal Meridian, also known as Tract 3, Roberts Acres.

**D. Discussion**  
**Tiny Houses – City Staff**

**E. Adjournment**

Respectfully submitted,

C. E. Bauer  
Community Development Director

**ANYTOWN, NEBRASKA**

**BOARD of ADJUSTMENTS REGULAR MEETING**

**Gering Civic Center**

**1050 M Street**

**January 23, 2020 – 1:15 p.m.**

**AGENDA**

- **Call to Order**
- **Roll Call**
- **Open Meetings Act Announcement**

For the public's reference a copy of the Open Meetings Act has been posted on the north wall of this room in the audience area. This posting complies with the requirements of the Nebraska Legislature.

- **Pledge of Allegiance**

**A. Approval of Meeting Minutes – January 24, 2019**

**B. Public Hearing**

**Variance Request – K&T Industries**

- a. Now is the date, time, and place to conduct a Public Hearing for the variance request from K&T Industries for Lots 3-21, Block 3, Wyoming Addition to the City of Anytown. K&T Industries is requesting a variance from the City of Anytown Municipal Code Chapter 115-109 (d)(1) titled Area and bulk regulations for 835 W 4th Street. The proposal is to extend an existing structure into the front setback.

**C. Public Hearing**

**Variance Request – Cody Simpson**

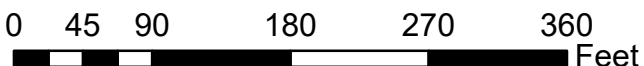
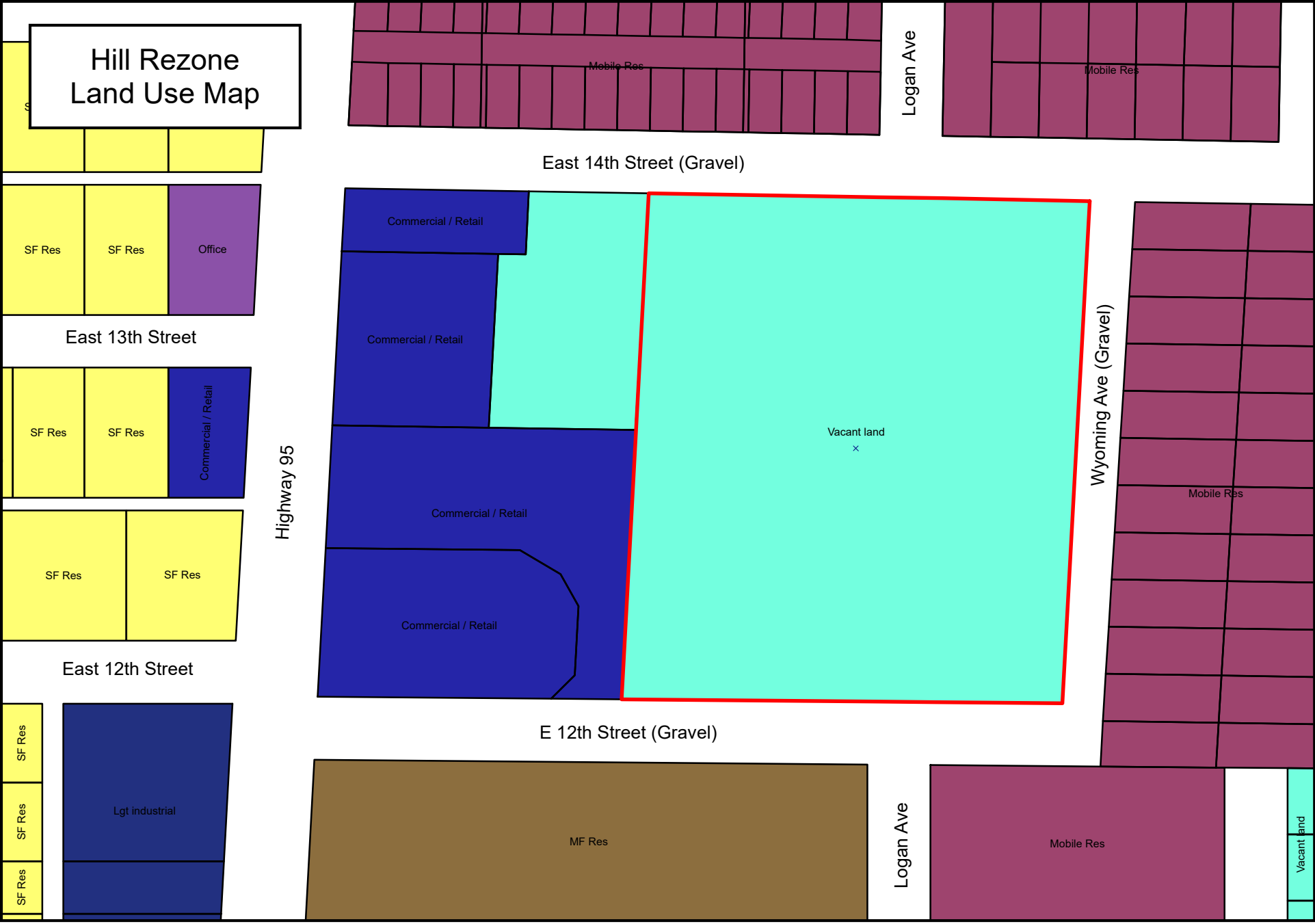
- a. Now is the date, time, and place to conduct a Public Hearing for the variance request from Cody Simpson for Lots 1-2, Block 4, Nebraska Addition to the City of Anytown. Mr. Simpson is requesting a variance from the City of Anytown Municipal Code Chapter 115-113 (d)(1) titled Area and bulk regulations for 1403 Arizona Avenue. The proposal is to extend an existing structure into the side yard setback.

