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# City of Hiawatha
## Community Development Department

| | |
|---|---|
| **Purpose**: | Consider a rezoning request as detailed in the attached public notice. |
| **Date**: | September 25, 2018 **Zone:** R-1 to C-3 |
| **To:** | Hiawatha City Council |
| **Name of Plan**: | Next Level Properties; %David Wright |
| **Plan Address:** | 725 & 735 Kainz Drive and Auditor's Plat 372 lot 18 |
| **Number of Lots:** | 3 lots |
| **Reviewed by:** | Patrick Parsley, Community Development Director |
| **Description:** | Rezoning R-1 lot to C-3. The new zoning designation will allow the applicant to expand a new-car dealership. |

**Report:**
*In determining zoning uses for a particular property, the City will take into account both the property's physical characteristics and the location of the property relative to available services and facilities such as roads, water, sewer, utility services, fire protection, the degree and intensity of development in the vicinity, the surrounding neighborhood character, and Comprehensive Plan policies regarding land use applicable to the property. It is the City's intent to obtain the best possible harmony between the physical characteristics of a site and the type and intensity of development proposed for the site. Land having development constraints due to topography and location within a flood plain shall be avoided or used for lower intensity development unless constraints are mitigated to the satisfaction of the City.*
(Summary of Reclassification of Property: Unified Development Code Section 165.92)

This is three additional lots next to the re-zoned lots of 999 Boyson; Dave Wright Dealership. The rezone matches what was previously allowed in this area. The request matches the dealership zone and Comprehensive plan for the area.

Access to utilities and the physical characteristics of the area have been considered. The development in this area includes maintaining and improving existing detention, adding detention as required for the new parking surfaces, development of a public parking area and the development of a dog park on land not accessible for other development.

There is some concern with the C-3 abutting existing residential property. The applicant has agreed to properly screen their property.

**Planning and Zoning Meeting Summary: (draft minutes attached)**
Some of the Kainz Drive neighborhood attended the P&Z meeting. Each was afforded an opportunity to speak regarding the rezoning issue and the site design. The main issues voiced included:

1. Storm water concerns: The neighbors were concerned the area would flood more severely with the added parking surfaces. The site designer from Hall and Hall explained the added capacity of the detention basin and the added underground storage for the parking lots. The problem with flooding will actually be reduced. One neighbor added the flooding has already been reduced with the work completed in the basin by the City while another said it had not. The design engineer will be submitting revised storm water calculations which will show the final capacity of the system which will be maintained by the owner of 999 Boyson.
2. Screening concerns: One neighbor next to the new south parking lot expressed a concern the plantings used for screening would not be adequate. Another neighbor next to the public parking was also concerned about her yard access to the parking lot. The plans for fencing and screening were reviewed and the neighbor next to the south parking lot is working with Dave Wright on an acceptable fence. In addition, a fence is being installed between the public parking lot and the residential lot. The screening for the Design Guideline and at the detention basin was also explained. It was noted all detailed screening complies with the UDC.
3. Lighting trespass: The neighbor next to the south parking lot requested the parking lot lights be moved as far away from the lot line as possible and that the pole heights be reduced. Staff explained the lighting must comply with the City Code for down lighting, pole heights, light trespass and for shut off after business hours. He was assured the lighting would not be a nuisance when installed as approved.
4. On-street parking: There was agreement among the neighbors that on-street parking has increased and is sometimes a nuisance along Kainz Drive. The concerns include people parking in front of driveways and narrow access for emergency vehicles. Staff stated the parking and parking restrictions are under the jurisdiction of public safety. The City will address the issues as they arise from complaints in the area. Presently there was no agreement regarding additional possible parking restrictions.
5. Noise from the PA system: One neighbor asked if it would be possible to ban the outdoor paging system. Staff stated the system complies for noise allowances but that it needs to be turned off at 10:00pm. Dave Wright stated he is adding software to his paging system which will reduce the number of pages by 50% but there are no guarantees as to when this will be completed.

Overall the neighbors are satisfied with Dave Wright as a neighbor. They appreciate the improvements to the storm sewer but would like more diligence in the traffic use of Kainz Drive. One resident is still very displeased with the rezoning progression to commercial.

