



PLANNING AND ZONING Cerro Gordo County Courthouse

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SPECIAL EXCEPTION STAFF REPORT

SUMMARY OF REQUEST

Case No.: 22-19

Hearing Date: September 27, 2022

Staff Contact: John Robbins, Planning and Zoning Administrator

Applicant

K&C Tree Service
700 2nd Avenue N
Clear Lake, IA 50428

Owner

K&C Property, LLC
700 2nd Avenue N
Clear Lake, IA 50428

Property Address: 10089 230th Street

Brief Legal Description: Property in the NW¼ of the NW¼, Section 34, Lake Township

Zoning: A-1 Agricultural

Special Use Requested: 20.2(II) Agricultural and Neighborhood Commercial Business

Special Use Description

K&C Tree Service is a tree trimming and removal service based out of Clear Lake. The business conducts all operations offsite, except storage and prep work. The proposed special use would store large vehicles and equipment within an enclosed building. It is a special permitted use in the A-1 District as an agricultural and neighborhood business under Section 20.2(II) of the Zoning Ordinance.

STAFF COMMENTS

CG Public Health has been afforded the opportunity for comment. Any comments received will be shared with the Board.

FINDINGS OF FACT

1. K&C Property, LLC is the owner of the subject property located on a tract of land in the NW¼ of the NW¼, Section 34, Lake Township.
2. The property is zoned A-1 Agricultural.
3. K&C Tree Service is the applicant for the proposed Special Use Permit for an agricultural and neighborhood business to operate a tree trimming and removal service business to store equipment and operate out of an enclosed building.
4. An agricultural and neighborhood business is a special permitted use in the A-1 District, subject to the requirements and conditions as granted by the Board of Adjustment.
5. The application was filed on August 30, 2022 with the Planning and Zoning Office.

BACKGROUND INFORMATION

Purpose of Special Use Request

K&C Tree Service (K&C) is a tree trimming and removal service based out of Clear Lake (See Figure 1). The business conducts all operations offsite, except equipment storage and prep work. The proposed special use would store large vehicles and equipment within an enclosed building (See Figure 2). No office or other operations are currently planned for the property but may potentially added in the future. The owner also may consider building a house in the future unrelated to the proposed special use.

K&C would like to construct a large machine building for the storage of the aforementioned equipment. General storage of this type of large equipment is generally an accessory permitted use in the A-1 District; however, the Zoning Ordinance generally requires a permit be issued for a principal building (e.g. house or farm buildings in the A-1 District) prior to a permit being issued for an accessory building (e.g. machine shed). An agricultural and neighborhood business is a permitted special use in the A-1 District with a Special Use Permit (SUP).

Existing Land Use and Zoning Classification of Property

The property is zoned A-1 Agricultural. It is currently vacant with only a couple accessory structures onsite. Two houses previously existed on the property, but within the last few years, both were removed—one was lost by fire and the other was removed due to poor condition. The property has been vacant for many years with no residents.

Land Use and Zoning Classification of Surrounding Property

All surrounding property is zoned A-1 Agricultural. There are two dwellings less than ¼-mile to the west at 9722 230th Street and 9853 230th Street. There is another dwelling about the same distance to the east at 10328 230th Street.

GENERAL FINDINGS

Harmony and Accord with General Principles and Proposals of the 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 proposed special use will be contained within an enclosed building and largely unnoticeable outside of the building. No operations besides storage and prep work are currently planned for the property, though an onsite office or a personal residence may be added in the future—though not anytime soon. The property is well screened by trees and vegetation on all sides of the main building site. The proposed machine building will be similar to buildings typically seen on a rural acreage. The building will likely make the proposed special use less impactful and largely unnoticeable to neighbors because it will allow for storage of equipment within an enclosed building instead of being stored outside, as is done currently (See Figure 1).

Compatibility of Use with the Appearance and Essential Character of Area

The property has the appearance and character of a typical acreage. The proposed special use will take place entirely within an enclosed building, which has the appearance of a typical machine building on a rural building site. The proposed special use will largely be self-contained since it will primarily be for storage and perhaps a home office in the future.

There are two dwellings less than ¼-mile to the west at 9722 230th Street and 9853 230th Street. There is another dwelling about the same distance to the east at 10328 230th Street. None of these residences will likely be significantly impacted.

Impact on Existing and Futures Uses, Vicinity, and Community as a Whole

The proposed special use will be contained within an enclosed building (See Figures 2). The building will likely make the proposed special use less impactful and largely unnoticeable to neighbors because it will allow for storage of equipment within an enclosed building instead of being stored outside, as is done currently (See Figure 1). Prep work is largely done during the day with the most noticeable aspect of the proposed special use being leaving for a job and coming back from a job. Otherwise, the special use will likely be no more impactful than a typical farm operation. There is no expected increase of traffic as a result of the special use.