**D. Adjournment**

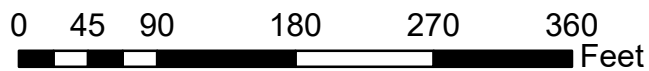
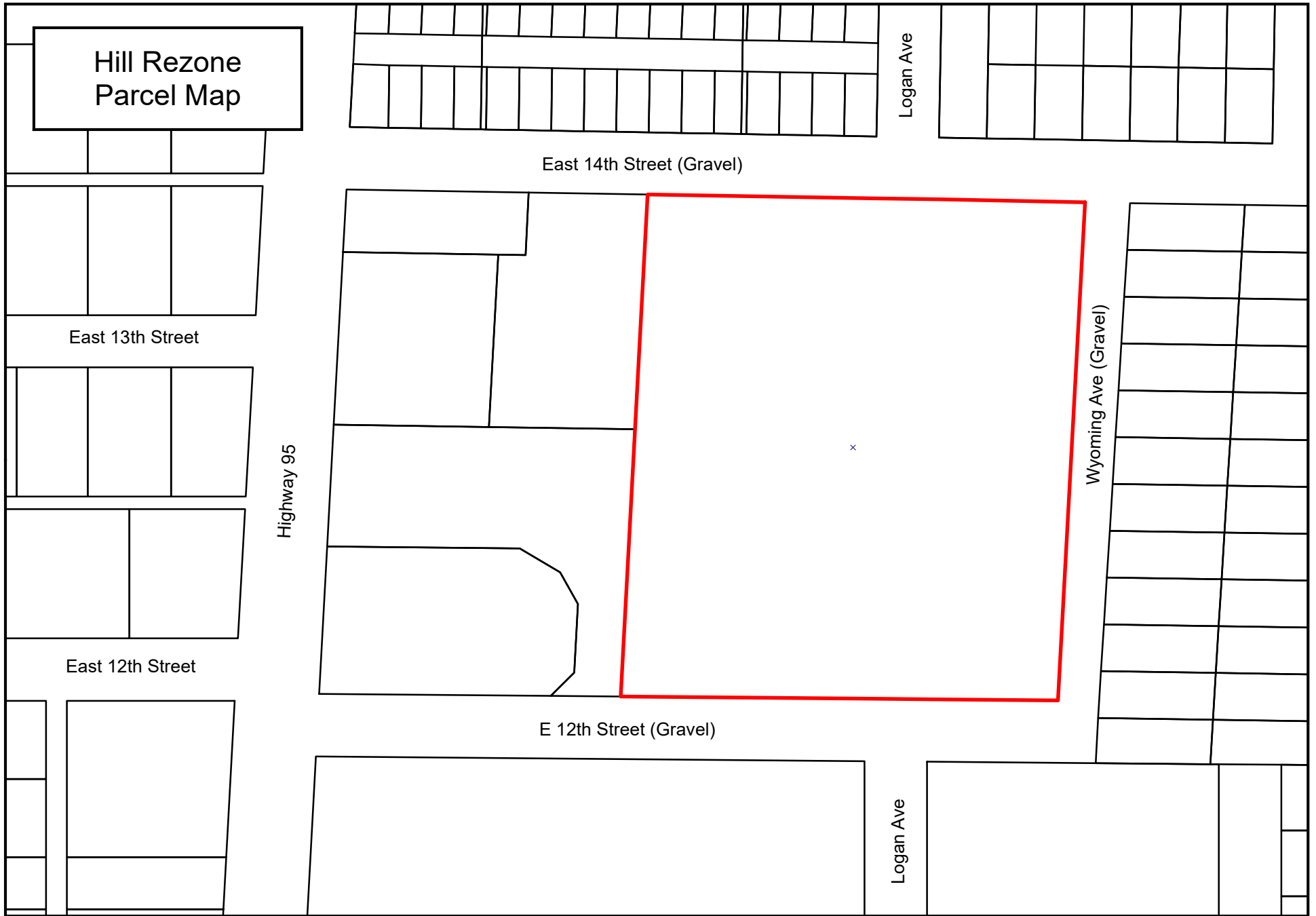
Respectfully submitted,

