

# Cerro Gordo County Planning & Zoning Staff Report

## SPECIAL USE

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<b>Case No.:</b> 19-19	<b>Date of Application:</b> January 8, 2019
<b>Use Request:</b> 20.2(D) Commercial sport or recreational enterprise	<b>Owner:</b> Jennifer McIntyre (Kammeyer)
<b>Current Zoning:</b> A-1 Agricultural	<b>Petitioner:</b> Jennifer McIntyre (Kammeyer)
<b>Address:</b> Property south of 16040 Mill Street Mason City, IA 50401	<b>Size of Special Use:</b> 0.85 acres
<b>Legal:</b> Lot 1, West Mill Road Subdivision SE¼ of Section 18, Portland Township	<b>Size of Parcel:</b> 0.85 acres
	<b>Hearing Date:</b> January 22, 2019

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### **BACKGROUND INFORMATION:**

#### **1) PURPOSE OF SPECIAL USE REQUEST -**

Jennifer McIntyre is requesting a Special Use Permit under Section 20.2(D) to operate a canoe and watercraft rental business. The property is situated along the Winnebago River on the southern end of the unincorporated town of Portland (See Figure 1). There is also a canoe landing accessing the river from the property (See Figure 2). It is anticipated that people may depart or land for canoeing, kayaking, tubing, or other water recreation along the river at this location from the spring to early fall months as a result of the special use.

#### **2) EXISTING LAND USE AND ZONING CLASSIFICATION OF PROPERTY –**

The property is undeveloped and is the site of a historic mill (See Figures 1 and 3). A small man-made waterway that was used in operation of the former mill runs through a portion of the property (See Figure 4 & 5). The property is zoned A-1 Agricultural. The size of the property was grandfathered in at the time of the adoption of the Zoning Ordinance. About one-third of the property is in a flood hazard area.

#### **3) LAND USE AND ZONING CLASSIFICATION OF SURROUNDING PROPERTY -**

Property to the north and to the east is located in the R-3 Single Family Residential District and each have dwellings. Property to the south is located in the R-1 Single Family Residential and is currently undeveloped. The North Iowa Cooperative owns property to the northeast, which operates a bulk seed facility in the M-1 Light Industrial District. Property to the west and southwest is zoned A-1 Agricultural and is primarily the floodplain of the Winnebago River; further on there are a few acreages (See Figure 6). McIntyre lives at the adjacent residence to the north of the site.

### **GENERAL FINDINGS:**

#### **1) HARMONY AND ACCORD WITH GENERAL PRINCIPLES AND PROPOSALS OF ZONING ORDINANCE -**

The intent of the Zoning Ordinance is to provide for the public health, safety, morals, comfort, and general welfare; conserve property values and encourage the most appropriate use of land; provide for the orderly planned use of land resources; and facilitate adequate and economical provisions for public improvements.

The site is currently undeveloped and is awkward for any potential development. One-third of the property is within a flood hazard area, and the topography of the site, along with the man-made waterway running through the

middle of the property do not make development very practical (See Figures 3-8). No structures are proposed for the special use. The use itself should not have a negative impact on the public health, safety, morals, or comfort.

Some traffic, in short, isolated timeframes primarily on weekends, should be anticipated as a result of the use for when customers or recreational users set off or land at the site. Ensuring off-street parking is available, including for canoe trailers, as a condition of the permit will help to protect the public's general welfare and safety (See Figure 7 & 9).

Commercial sport and recreational enterprises like the one proposed are allowed in A-1 districts, subject to a Special Use Permit being approved by the Board of Adjustment.

## **2) COMPATIBILITY OF USE WITH APPEARANCE AND ESSENTIAL CHARACTER OF AREA -**

The character of the area is a somewhat mixed-use area, between industrial uses northeast and further north with North Iowa Cooperative, single family residential dwellings, and agricultural areas immediately outside of Portland to the east and across the river to the southwest. No structures are proposed as a result of the use. The land will continue as open space as it is now. Canoes and watercraft will be stored along the hillside along the northerly part of the property, and transactions will occur by meeting up with customers onsite (See Figures 8 & 10). The special use itself will have only nominal impact to the character and appearance of the area as a result.