Adequacy of Public Services

(i.e., highways, streets, police, fire protection, drainage structure, refuse disposal, water and sewage facilities, or schools)

230th St, which is gravel-surfaced, carries approximately 40 vehicles on average per day. Traffic generated by the proposed special use is already occurring, so little-to-no increase in traffic is expected.

Law enforcement protection is provided by the Cerro Gordo County Sheriff's Department. Fire protection is provided by the Clear Lake Fire Department. There should not be a substantial increase in demand for either service.

There are no floodplains on the property nor is the property located near any public drainage facilities.

K&C is responsible for its own refuse disposal. The use will have no impact on schools.

No bathroom facilities are currently planned for the machine building, which will be strictly cold storage for the foreseeable future. CG Public Health has been afforded the opportunity for comment. Any comments received will be shared with the Board at the hearing.

Public Cost for Additional Public Facilities and Services

There should be no cost to the public as a result of the proposed use.

Potential Detriments to Persons, Property, or General Welfare

(i.e., excessive traffic, noise, smoke, glare, or odors)

There should be no discernible noise, smoke, glare, or odors as a result of the operation. No noticeable increase is expected either.

Compatibility and Consistency with the Intent and Purpose of the Zoning Ordinance

The intent of the A-1 Agricultural District is to accommodate agricultural uses that are designed to permit the continued use of such land for agricultural purposes. Agricultural and neighborhood commercial businesses are allowed in the A-1 District, subject to a Special Use Permit being granted by the Board of Adjustment. No farmland will be taken out of production as a result of the special use. It is difficult to foresee the operation impeding any nearby agricultural activities. All actual work conducted by the business will be done offsite; the principal purpose of the proposed special use is for equipment storage and prep work.

Compatibility with County Comprehensive Plan

The Comprehensive Plan encourages the use of performance standards for development where appropriate. The proposed special use largely has limited impact in its operation as previously discussed.

The plan otherwise proposes to limit non-farm uses in rural areas that would impact agricultural operations. The business is not likely to have noticeable impact on farm operations and so is appropriate on an existing building site. No farmland will be taken out of production as a result.

COMPLIANCE WITH ADDITIONAL ARTICLE 20 REQUIREMENTS

Staff comments are in bold below. Additional requirements for the special use requested are as follows:

20.2 SPECIAL USES

- II. Agricultural and neighborhood commercial businesses, provided a buffer zone of at least fifty (50) feet is established between the commercial building's associated work area, and the property lines. **The special use will be at least 50' from all property lines.** Such buffer areas will include any combination of earthen berms, trees, shrubs and bushes, and solid fences to develop compatibility with the adjoining property owners. **There is existing significant vegetation along all property lines. No additional screening is anticipated to be necessary** No more than one (1) acre of cultivated farmland can be converted to the new commercial use. **No farmland will be taken out of production as a result of the business.** A-1 and A-2 Districts. **The property is zoned A-1 Agricultural.**

ZONING DISTRICT REQUIREMENTS

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

The property is zoned A-1 Agricultural.

- Minimum parcel size is 10 acres. **The existing 5.02 parcel on which the special use is proposed is grandfather in size, existing prior to the time this rule was adopted. There is a reasonable expectation to be able to continue the use the property for purposes for which it was intended as zoned.**

- 7.5 Height Regulations. No building hereafter erected or structurally altered shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet. **The building does not exceed 35' in height.**
- 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.**All setback requirements will be met.**

STATUTORY REQUIREMENTS

Additional requirements under Iowa Code or local rules that pertain to the Special Use applied for:

- CG Public Health – Well Permit, if desired in the future
- CG Public Health – Septic Permit, if desired in the future

STAFF ANALYSIS AND RECOMMENDED ACTION

K&C will have all storage within an enclosed building, which is currently happening outside. As a result, the impact of the proposed special use will likely be less and make the business less noticeable to neighbors. No excessive impact is foreseen as the result of the operation. All traffic is already existing, and no increase is anticipated. All requirements are met under the Zoning Ordinance, and the proposed special use is generally in line with the county’s Comprehensive Plan. Area agricultural operations will not be impacted from the business. The Board would be justified to approve the request subject to the below recommended conditions.

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.

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 as stated 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 the of the agricultural-commercial neighborhood business 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 facility 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 ensure 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 shall be obtained by the applicant and current copies placed on file with the county Planning and Zoning Office.
7. This Special Use Permit is granted to K&C Tree Service and its successors and assigns and is not transferable to any other party or parties.
8. The site plan and operator's statement are hereby adopted as presented and the applicant shall adhere to said site plan. The Board of Adjustment shall have the right to review any proposed change in or expansion of the special use.
9. All construction shall strictly comply with the site plan submitted with the application. A Zoning Permit Application shall be completed and a Zoning Permit issued prior to any new construction on the site related to the special use.
10. The applicant shall maintain all existing vegetation along the lot lines of the property to screen the use as required by Article 20.2(II) of the Zoning Ordinance.
11. A 50' setback from all lot lines shall be maintained for all buildings related to the special use as required by Article 20.2(II) of the Zoning Ordinance.
12. The applicant shall adhere to the requirements of CG Public Health for well and wastewater facilities.