**Recommend:** Community Development and the Planning and Zoning Commission recommend approval of the request to rezone.

SCALE IN FEET

LEGEND

R-1 TO C-3

LEGAL DESCRIPTION

LOT 9, 10, AND 18, AUDITOR'S PLAT NO. 372 IN LINN COUNTY, IOWA, EXCEPT PARCEL 'A', PLAT OF SURVEY NO. 1962 AS RECORDED IN BOOK 8114, PAGE 282 IN THE OFFICE OF THE LINN COUNTY, IOWA RECORDER'S OFFICE.

PETITIONER'S AGENT

NICK HATZ
SHIVE-HATTERY INC.
P.O. BOX 1503, 52406-1503
318 SECOND ST. SE SUITE 500
CEDAR RAPIDS, IA 52401
PH (319) 364-0227
FAX (319) 364-6251
NHATZ@SHIVE-HATTERY.COM

OWNER REPRESENTATIVE

DAVE WRIGHT
DAVE WRIGHT NISSAN AND SUBARU
999 BOYSON ROAD
HIAWATHA, IA 52233
PH (844) 882-8414
DAVEDWRIGHT36@DWESTOFFICE.NET

Hiawatha Addresses
Hiawatha Parcels
Hiawatha_Roads

**Hiawatha Zoning**

A
C-2
C-3
C-4
CPR-3
I-1
R-1
R-MH

SHIVEHATTERY
ARCHITECTURE + ENGINEERING
318 Second Street SE, Suite 500 | Cedar Rapids, Iowa 52401
319.364.0227 | fax: 319.364.6251 | www.shive-hattery.com
Iowa | Illinois | Indiana

DAVE WRIGHT NISSAN AND SUBARU
PARKING ADDITION
DAVE WRIGHT NISSAN AND SUBARU
BOYSON ROAD, HIAWATHA, IA

PRELIMINARY
- NOT FOR
CONSTRUCTION

DRAWN: PES
APPROVED: CSH
ISSUED FOR: SITE PLAN
DATE: 2/27/2018
PROJECT NO: 217282
FIELD BOOK: --
CLIENT NO: --

REZONING EXHIBIT

EX-1

**PETITION FOR REZONING**
**CITY OF HIAWATHA, IOWA**

To: HONORABLE MAYOR AND CITY COUNCIL
81 Emmons Street
Hiawatha, Iowa 52233

Honorable Mayor and Council Members:

I, David J. Wright, as Managing Member of Next Level 22 Properties, LLC, which owns the following properties:

**725 Kainze Drive**, legally described as:

**Lot 10, AUDITOR'S PLAT NO. 372, IN LINN COUNTY, IOWA**

and

**735 Kainz Drive**, legally described as:

**Lot 9, AUDITOR'S PLAT NO. 372, IN LINN COUNTY, IOWA**

and

**Lot 18, AUDITOR'S PLAT NO. 372, excepting Parcel A, Plat of Survey No. 1952, LINN COUNTY, IOWA**

respectfully request a rezoning of these properties from residential to commercial classification.

This zoning change should be made because the lots are adjacent to the property owned by Applicant that is currently used for an auto dealership businesses. Changing the zoning will facilitate a limited expansion of the dealership footprint.

Specifically, additional parking for the dealership's inventory will be constructed on Lots 9 and 10. An addition to parking will also be made on Lot 18, to be constructed in a way that is consistent with the lot's current public purpose use as a groundwater detention area.

Respectfully submitted,
NEXT LEVEL 22 PROPERTIES, LLC
OWNER - APPLICANT

BY _____
David J. Wright, Managing Member
999 Boyson Road
Hiawatha, Iowa 52233
(319) 393-0640

James W. Radig
ARENSON LAW GROUP, PC
425 Second St SE, Ste 900
Cedar Rapids, IA 52401
319.363.8199
Attorney for Next Level 22 Properties, LLC

# HIAWATHA PLANNING AND ZONING COMMISSION
## REGULAR MEETING
## September 24, 2018

## (DRAFT)

The Hiawatha Planning and Zoning Commission met on September 24, 2018. Chairperson, Mark Powers called the meeting to order at 5:34 P.M. Members present: Darryl Cheney, Kenny Jones, Mark Ross, Eric Hoover. Members Absent: None. Staff present: Building Official, Pat Parsley and Assistant Building Official, Jim Fisher, Mayor, Bill Bennett. Guests in Attendance: Troy Anderson, Dave Wright, Chris Backen, Kerry Kupka, Kathy Kupka, Nick Hatz, Elizabeth Schmelzer and Denny Norton.