## **3) IMPACT ON EXISTING AND FUTURE USES, VICINITY, AND COMMUNITY AS A WHOLE -**

Because of the floodplain, the man-made waterway, and the steep topography of the property, its general use is limited. Recreational uses tend to be a good use of property with significant floodplain areas. As discussed below, the impacts on the vicinity include some additional traffic and potentially dust.

## **4) ADEQUACY OF PUBLIC SERVICES (i.e., highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools) -**

Access to the site via Mill Street is only by gravel-surfaced road (See Figure 11 & 12). Primary travel will come from Thrush Avenue, which is paved and adequate to handle any increase in traffic. Dust control will be necessary from Thrush Avenue to the site since this is the most likely access route.

Law enforcement protection is provided by the Cerro Gordo County Sheriff's Department. Fire protection is provided by the Nora Springs Fire Department. Emergency medical response is provided by the Nora Springs Fire Department and Mason City Fire Department. The probability that emergency medical services will be needed is probably greater than the need for law enforcement or fire protection. To enhance emergency response to the site, it would be good if the site was given an address.

Much of the site is within a flood hazard area. If the request is approved, then it should be contingent on the DNR providing documentation that the use does not need a floodplain development permit or is acceptable within the floodplain. The site does not lie within a drainage district.

The site plan or narrative does not address trash receptacles or refuse removal. A condition of approval should make providing trash receptacles and refuse removal a requirement. No water or wastewater facilities are proposed to be installed onsite. The use will not have an impact on schools.

## **5) PUBLIC COST FOR ADDITIONAL PUBLIC FACILITIES AND SERVICES -**

It is unlikely that there will be any cost to the public for additional public facilities or services.

## **6) POTENTIAL DETRIMENTS TO PERSONS, PROPERTY, OR GENERAL WELFARE (i.e., excessive traffic, noise, smoke, fumes, glare, or odors) -**

According to the operational statement and site plan, traffic to the site is anticipated to come via Mill Street from Thrush Avenue (See Figure 11 & 12). The statement does not indicate the anticipated number of users of the

site. DOT traffic maps do not show traffic counts for Mill Street or the town of Portland. Typical traffic along Mill Street tends to be that generated from the dwellings in the vicinity. There is an average of 2,340 vehicles per day in the mile intersection with Mill Street. At a minimum, there will be sporadic traffic increases, particularly during weekends in the warm months. Such an increase will likely be noticeable, making dust control necessary along Mill Street from Thrush Avenue if the application is approved.

The use should not result in fumes, glare, or odors impacting nearby residences.

**7) COMPATIBILITY AND CONSISTENCY WITH THE INTENT AND PURPOSE OF THE ZONING DISTRICT -**

The A-1 district Declaration of Intent states that, "The A-1 Agricultural District is one of agricultural uses which is designed to permit the continued use of such land for agricultural purposes." Because this land is almost entirely within a flood hazard area, the man-made waterway running through the property, and the steep topography, it has never been in agricultural production. The use will not result in agricultural land being taken out of production nor should the use result in any detriment to agricultural production on any nearby property.

**8) COMPATIBILITY WITH COUNTY COMPREHENSIVE PLAN -**

The objectives and policies of the county's Comprehensive Plan that pertain to this type of use can be summarized as follows:

- Non-farm uses should be limited to areas of poor or marginal soil in order to preserve productive soil.
- Non-farm development should be placed where it will be least disruptive to and will not hinder agricultural operations.
- Non-farm uses should be designed to blend in with the natural character of the land.
- Agricultural areas with a CSR of 70 or above should be preserved.
- Environmentally sensitive areas should be set aside and protected from development to prevent degradation.

The proposed use appears to meet the above objectives and policy statements. No agricultural uses currently occur on the property, and the special use will not have any effect on any agricultural soils or operations. The nature of the property, including significant floodplains and steep topography, do not make any agricultural uses feasible. No structures are proposed as a result of the special use. The special use is designed to take advantage of the features of the site.

Except for the posting of directional or parking signs, the physical features of the property will remain unchanged. It will remain open space and will blend in with the natural character of the land. Parts of the property can be considered environmentally sensitive areas since they are in a floodplain.

**COMPLIANCE WITH ADDITIONAL ARTICLE 20 REQUIREMENTS:**

Additional requirements for the special use requested are as follows:

**20.2 SPECIAL USES**

- D. Establishments or enterprises involving large assemblages of people or automobiles including, but not limited to:
1. Amusement parks.
  2. Carnivals, circus and fairgrounds, except as hereinafter provided.
  3. Commercial sport or recreational enterprises, including amphitheaters, convention halls and auditoriums.
  4. Rodeo grounds, music festivals and sports festivals. A-1, A-2, C-1, C-2, M-1 and M-2 District.