C. E. Bauer  
Community Development Director

# Hill Rezone Land Use Map



1 inch = 125 feet



1 inch = 125 feet

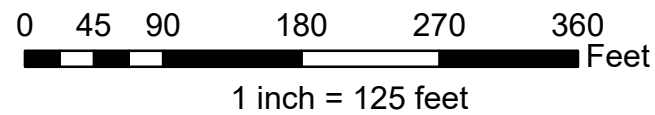
# Hill Rezone Zoning Map



**Legend**

**Zoning Layer**

- Ag
- C-0 Commercial Office
- C-1 Neighborhood Commercial
- C-2 Downtown Commercial
- C-3 Heavy Commercial
- M-1 Light Industrial
- M-2 Heavy Industrial
- M-3 Railroad
- R-1 SF Residential SL
- R-1a SF Residential LL
- R-2 Two Family Residential
- R-3 Multi Family Residential
- R-4 Mobile Home Residential
- RP-3 Planned Residential



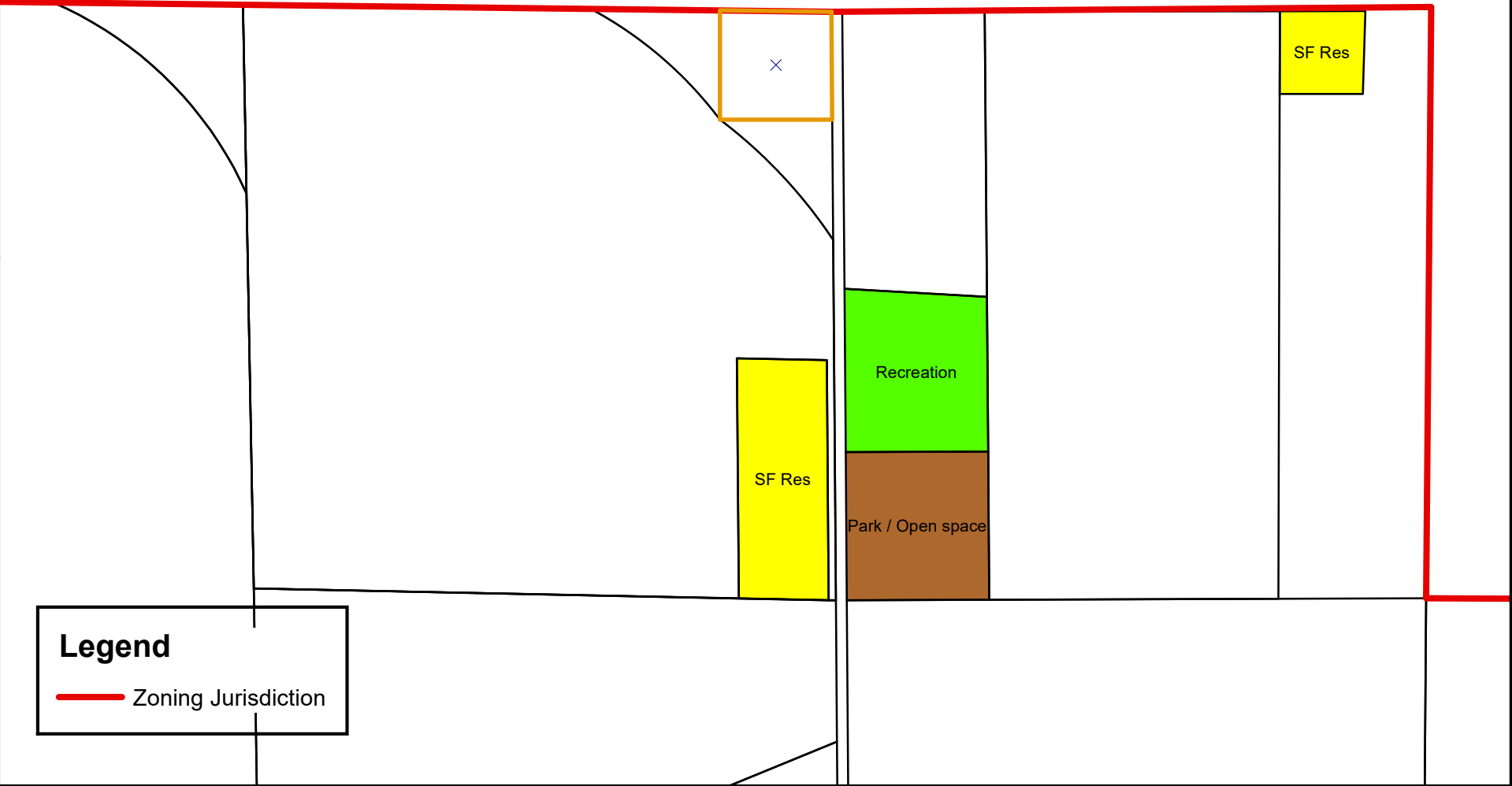
Roberts CUP  
Land Use Map

County Zoning Jurisdiction




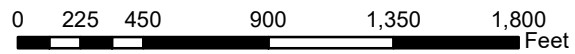
CR 30

Highway 84



**Legend**

 Zoning Jurisdiction

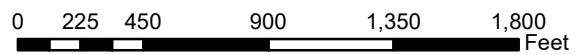
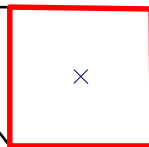


Roberts CUP  
Parcel Map



CR 30

Highway 84



# Roberts CUP Zoning Map

County Zoning Jurisdiction




CR 30

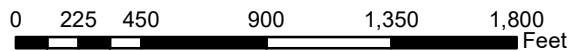
Highway 84



All property in ETJ  
zoned Ag on this map

## Legend

 Zoning Jurisdiction





**Community Development Staff Report - C. E. Bauer**

**Applicant:**

Kenny Hill  
1849 Pennsylvania Avenue  
Somewhere, NE 67890

**Property Owners:**

Same as Applicant