Board Member, Kenny Jones moved to approve the Agenda. Second by Eric Hoover. Motion carried.

Board Member, Eric Hoover moved to approve the meeting minutes of August 27th, 2018. Second by Darryl Cheney. Motion carried.

**Consider Resolution for recommendation to City Council to approve the Rezoning Request submitted by Dave Wright for the property located at 999 Boyson Rd., Hiawatha, Iowa.**

Mark Powers asked if there was anyone wanting to speak for the rezoning.

There were questions about the address. Pat Parsley explained what lots were included in the rezoning.

There were also questions about the detention basin and its storage capacity. Pat Parsley confirmed it is part of the rezoning. Nick Hatz explained that the detention basin would be enlarged and it would have an increase in capacity to accommodate the excess water. He went on to explain the runoff would be treated with an underground system.

The design guidelines were also addressed. Trees and berms were discussed along with the proposed fencing.

Kathy Kupka at 705 Kainz Dr. addressed the Board. She wanted to see the whole proposed project and is concerned about what is happening with the park. Pat Parsley explained the project in more detail. He showed on the overhead the site plans and discussed what has been proposed. Kathy Kupka then asked the trees and if they would be removed. Pat Parsley stated he didn't know.

Mark Powers then asked if there was anyone to speak against the rezoning.

Chris Backen at 707 Kainz Dr. addressed the Board. She stated that there are many concerns for her and the neighborhood. She stated they hear the intercoms all day and into the night, people are taking test drives at high speeds up and down the street, the lights are on (sometimes all night), employees are parking in front of her house and having lunch, they also park along the street all day and the car wash is heard all day as well. She stated she wants something done about all the traffic on Kainz Dr. and some way to stop people from cutting through.

Troy Andersen at 715 Kainz Dr. addressed the Board. He explained he is a lifetime resident of Hiawatha and also on the Water Board. He handed the Board a document outlining some issues he would like the board to consider. (See attachment A) After going through the document, he thanked the Board and returned to his seat. Mark Powers suggest Mr. Andersen work with Dave Wright concerning the fence and its location. Dave Wright said he would be willing to work with Mr. Andersen.

Elizabeth Schmelzer at 730 Kainz Dr addressed the Board. She told the Board Dave Wright is doing business in the cul-de-sac; employees are parking in front of her house, racing up and down the street and said it's just a nightmare. She explained that she has done many upgrades to try and sell the house, but no one will buy it because of the dealership. She stated that she wishes Dave Wright or the City would buy it. She says she blames the City for her turmoil because they are spot zoning and making it impossible for her to live in or sell her home.

Steve Backen 707 Kainz Dr. addressed the Board. He explained there is a lot of light that shines in the back of his house and too much noise. He also stated that he is worried about possible flooding. He said that he has more water on his property than ever before. He asked what studies have been done to calculate the water. Pat Parsley explained that studies have been done and they estimate it to have the capacity to hold up to the 75 year flood. He continued by saying the City engineer said it should improve the water situation.

Mark Powers asked if there was anyone else that wanted to address the Board. There were none. He then stated that the Board was only a recommending body to Council and does not make the final decision.

Kenny Jones asked what was planned on the south lots. Nick Hatz sited the planes and stated it will be a 6' white vinyl fence.

Kenny Jones then asked how much more lighting would be going in. Nick Hatz sited the planes and said they would follow the code.

Kenny Jones then asked if the lights go dim at 10:00pm. Nick Hatz said they would follow whatever the code said. Kenny Jones asked if they could recommend to either dim the lights or turn off the lights at a certain time. Pat Parsley said that would not be appropriate to ask and the City would make sure they were in compliance.

Kenny Jones asked if the fence would be the same as what is currently there. Nick Hatz said it would. Pat Parsley restated that if Troy Anderson works with Dave Wright regarding the fence, the City would like it to be in writing.

Kenny Jones asked if they planned on leaving the trees to the north of the parking. Nick Hatz explained that they would be removing the trees to accommodate enlarging the detention basin.

There was some discussion about what to do with the entrance at the cul-de-sac. Kenny Jones said there shouldn't be parking there. Mark Ross said that they shouldn't be unloading vehicles there. Eric Hoover suggested the entrance be closed all together. Pat Parsley stated that the parking can be addressed.