**This is considered a use similar to those listed in Section 20.2(D). The whole property is zoned A-1 Agricultural. Therefore, the use is allowable with a Special Use Permit from the Board of Adjustment.**

#### **ZONING DISTRICT REQUIREMENTS:**

Requirements of the zoning district for which the proposed special use is to be located are as follows:

- Minimum parcel size is 10 acres. **The parcel is 0.85 acres in size. However, the property has existed prior to the adoption of the current Zoning Ordinance and is considered a grandfathered, legal lot in the A-1 district.**
- 7.5 Height Regulations. No building hereafter erected or structurally altered shall exceed two and one-half (2 ½) stories or thirty-five (35) feet. **No structures are anticipated on the property.**
- 7.6 Yard Requirements. Each lot shall have front, side and rear yards not less than the depths or widths following:
  - A. Front yard depth, fifty (50) feet.
  - B. Each side yard width, twenty-five (25) feet.
  - C. Rear yard depth, thirty (30) feet.
- **No structures are anticipated on the property.**

#### **STATUTORY REQUIREMENTS:**

Additional requirements under Iowa Code pertaining to the Special Use applied for:

Any alteration of the landscape will require IDNR approval since a large portion of the property is within a flood hazard area. In addition, access to and from the Winnebago River may require approval from the Sovereign Lands Section of the IDNR. McIntyre has been provided with the necessary forms for review by these entities, as well as a local Floodplain Development Permit Application, which was included with the Special Use Permit Application that was submitted to the Planning and Zoning Office.

#### **STAFF ANALYSIS AND RECOMMENDED ACTION:**

Any additional traffic, persons engaging in the activities on the site, and the potential resultant dust has the potential to be an annoyance to nearby property owners. Depending on the popularity of the landing site off the Winnebago River and rental business, it is difficult to gauge how much of an increase in traffic would be expected, though most traffic related to the special use is likely to occur in short timeframes around weekends during summer months. A condition to require dust control at the applicant's expense, if desired by the neighbors along the traffic route from Thrush Avenue, is recommended.

As a result of the special use, it will essentially be a semi-public use area. Due to the nature of the property and the unpredictability of the potential users, a condition that require the applicant to provide trash receptacles and be responsible for refuse removal is also recommended. Signage guiding customers/users on how to access or travel through the property to the canoe landing, as well as parking signs, is also a recommended condition of approval.

In addition, because much of the property involves a flood hazard area and access to the river, the use is subject to DNR review. Livery businesses are also subject to record keeping requirements by the DNR. A Joint Application, which includes state floodplain and Sovereign Lands review, will have to be filed with the state.

#### **RECOMMENDED CONDITIONS TO BE MET IF POSITIVE VOTE BY BOARD OF ADJUSTMENT:**

**Note:** In granting a Special Use Permit, the Board of Adjustment may attach conditions which it finds are necessary to carry out the purpose of the Zoning Ordinance, in conformance with what is provided in Article 20 of the Zoning Ordinance, and where reasonable and necessary may increase the required lot or yard, control the location and number of vehicular access points to the property, limit the number of signs, limit coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property, and require screening and landscaping to reduce noise and glare and maintain the property in character in keeping with the surrounding area. Special uses shall ordinarily comply with the standards of the district concerned for principal uses which are permitted therein, except as modified by the Board of Adjustment in granting a special use permit.