**Proposal:** The rezone of Lot 6, Block 2, Custer Addition to the City of Anywhere, Nebraska, from RP-3, Planned Residential to C-3, Heavy Commercial.

**Current Legal Description:** Lot 6, Block 2, Custer Addition, Anywhere, Nebraska.

**Location:** The proposed rezone is located between E12th and E14th Street, west of Wyoming Avenue and east of Highway 95.

**Project Description:** The applicant would like to park semi-tractor trailers on the property but the RP-3 zoning does not allow for vehicle parking as a permitted principal use.

**Analysis:**

**Zoning:** The lot is zoned RP-3, Planned Residential. The lot is bordered by R-4, Mobile Home Residential on the north and east sides, by R-4, Mobile Home Residential and R-3 Multifamily Residential on the south side, and C-3, Heavy Commercial on the west side.

**Land Use:** The lot is currently vacant. There are single-family residences along the north, east, and part of the south sides. There are multifamily apartments and a daycare to the south. There are commercial retail/restaurant/offices to the west.

**Lot Size/Area:** The proposed rezone would encompass the entire lot, which is 410' wide by 480' long. There are not any plans for future subdivision of the land. There are not any minimum lot size requirements for C-3 zoning.

**Setbacks:** Setbacks along E 12<sup>th</sup> Street and E 14<sup>th</sup> Street would be reduced from 25' to 15'. The setback along the west property line would be reduced from 5' to 0' and the setback along the east property line would remain 15'.

