

Dubuque County Zoning Commission

Minutes of June 21, 2016

Chairperson Mary Klostermann called the meeting to order at 6 p.m.

1. ROLL CALL: Members present: Janet Reiss, Mary Klostermann, Kevin Soppe, and Jerry Sigwarth. Staff Present: Anna O’Shea & Tammy Henry.

2. APPROVAL OF MINUTES: A motion was made by Mr. Soppe, seconded by Mr. Sigwarth, and passed unanimously to approve the minutes of the May 17, 2016 meeting.

Vote: 4-0.

3. PLAT APPROVAL:

a. Plat of Survey Five Points Estates-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Five Points Estates a division of Lot 1 in part of the NE ¼ of the SE ¼ and part of the SE ¼ of the NE ¼ all in Section 8, (T89N R1E) Center Township, Dubuque County, Iowa.

The property is owned by Ronald & Jessalynn Breiner and is located 2.30 miles northwest of the City of Asbury along Five Points Road. The property is zoned R-1 Rural Residential with a total of 17.666 acres surveyed. The purpose of the plat is to split the property for future sale purposes.

The survey creates 2 lots. Lot 1 has a total of 7.682 acres surveyed and will be sold. Lot 2 has a total of 9.984 acres surveyed and will be the future home site for the current owner.

Lot 1 and Lot 2 will use an approved shared residential access off of Five Points Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley and Ron Breiner, 2155 St John St, Dubuque. Mr. Schneider said the description covered the points of the plat and he had nothing else to add.

Ms. O’Shea stated the shared access for Lot 1 & Lot 2 has not been approved by the Engineer yet. She would recommend that if the plat is approved it would be subject to being able to get an approved access.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the plat subject to having an approved entrance. The motion passed unanimously. Vote 4-0.**

b. Plat of Survey Demmer Farm Subdivision Plat 2-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Demmer Farm Subdivision Plat 2 a division of Lot 1 and Lot 2 of Demmer Farm Subdivision all in Section 18, (T88N R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by Wayne Demmer Revocable Trust Etal & Joan Demmer Revocable Trust and is located 1.38 miles southeast of the City of Epworth along Lone Pine Road. The property is zoned A-1, Agricultural and A-2, Agricultural on ZC#04-17-16 with a total of 130.582 acres surveyed. The purpose of the plat is to put some of the farmland back into agricultural use.

The survey creates 2 Lots. Lot 1 has a total of 2.265 acres surveyed with a home and will remain in current ownership and use. Lot 2 has a total of 128.317 acres surveyed and will remain in current ownership and use.

Lot 1 will use an existing residential access off of Lone Pine Road. Lot 2 will use an existing field entrance off of Lone Pine Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley. He stated he worked with the Demmer's when they built the new home off of the farm when a farm was considered 5 acres. The Demmer's have since rezoned the property to A-2 around the home and this plat is to put the farm ground back with the rest of the farm.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Soppe, **seconded by Ms. Reiss to approve the plat. The motion passed unanimously. Vote 4-0.**

c. Plat of Survey Raysford Lane Subdivision Plat 2- Final Plat

Plat of Survey of Lot 1 and Lot 2 of Raysford Lane Subdivision Plat 2 a division of Lot 1 and Lot 3 of Beecher's Place and Lot 1 of Steve Freiburger Place all in Section 7, (T87N R1E) Prairie Creek Township, Dubuque County, Iowa.

The property is owned by Dewayne Beecher & Mary Jo Pancratz and Stephen Freiburger and is located 3.97 miles northwest of the City of Bernard along Raysford Lane. The property is zoned A-1, Agricultural with a total of 40.780 acres surveyed. The purpose of the plat is to sell property to the adjacent neighbor to allow for better access to his garage.

The survey creates 2 Lots. Lot 1 has a total of 17.982 acres surveyed and will remain in current ownership and use. Lot 2 has a total of 22.798 acres surveyed and will remain in current ownership and use. Both lots have existing homes on them. No new buildable lots will be created.

Lot 1 will use an existing residential access off of Raysford Lane. Lot 2 will use an existing residential access off of Raysford Lane.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley. He stated the intent of the plat is to allow Mr. Freiburger better access around the north side of his buildings.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the plat. The motion passed unanimously. Vote 4-0.**

d. Plat of Survey Johns Creek Quarry Addition-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Johns Creek Quarry Addition comprised of Lot 1 of the SE ¼ of the SW ¼ and comprised of the SE ¼ of the SW ¼ except Lot 1 thereof, and comprised of Lot

1 of the SW ¼ of the SW ¼ all in Section 36, (T88N R2W) Dodge Township, Dubuque County, Iowa.

The property is owned by Scott & Carla Gilles and James Weber and is located 3.34 miles south of the City of Farley along Farley Road. The property is zoned A-1 Agricultural with a total of 44.55 acres surveyed. The purpose of the plat is to separate the Quarry from the farm property for sale purposes.