**The following conditions are recommended:**

1. This Special Use Permit may be reviewed at any time in the future upon the request of the applicants or a majority of the Board of Adjustment members.
2. The provisions and/or regulations shall be minimum requirements, and wherever the requirements of any other lawfully adopted rules, regulations, or ordinances are at a variance, the most restrictive shall govern.
3. It is contemplated that from time to time during the operation of a commercial sport and recreation enterprise that conditions may arise which are not covered by the terms of this permit and which cannot be anticipated. In the event such conditions do arise, the Board of Adjustment of Cerro Gordo County, Iowa, may impose additional regulations to meet any new conditions. In addition, if said use should, at any time, be operated in any manner which violates the rules and regulations of any federal or state regulatory agency, then the Board of Adjustment may impose such other conditions so as to insure compliance with such rules and regulations.
4. This permit will be subject to revocation for operator's failure to comply with the provisions as herein set forth or such other provisions as may, from time to time, be imposed by the Board of Adjustment of Cerro Gordo County, Iowa, under the terms of this permit.
5. County representatives shall have the right to enter the premises at any time upon notification to the permit holder for the purposes of enforcing the provisions of this Special Use Permit.
6. Any other necessary permits or licenses required by federal, state, and local agencies including, but not limited to, the Iowa Department of Natural Resources shall be obtained by the applicant and current copies placed on file with the Zoning Administrator.
7. The applicant shall contact the residents of 16014 – Thrush Avenue and, upon the construction of a dwelling and assignment of a rural site address, Lot 1 of Weiner 1<sup>st</sup> Subdivision if they would like dust control applied to Mill Street/250<sup>th</sup> Street, along adjacent lot lines, west of Thrush Avenue at the applicant's expense.
8. This Special Use Permit is granted solely to Jennifer McIntyre (Kammeyer) and is not transferable to any other party or parties.
9. The land owner shall obtain a rural site address for the property and be responsible for all fees related to the placement of the required marker.
10. This Special Use Permit shall be subject to approval by the Iowa Department of Natural Resources for operation within a flood hazard area and access to the Winnebago River, or written notification from the Department that no approval is required.
11. A trash receptacle with a closing lid, impermeable to birds or rodents, shall be provided onsite for use by customers or users of the property. At no time shall trash be visible above or outside of the receptacle. The applicant shall be responsible for all refuse removal from the site.
12. Off-street parking shall be made available to accommodate customers or users of the site, including the ability to accommodate canoe or boat trailers. At no time shall vehicles be permitted to park in the right-of-way of Mill Street. Signage shall be posted that clearly marks where parking is available onsite. A sign permit shall not be required for said signs.
13. Any improvements for access drives into the property for parking or otherwise shall be subject to the standards of the County Engineer. An access permit shall be obtained from the County Engineer prior to the installation of said improvements.
14. Directional signs as needed shall be posted onsite in a visible location showing the path which customers and users of the property may use to access the Winnebago River via the canoe landing. A sign permit shall not be required for said signs.
15. The applicant shall be permitted one on-site sign to be no larger than 15 square feet in size, which may be located at the right-of-way line, to advertise the business. No off-site signs shall be permitted.
16. A Zoning Permit shall be required for any structure proposed on the property. All requirements of the section on Floodplain Management in the Cerro Gordo County Zoning Ordinance shall be adhered to.