**Transportation:** The subject lot is adjacent to Wyoming Avenue on the east, to E 14<sup>th</sup> Street on the north, and E 12<sup>th</sup> Street on the south, all of which are currently gravel road surfaces. The west property line is land locked. All access to this lot would be by way of gravel streets designated by the Comprehensive Plan as local.

**Comprehensive Plan:** The City Comprehensive Plan identifies this area as the Eastern Gateway Neighborhood. It is noted for having primarily residential uses with some commercial and industrial uses adjacent to arterial streets. The rezone of the property allowing a commercial use would be consistent with other uses designated in the Plan but it would not be adjacent to an arterial street. The Plan designates the streets providing access to the subject lot as local streets with Highway 95 being the nearest arterial.

**Public Notification:**

Notification letters were served to property owners within a 300' radius of the subject property and the property was posted with a sign in accordance with State Law. The letters and sign stated the date, time, and place of the public hearing so that they may provide comment and concerns to the Planning Commission.

**Staff Comments:**

The last use of the property was for a drive in movie theater. Since the theater closed, the lot has been vacant with a few portions subdivided to accompany expansion of the commercial properties along Highway 95. In the early 1980s, the property was rezoned for a planned multifamily housing development that did not materialize beyond the planning and infrastructure installation phases.

A commercial zoning district may be an appropriate zoning classification for this parcel; however, C-3 Heavy Commercial is the most intense commercial zoning in City code and would leave no buffer between the residential uses to the north, east, and south. The intent of the C-3 district as stated in the code is to "provide a zone that accommodates more intense commercial businesses that require direct access to highways and primary transportation thoroughfares due to the volume of traffic they generate." The streets the subject lot derives its access from are not arterials and are not designed for the potential increase in traffic. None of the streets surrounding the lot are paved. Local streets are designated as such because they are designed and used for collecting local traffic and routing it to arterials. Arterial streets are those that are designed and intended for heavier commercial and industrial traffic.

The intent of the C-1, Neighborhood Commercial and C-0, Office Commercial zoning districts would be more appropriate for this area if it were to be rezoned commercial. The intent of C-0 is to "provide a zone for the conduct of low impact commercial, office, and health service uses. The low impact developments within this zone are viewed as an ideal transition between residential zoning and heavier commercial or industrial zoning" and C-1 is "to provide a zone for the conduct of low impact commercial uses that are solely intended to support the convenience of residents and activity carried on within a residential neighborhood. Developments of this type are ideally placed along, or at the intersection, of arterial streets located primarily in residential neighborhoods, or placed as a transition between residential zoning and heavier commercial or industrial zoning."

City Staff has received complaints in the past of semi tractors parked in residential neighborhoods. The complaints typically center on the problem of them running the trucks and the noise and diesel fumes associated with it, and even on occasion people living in the sleeper. This is why semi tractor parking as a land use is only allowed in Heavy Commercial and industrial zoning districts. With the Heavy Commercial zoning adjacent to Highway 95 and the RP-3, Multifamily zoning behind it, the residential uses surrounding the subject property would lose their buffer if this were rezoned to C-3, Heavy Commercial. As a reminder, all uses listed in the C-3 zoning code would be allowed, not just what they are proposing.

**Findings of Fact may include:****To Approve:**

1. The rezone is consistent with other uses as designated by the Comprehensive Plan as it is commercial and there is additional commercial zoning in the East Gateway Neighborhood.
2. The rezone would not create any nonconforming lot sizes or structures.
3. There is adjacent C-3 zoning to the west so it would not be a spot zone.

**Not to Approve:**

1. The proposed rezone would remove the existing buffer between the Heavy Commercial zoning district adjacent to Highway 95 and the residential districts that are located on the north, east, and south sides of the subject property.
2. The rezone is not consistent with the Comprehensive Plan as the streets serving the lot are designated as local streets and as such are not designed for traffic associated with C-3 zoning developments.
3. The location of the proposed rezone would be better suited by a less intense commercial or residential zoning designation as the intent of the C-3 district is not compatible with this geographic location.

**Staff Recommendation:**

Staff does/does not recommend the approval of the rezone of Lot 6, Block 2, Custer Addition to the City of Anywhere, Nebraska, from RP-3, Planned Residential, to C-3, Heavy Commercial after making the following findings of fact:

**Community Development Staff Report - C. E. Bauer**

**Applicant:**

William Roberts  
1815 21<sup>st</sup> Street  
Somewhere, NE 67890

**Property Owner:**

Same as applicant

**Proposal:** The issuance of a Conditional Use Permit at 3016 Highway 84 for a farmers market.

**Current Legal Description:** A 10-acre parcel of land located in the southwest corner of the southwest corner of Section 22, Township 23 North, Range 47 West of the 6<sup>th</sup> Principal Meridian, also known as Tract 3, Roberts Acres.