BOARD DECISION

The Board of Adjustment may consider the following alternatives:

Alternatives

1. Grant the requested Special Use Permit Application subject to any condition as deemed necessary by the Board (The Board reserves the right to remove, amend, or add additional conditions from those recommended as deemed necessary).
2. Deny the requested Special Use Permit Application.

The following motions are provided for the Board's consideration:

Provided motion of approval:

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 placement of an agricultural-commercial neighborhood business, and further, that the grant of

the application be made effective immediately and on the condition that **[NAME OF APPLICANT]** 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.

Provided motion of denial:

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.

EXHIBITS

- Exhibit 1: Figures
- Exhibit 2: Special Use Permit Application, including operator's statement
- Exhibit 3: Site plan
- Exhibit 4: Aerial photo of site

Figure 1

Looking at the equipment that would be stored in the proposed machine building for the proposed special use



September 15, 2022, J. Robbins

Figure 2

Looking at the site of the proposed machine building intended to store equipment



September 15, 2022, J. Robbins

SPECIAL USE PERMIT

APPLICATION

Date Filed 8/30/22 JK 8-28-22 Date Set for Hearing 9/27/22 Case Number: 22-19

Applicant Name: K&C tree Service (Kelly) Phone: 641-525-0806 E-Mail: KellySweers@jmi

Mailing Address: 700 2nd ave N

Property Owner Name: K&C Property Phone: 641-525-0806 E-Mail: Same

Property Owner Address: Same as above

Property Description (Not to be used on legal documents): Parcel # 6634/0000100 Township Clear Lake

Property Address: 10089 230th st, Clear Lake Zoning: Residential A-1

Brief Legal Description:

Type of Special Use Requested: Build Machine Shed to store equipment

Special Use Description: Please provide a general description of the proposed special use.

Currently we park our tree equipment outside in the driveway and we would like to build a standard and common machine shed to park our equipment in. The same type of building that is common to the area with farmers. Hours of traffic will not change, we already operate out of this acreage, but our equipment just won't sit outside. Plan is to build a 60' x 100' machine shed to be built by a builder on the north side of property where the old farmhouse sat.

*Attach all required items listed in the application checklist, including written operator's statements, site plan, filing fee, and all other materials required to be submitted with this application

I am the Owner Contract Purchaser Other (Explain) _____ of the property affected.

I, the applicant, being duly sworn, depose and say that I am the owner or that I am authorized and empowered to make the accompanying application; and that the information provided is true and correct, and actual construction, as applicable, and operation of the proposed special use will proceed in accordance with the purposes herein stated on the application and all submitted materials. I further agree to any conditions and/or requirements the Board of Adjustment may stipulate. The Planning & Zoning staff and Board of Adjustment members are also given permission to enter the above property in reviewing this application.

Applicant Signature Kelly Date 8-28-22

S

old barn

old garage

Driveway

16' sidewalls
14' over head doors

Door

Door

Door

100'

60'