**QUESTIONS & COMMENTS:**

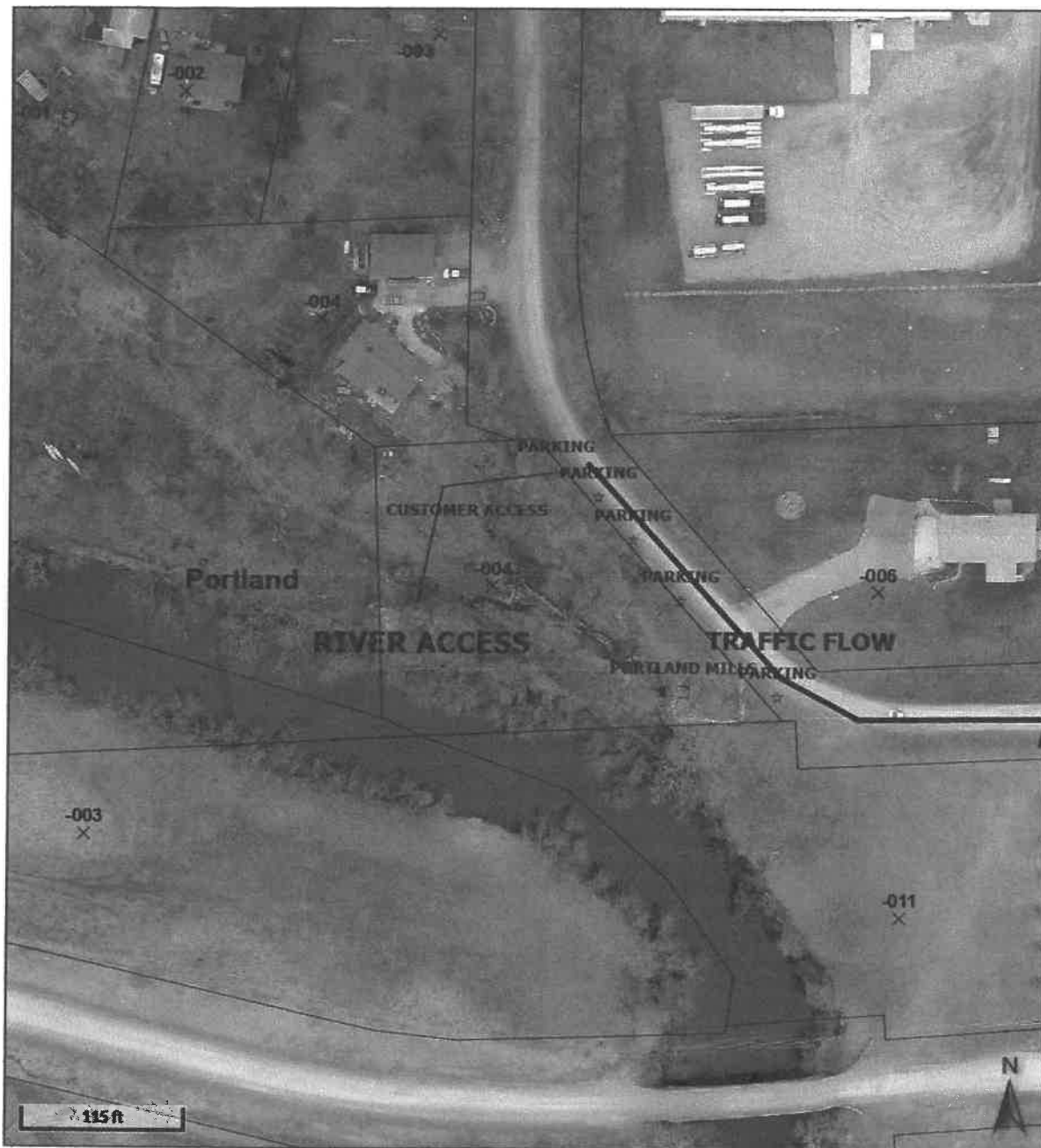
*Proposed motion on application:* To adopt the staff report as the Board's findings and to grant the application, subject to the conditions recommended by staff and as modified by the Board of Adjustment, for the establishment of an off-road vehicle riding and activity area, and further, that the grant of the application be made effective immediately and on the condition that Jennifer McIntyre shall perform all operations under the application under the specific direction of the Cerro Gordo County Zoning Administrator, consistent with the proposed conditions and recommendations approved by the Board of Adjustment, until such time as a formal resolution is drafted and adopted by the Board of Adjustment, not to exceed 60 days.

*Proposed motion for denial of application:* To adopt the staff report as the Board's findings and to deny the application for the reasons stated in the staff report as well as for the following reasons: **[STATE ADDITIONAL REASONS FOR DENIAL, IF ANY]**. Said reasons for denial shall be stated in the official transcript and minutes of the Board of Adjustment, and shall be made in writing to the applicant in letter form by the Board's secretary.

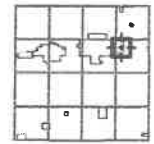
Prepared by:

**John Robbins**

**Final Draft Date – January 10, 2019**



## Overview



## Legend

- × Parcel Point
- Parcels
- Corporate Limits
- Political Township

Date created: 1/8/2019  
Last Data Uploaded: 1/8/2019 2:28:28 AM

Developed by  **Schneider**  
GEOSPATIAL

Jennifer Kammeyer  
Portland Mills  
16040 Mill Street  
Mason City, IA 50401  
Ph. 641-530-8054  
Find us on Facebook: Portlandmillsia

January 8, 2019

Mr. John Robbins  
Planning and Zoning Administrator  
Cerro Gordo County  
220 N Washington Ave.  
Mason City, IA 50401

Mr. Robbins;

Thank you for meeting with me to discuss my project Portland Mills and the establishment of a livery on my property. I appreciate your help.

I have completed the forms for consideration to the County Board of Adjustment. Here is the additional items we discussed.