**Location:** The tract of land is located at the southwest corner of the intersection of County Road 30 and Highway 84.

**Project Description:** The applicant would like to open a farmers market for local and regional farmers and retailers to sell their goods to the public.

**Analysis:**

**Zoning:** The lot is zoned Ag, Agriculture. It is surrounded by Ag, Agriculture zoning.

**Land Use:** This property is currently used for dry land farming. It is adjacent to irrigated farming to the east, north, and west, and by dryland farming to the south.

**Lot Size/Area:** The tract is 670' X 670' and is 10.3 acres. The minimum lot size requirement for Ag zoned parcels is 10 acres.

**Setbacks:** There aren't any existing structures at this time. They are proposing a restroom which the submitted site plan shows will be out of the setbacks. The setbacks from the front, rear, and county road property lines are 50', the side setback is 10'.

**Transportation:** The lot is adjacent to County Road 30 and Highway 84. CR 30 is a gravel road and Highway 84 is paved State Highway with shoulders.

**Comprehensive Plan:** The property is located in the extra territorial zoning jurisdiction. The Plan does not provide any guidance other than to identify this tract of land as an agriculture land use. The land approximately 1 mile south of the tract is identified by the comprehensive plan as future commercial but is also currently used for agriculture.

**Public Notification:**

Notification letters were served to property owners within a 300' radius of the subject property and the property was posted with a sign in accordance with City code. The letters and sign stated the date, time, and place of the public hearing so that they may provide comment and concerns to the Planning Commission.

**Staff Comments:**

**Municipal Code Section 115-140 Requirements:**

Municipal Code Section 115-140 requires that CUP applications meet certain minimum requirements in order for the CUP to be issued.

- 1. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations, and use limitations.**

The proposed farmers market is listed as a Conditional Use in the Ag zoning district. The proposed use as presented would not create any nonconforming yards or structures.

- 2. The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public.**

The proposed CUP has the potential to create an increase in traffic, dust, and potentially noise on days they are open. The tract is surrounded by farm land.

- 3. The nature, size and scope of the conditional use and its location in relation to transportation systems will not dominate the immediate neighborhood so as to prevent development and use of the neighboring property in accordance with applicable zoning regulations.**

The front of the property is bordered by Highway 84 and the north side is bordered by CR 30. The surrounding property is all agricultural. The increase in traffic while the market is open should not interfere with the surrounding land use as it is not very traffic intensive.

- 4. Off-street parking and loading will be provided as required in this chapter.**

Any off street parking for employees and patrons would have to be complied with before the land use could begin. They have provided a site plan showing they will have 40 parking spaces, two of which will be hard surfaced and spaced for ADA requirements. Municipal code indicates they would be required to have 38 spaces.

- 5. Adequate utility, drainage, and other necessary facilities have been or will be provided.**

The property is located in the two-mile extraterritorial zoning jurisdiction. Other than electric, there aren't any utilities on the site. The CUP application includes a proposed well and septic system which have been reviewed and approved by the State and City Public Works Director.

- 6. Adequate access to roads, or entrance and exit drives, will be provided and shall be so designed to prevent traffic hazards and to minimize congestion in public streets and alleys.**

The property is bordered by CR 30 along its north property line and Highway 84 along its east property line. They are proposing that all access be derived from the County Road as the State would require an application and fee for direct access to the highway. The State was concerned about the increase in traffic turning on and off the highway as the speed limit is 65MPH. The applicant argued that there is a large increase in semi-truck traffic at harvest but there are no known accidents at this location.

**Findings of Fact may include:**

To Approve:

1. The proposed farmers market meets the minimum requirements of Section 115-140 of the Municipal Code.
2. The proposed farmers market is consistent with the comprehensive plan in that the proposed use is agricultural in nature and will not change the land use.

Not to Approve:

1. The CUP application does not meet the minimum requirements of the City Municipal Code Section 115-140 Subsections 5 and 6.
2. The proposed land use is not supported by the comprehensive plan as it is not identified as a commercial land use tract.