There was some discussion about either closing Kainz Dr. off or putting up signs that say no parking. Pat Parsley said that the parking issue would be addressed if necessary.

Kenny Jones asked about the paging system and if there was an alternative. Dave Wright said they are implementing a new soft ware system that would allow pages and calls to be transferred to phones instead of using that paging system. Mark Ross asked if they would be able to get rid of the paging system. Dave Wright said that would not happen, but they think it will decrease the amount of pages significantly.

There were no further questions from the Board.

Eric Hoover moved to recommend to City Council to approve the Rezoning submitted by Dave Wright for 999 Boyson Rd., Hiawatha, IA. Second by Mark Powers.

AYES: ERIC HOOVER, MARK POWERS, MARK ROSS, DARRYL CHENEY AND KENNY JONES
NAYS: NONE
ABSENT: TERRY TRIMPE
**Motion Carried**
**Resolution #18-013 Approved**

**Consider Resolution for recommendation to City Council to approve the Design Guidelines submitted by Dave Wright for the property located at 999 Boyson Rd., Hiawatha, Iowa.**

There were no questions or concerns.

Mark Ross moved to recommend to City Council to approve the Design Guidelines submitted by Dave Wright for 999 Boyson Rd., Hiawatha, IA. Second by Darryl Cheney

**AYES:** KENNY JONES, MARK ROSS, MARK POWERS, ERIC HOOVER AND DARRYL CHENEY
NAYS: NONE
ABSENT: TERRY TRIMPE
**Motion Carried**
**Resolution #18-014 Approved**

**Consider Resolution for recommendation to Board of Adjustment to approve the Conditional Use Request submitted by Hawkeye Dr., LLC for the property located at 925 Metzger Dr., Hiawatha, Iowa.**

Mark Powers asked how the City would control an open gym. Pat Parsley explained the interior is not built for an open gym and it would regulate itself. He went on to say the only possible issue would be parking and the hours of operation would control that.

Mark Ross asked if they were renting the space or buying. Pat Parsley said they would be renting.

Mark Powers asked if gyms were allowed in the current zone. Pat Parsley said they are not. Mark Powers then asked if it was one-on-one training. Pat Parsley said it would be.

Mark Ross moved to recommend to Board of Adjustment to approve the Conditional Use Request submitted by Hawkeye Dr., LLC for the property located at 925 Metzger Dr., Hiawatha, Iowa. Second by Kenny Jones.

AYES: ERIC HOOVER, DARRYL CHENEY, KENNY JONES, MARK POWERS AND MARK ROSS
NAYS: TERRY TRIMPE
ABSENT: NONE
**Motion Carried**
**Resolution #18-015 Approved**

Eric Hoover moved to adjourn the meeting at 6:49 p.m. Second by Kenny Jones.

Mark Powers, Chairperson

ATTEST:

Jennifer Goerg, Community Development Clerk

A1

Troy & Ranae Andersen
715 Kainz Dr

September 24, 2018

Hiawatha Planning and Zoning Board,
Thank You for your careful consideration of the following matters:

Requested stipulations placed on the R1 to C3 rezoning request:

1. THAT the outdoor public address (PA) speaker system is <u>not expanded</u> AND that it is phased out within the next 6 months. The use of PA speakers close to residential spaces is outstandingly bad because the sound cannot be contained. This is similar to having smoking and non-smoking sections on an airplane. The frequent celebrations using a child's bicycle "honk" horn over the PA is outrageous and disturbing at any time of day. In this day and age of mobile technology (cell phones), the use of 1950's technology is very much out-of-date and unnecessary when it imposes such a disturbance to the nearby residents;

2. THAT the boundary between the C3 and R1 is substantial AND improved over the previous attempt, preserving the privacy and property values of the residents. Currently, as evident at the Schmeltzer residence, which is for sale, with the C3 encroachment into the neighborhood, our properties are un-sellable at previous market values. For my residence at 715, I request that the white fence currently used behind my property, be used to extend North along my West property line up to half way (or so) along the house, giving visual screen between the R1 and C3. Then, North of this fence line, a substantial green space extending the boundary up to the road, with elements that provide visual screen;

3. THAT the lighting next to the R1 follows the lighting ordinance using the shorter, more dim lights AND that current violations are brought into compliance. I notice a big difference between the lighting that is installed along the Center Point and Boyson Roads AND the light fixtures in the rear of the dealership adjacent to the adjoining properties. The rear fixtures are much taller and brighter, whereas the fixtures near the public Right-of-Way (roads) are shorter and less bright.(see back side of this page)

A2

CH 168 OUTDOOR LIGHTING CODE

168.02 PURPOSE AND INTENT. To protect and preserve the rights, privileges, and property of the City's residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents, this chapter is intended to minimize glare, minimize light trespass, and establish regulations for outdoor lighting. All outdoor lighting shall be installed with the idea of being a "good neighbor," to keep unnecessary direct light from shining onto abutting properties or streets.