- **Traffic flow and parking** are on indicated on the additional attachment.
- **Description of business:** Establishment of a canoe, kayak, paddle board and inner-tube livery with the base on my Portland Mills property. The operation will be available to the public with many marketing messages. I will be interested to see how the public reaction is to the offering. River access on the property is ideal for safe extractions and excursions. There will be set access points along the Winnebago where my customers can start/end their rental. The current access section I will be using is naturally cut and comprised of dirt and rocks. It has a very gradually ease into the water.
- **Impact on neighborhood:** There is very low impact on the current township. I do not anticipate noise, pollution or people to become a disturbance.

I am eager to get started. Please let me know if I can answer any questions.

Thank you,



Jennifer Kammeyer





## PLANNING AND ZONING Cerro Gordo County Courthouse

220 N Washington Ave Mason City, IA 50401-3254

(641) 421-3075

Tom Drzycimski, AICP, Administrative Officer

FAX (641) 421-3088

John Robbins, Assistant Administrative Officer

Michelle Rush, Executive Assistant

### APPEAL INSTRUCTIONS AND PROCEDURES

Zoning Board of Adjustment ~ Cerro Gordo County

Read the attached **Rules of Procedure** for the Cerro Gordo County Board of Adjustment. These rules will be complied with in all applications or appeals before the Board of Adjustment. Please do not ask for a variance in these rules as none will be given.

Ordinance sections referred to in this document may be found at [www.co.cerro-gordo.ia.us](http://www.co.cerro-gordo.ia.us) under the Planning and Zoning Department. Click on Zoning Ordinance.

All forms must be typewritten or written in black ink and returned to the address listed above.

#### FORMS OF APPEAL (choose one):

- ☐ **Variance to a Zoning District requirement where there are unusual conditions or circumstances which cause a hardship when the provisions of Zoning are strictly applied.**

Required items for review:

- Fully completed application/appeal form (pp. 3 & 4) with necessary site plans
- Fully completed Variance Criteria Supplemental information (pp. 5 & 6)
- Six (6) copies of the property plat if the original plat filed with the Application for Zoning Certificate was drawn larger than 8½" x 14"
- \$100.00 non-refundable filing fee made payable to *Cerro Gordo County Treasurer*



**Special Uses listed in Article 20.2 of the Zoning Ordinance and upon which the Board is required to act under the Ordinance.**

Required items for review:

- Fully completed application/appeal form (pp. 3 & 4) with necessary site plans
- If the area to be considered is located within a flood plain, attach copy of Iowa Department of Natural Resources approval
- Written letter:
  - ✓ Describing the special use and how such building or use will affect the character of the neighborhood, traffic conditions, public utility facilities and

# APPLICATION/APPEAL FORM

[For Completion by All Applicants]

Date January 3, 2019

TO: ZONING BOARD OF ADJUSTMENT  
CERRO GORDO COUNTY, IOWA

I (WE), Jennifer K. McIntyre  
(NAME)

OF 16040 Mill St. Mason City, IA 50401  
(MAILING ADDRESS)

respectfully request that a determination be made by the Board of Adjustment on this  
Application/Appeal based on the letter written by the Zoning Administrator dated \_\_\_\_\_  
for the reason that it was a matter which, in his/her opinion, should come before the Board of  
Adjustment.

This Application/Appeal is: (Please Check One)

- ☐ A Variance to a Zoning District requirement where there are unusual conditions or circumstances which cause a hardship when the provisions of Zoning are strictly applied.
- ☒ A Special Use listed in Article 20.2 of the Zoning Ordinance upon which the Board is required to act under the Ordinance.
- ☐ An Appeal where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the Zoning Ordinance.

Dist/Parcel 25072 081847800400

The property affected is located in Section 18 of Portland Township.

The property affected is zoned A- according to the Cerro Gordo County Zoning

District Maps. Legal description of the property is: L 1 W MILL ROAD SUB SE 1/4 18-96-19

I am the ☒ Owner ☐ Contract Purchaser ☐ Other (Explain) \_\_\_\_\_  
\_\_\_\_\_ of the property affected.

Describe what you are proposing to do on the property affected.

Operate a canoe, kayak, inner tube Livery  
Rental Service

I (We) grant permission to the Planning & Zoning staff and Board of Adjustment members to enter onto the above described property for purposes of review.

I (We) further state that if this request is granted, I (We) will proceed with the actual construction in accordance with the purposes herein stated and any conditions and/or requirements the Board of Adjustment may stipulate.