**Staff Recommendation:**

Staff does/does not recommend the approval of the Conditional Use Permit for a farmers market located on a 10-acre parcel of land in the southwest corner of the southwest corner of Section 22, Township 23 North, Range 47 West of the 6th Principal Meridian, also known as Tract 3, Roberts Acres for the following reasons:

(List findings of fact)

**Planning Commission to consider Zone Changer from MH, Heavy Manufacturing, to RM, Medium Density Residential for Lot 5, Block 8, Bennett Addition to the City of Anytown, Nebraska.**

This property is being considered for a rezone at the request of City staff. Staff has been working for the past three years to do Phase I and Phase II environmental assessments of the site. The site was formerly a scrap metal facility that also recycled used batteries. The soil was so contaminated that the EPA stepped in and remediated the site through their Superfund program, at an expense of over \$1,000,000. Now that the site has been remediated, staff recommends that it be rezoned to residential to be more in keeping with the character of the surrounding neighborhood. The Comprehensive Plan identifies the future land use of the property as residential and notes that there have historically been numerous issues with having this industrial site in the middle of a residential neighborhood.

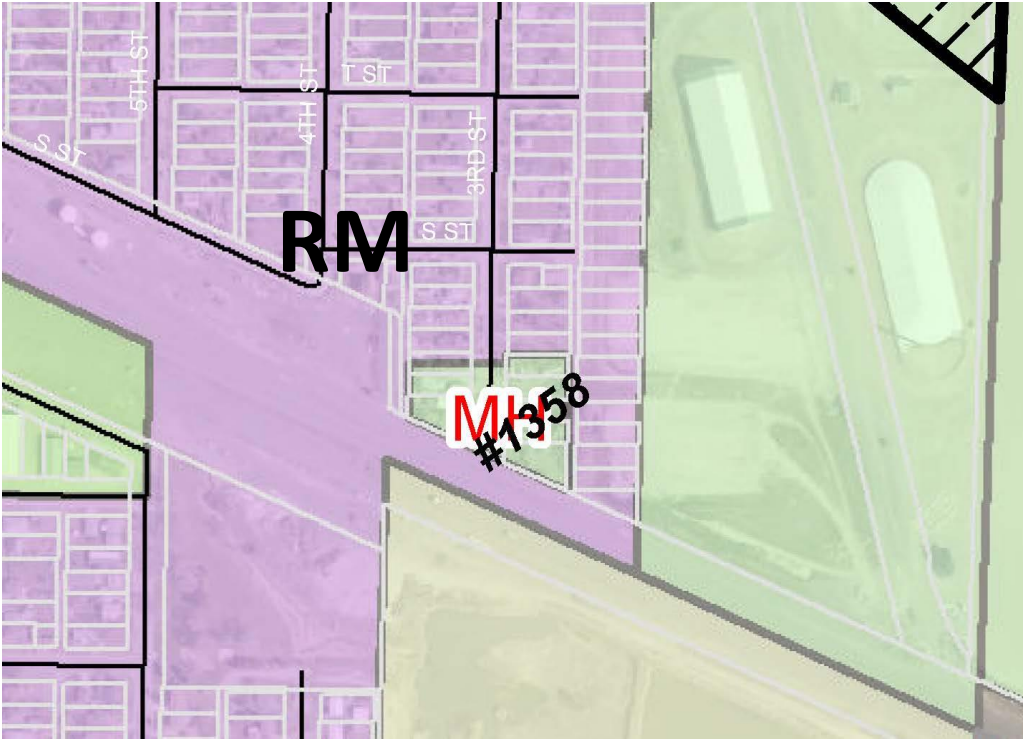
**Recommendation:**

**Approve:** Make a positive recommendation to City Council to approve the rezone of Lot 5, Block 8, Bennett Addition to the City of Anytown Nebraska from MH Heavy Manufacturing to RM, Medium Density Residential for the following reasons:

**Deny:** Make a negative recommendation to City Council to approve the rezone of Lot 5, Block 8, Bennett Addition to the City of Anytown Nebraska from MH Heavy Manufacturing to RM, Medium Density Residential for the following reasons:

**Table:** Table making a recommendation to City Council to approve the rezone of Lot 5, Block 8, Bennett Addition to the City of Anytown Nebraska from MH Heavy Manufacturing to RM, Medium Density Residential for the following reasons:

# Current Zoning



# Proposed Zoning