OUR HOMES AND YARDS should not be "lit up" or on display. I request that the "good neighbor" spirit of this ordinance be foremost above the desire to display product.

**NON-COMPLIANT -** often, the hours have been violated.

168.04 GENERAL REGULATIONS. 1. After-Hours Lighting. The hours between 10:00 p.m. and 6:00 a.m. are defined as after-hours and must comply with after-hours lighting definition.

**NON-COMPLIANT -** the carwash property illuminates the back side of the 715 Andersen residence. Specifically, the light at the gable end of the old Fleet Care building.

168.05 LIGHT TRESSPASS. 1. Residential and Public Right-of-Way. Illumination measured at the property line adjoining residential parcels and public rights-of-way shall not exceed 0.5 horizontal foot candles and 2.0 vertical foot candles.

**RESOLUTION NO. 18-013**
**Planning & Zoning Commission**

**RECOMMEND REZONING OF PROPERTY CALLED**
**999 BOYSON RD.**
**HIAWATHA, IOWA**

THE PLANNING AND ZONING COMMISSION OF HIAWATHA, IOWA, HEREBY RECOMMENDS THAT THE CITY COUNCIL APPROVE THE REZONING REQUEST FROM NEXT LEVEL 22 PROPERTIES, LLC, TO REZONE THE PROPERTY FROM R-1 (RESIDENTIAL) TO THE REQUESTED ZONING C-3 (COMMERCIAL) LOCATED AT:

> LOT 9, 10, AND 18, AUDITOR'S PLAT NO.372 IN LINN COUNTY, IOWA, EXCEPT PARCEL 'A', PLAT OF SURVEY NO.1952 AS RECORDED IN BOOK 9114, PAGE 282 IN THE OFFICE OF THE LINN COUNTY, IOWA RECORDER'S OFFICE.

Roll call vote:
AYES: ERIC HOOVER, MARK POWERS, MARK ROSS, DARRYL CHENEY AND KENNY JONES
NAYS: NONE
ABSENT: NONE

PASSED THIS 24th DAY OF SEPTEMBER, 2018

_____
Mark Powers, Chairperson

ATTEST:

_____
Jennifer Goerg, Community Development Clerk

**DRAFT**

Prepared/Return to the City of Hiawatha, Kelly Kornegor, 101 Emmons St. Hiawatha, Iowa 52233, 319-393-1515

**ORDINANCE NO. _____**
City Council

**APPROVE REZONING OF PROPERTIES**
**725 KAINZ DRIVE, 735 KAINZ DRIVE AND AUDITOR'S PLAT 372 LOT 18**
**HIAWATHA, IOWA**

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIAWATHA, IOWA, to approve the rezoning request from Next Level Properties; % Dave Wright, requesting a change from R-1 (Single Family Residence District) to C-3 (Restricted Highway Commercial District) for the following properties locally known and/or legally described as follows:

**725 Kainz Drive, Lot 10, Auditor's Plat No. 372, in Linn County, Iowa,**

and

**735 Kainz Drive, Lot 9, Auditor's Plat No. 372, in Linn County, Iowa,**

and

**Lot 18, AUDITOR'S PLAT NO. 372, excepting Parcel A, Plat of Survey No. 1952, Linn County, Iowa.**

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

PASSED AND APPROVED this 3rd day of October, 2018.

_____
Bill Bennett, Mayor

ATTEST:

_____
Kelly Kornegor, City Clerk

*I, Kelly Kornegor, City Clerk of the City of Hiawatha, Iowa, do hereby certify that the foregoing ORDINANCE was PASSED and APPROVED by the City Council of the City of Hiawatha, Iowa, on the 3rd day of October, 2018, and was published as Ordinance No. _____ on the _____ day of October, 2018.*

_____
Kelly Kornegor, City Clerk