pine trees

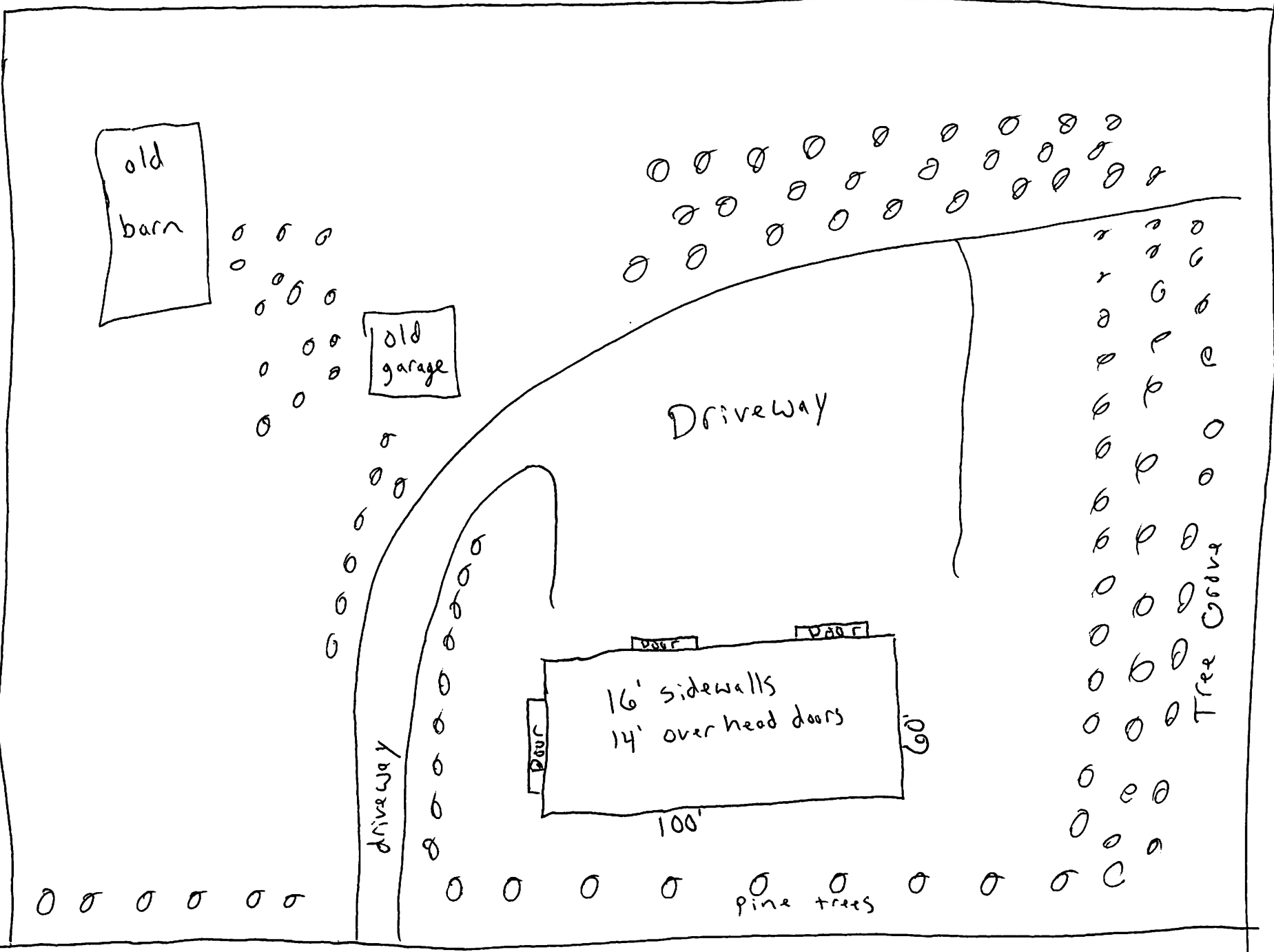
Tree Grove

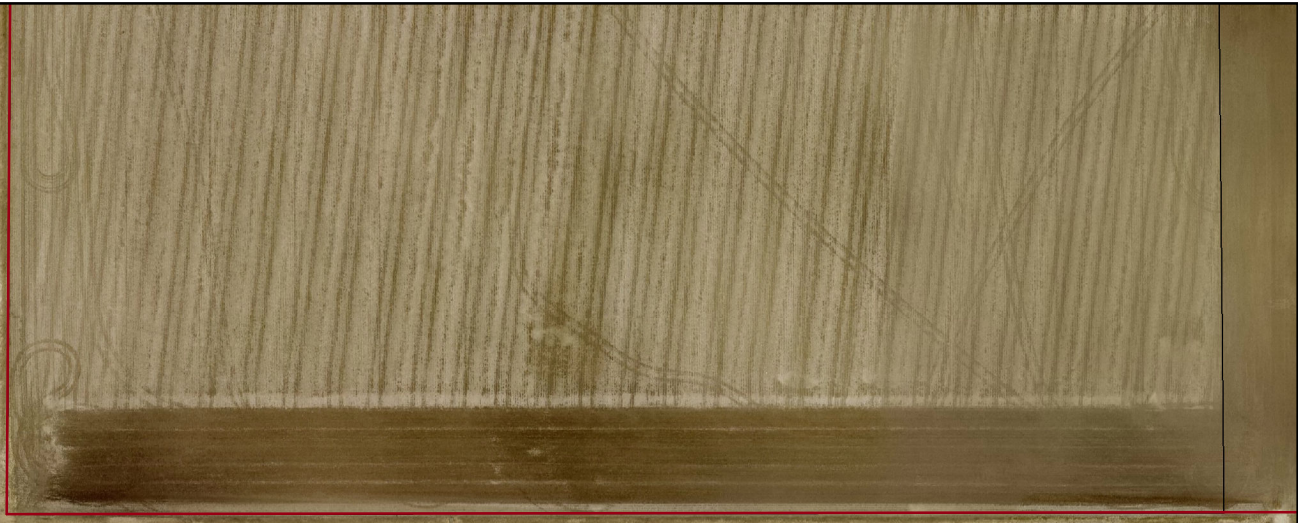
Songbird ave

N 230th St

E

W





230TH ST



JONQUIL AVE