Signature of Applicant



**OFFICE USE ONLY**

Date Filed \_\_\_\_\_

Case Number \_\_\_\_\_

Date Set for Hearing \_\_\_\_\_

Fee Paid \_\_\_\_\_

Application/Appeal was ☐ Granted

☐ Denied

☐ Tabled



**Case No. 19-19**  
**Jennifer McIntyre (Kammeyer) (Lot 1, West Mill Road Subdivision)**

**Figure 1**

An aerial photo showing the whole of the property



January 8, 2019

**Figure 2**

Looking at the canoe landing along the Winnebago River



January 8, 2019



**Figure 3**  
Looking at the site of the historic mill



January 8, 2019

**Figure 4**  
Looking westerly along the man-made waterway



January 8, 2019



**Figure 5**

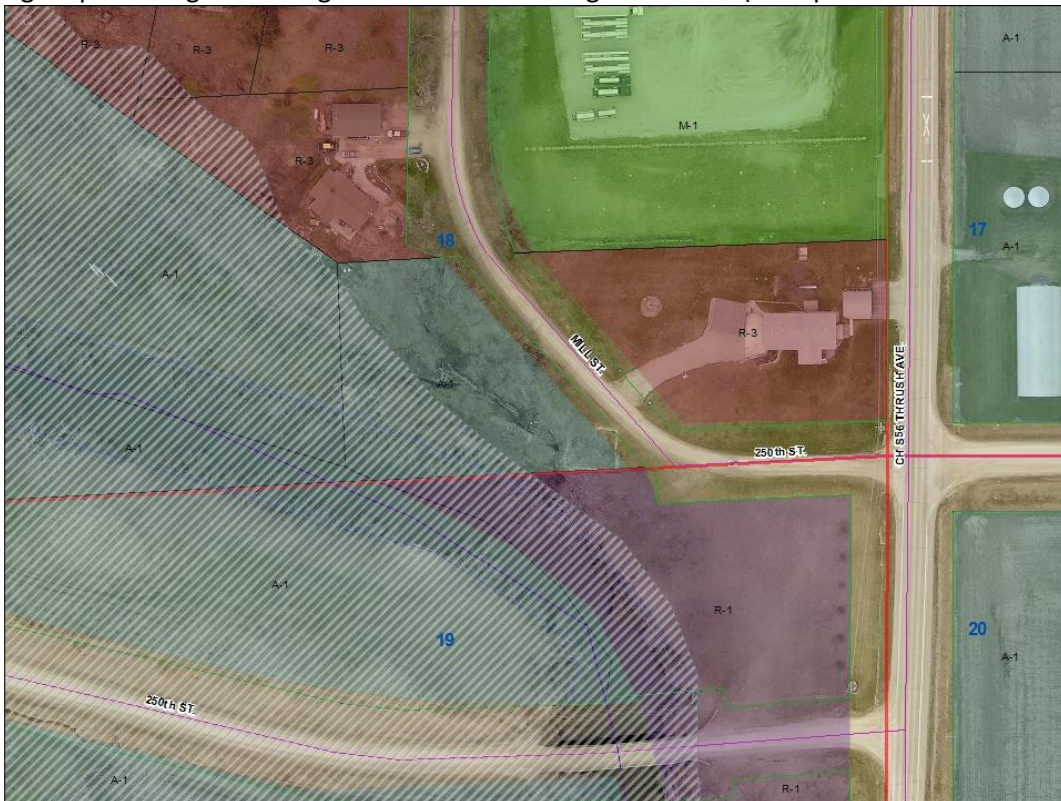
Looking at the man-made waterway as it enters the tunnel under the mill site



January 8, 2019

**Figure 6**

A zoning map showing the zoning classifications of the general area (floodplain shown in hashed-grey)



January 8, 2019



**Figure 7**

Looking westerly at the proposed parking area for users of the canoe landing



January 8, 2019

**Figure 8**

Looking at the steep grade toward the front of the property



January 8, 2019



**Figure 9**  
Looking easterly at the proposed parking area



January 8, 2019

**Figure 10**  
Looking at the proposed location where storage of canoes and watercraft will occur



January 8, 2019



**Figure 11**

Looking along Mill Street toward the intersection with Thrush Avenue



January 8, 2019

**Figure 12**

Looking along Mill Street running in front of the site



January 8, 2019





Select Date ▼

16040 MILL  
ST

19331 MAIN  
ST

16014 THRUSH  
AVE



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