The survey creates 2 lots. Lot 1 has a total of 10.98 acres surveyed and will be sold for Quarry use. Lot 2 has a total of 33.57 acres surveyed and will remain in current ownership and use.

Lot 1 will use an existing field entrance off of Farley Road. Lot 2 will have access thru the adjoining property in same ownership off of Tauke Lane.

Speaking to the Board was James Weber, 27531 Tauke Lane, Farley and Bill Burger, 510 3rd St W Court, Worthington. Mr. Burger stated that the Gilles property will be transferred to Mr. Weber before this plat would be recorded.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Ms. Reiss, **seconded by Mr. Sigwarth to approve the plat. The motion passed unanimously. Vote 4-0.**

e. Plat of Survey of Gun Club Subdivision-Final Plat

Plat of Survey of Lot 1 thru Lot 3 of Gun Club Subdivision comprised of Lot 3 of Hefel Farm Subdivision and Lot 1 of Lot 1 of Lot 2 and Lot 2 of Lot 2 of the NW ¼ of the SW ¼ all in Section 35, (T89N R1W) Iowa Township, Dubuque County, Iowa

The property is owned by Epworth Sportsmen’s Club and Gerald & Barbara Feldmann and Mary Lassance and is located 1.34 miles north of the City of Epworth along Gun Club Road. The property is zoned A-1 Agricultural with a total of 34.842 acres surveyed. The purpose of the plat is to change the lot lines to allow the Gun Club ownership of the land they are already using.

The survey creates 3 Lots. Lot 1 has a total of 10.598 acres surveyed and will remain in current ownership and use as a shooting range. Lot 2 has a total of 3.760 acres surveyed with a home and will remain in current ownership and use. Lot 3 has a total of 20.484 acres surveyed with a home and will remain in current ownership and use. No new buildable lots are being created.

Lot 1 will use an existing residential access off of Gun Club Road. Lot 2 will use an existing residential access off of Gun Club Road. Lot 3 will use an existing residential access off of Gun Club Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley and Rick Boffeli, 111 4th Ave Court, Epworth. Mr. Schneider said the Epworth Sportsmen’s Gun Club is purchasing the property they currently occupy. It is cleaning up lot lines in the area.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Soppe, **seconded by Ms. Reiss to approve the plat. The motion passed unanimously. Vote 4-0.**

4. REZONING CASES:

1. ZC#05-18-16 Jacob & Beverly Reiter A-1 Agricultural to M-1 Industrial

(Tabled from May 17, 2016 Zoning Board Meeting)

The applicants are requesting to rezone from A-1 Agricultural to M-1 Industrial 1.38 acres more or less, to allow a maintenance shop for the storage and maintenance of Ag equipment, including operation of a trucking/sanitation business, excluding the processing and/or sorting of garbage or recycling materials. The property is located adjacent to the City of Cascade along Garryowen Road and is legally described as Lot 1 Menster Place No. 4 Section 32, (T87N R1W) White Water Township, Dubuque County, Iowa.

The property is owned by Jacob & Beverly Reiter. Zoning in the area includes A-1 Agricultural to the south, east and west. R-1 Rural Residential to the north. B-2 Highway Business to the south. The R-1, Rural Residential to the north on ZC#2-09-96 was to allow for the construction of a single family home The B-2 Highway Business to the south on ZC#02-03-04 was to rezone 16 acres to allow for Trailer/Tent camping and recreational use. There are no previous rezoning cases attached to this property. There is one Special Use Permit for a Tower attached to this property. Seventeen (17) rezoning notification letters were sent to the property owners and the City of Cascade was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 135 objective 3.3 and 5.4 may apply to this case.

Ms. O’Shea said to the Board members that they were given a letter from Lynch-Dallas PC on behalf of this case as well as additional comments from Jim & Patti Trumm.

Speaking to the Board was Jake Reiter, 6955 245th St, Cascade. He stated that he has no additional information that was not already present in the Board’s packets. He would like to go over some conditions he would consider for the property. He stated that if the trucking business would be sold to someone other than immediate family then the business would vacate the premises. They would plant trees to the east, west and north side of the building which would obstruct vision of activity at the parking lot area and since the property is zoned A-1 they would set aside construction plans for adding livestock or livestock buildings on the property should the rezoning request be granted.

Mr. Reiter also provided a packet to the Board showing the agreement for the tower that received a Special Use Permit for this property. There is a diagram showing the close proximity to the Industrial Park, of Mr. Reiter’s property and the residential lots. He stated the Industrial Park in Cascade is zoned M-2 with no restrictions.

Ms. Klostermann asked Mr. Reiter about the purchase agreement in the packet that he provided? Mr. Reiter stated they had an offer on the property last year, which never went through.

Mr. Soppe asked how tall the tower was on the property? Mr. Reiter said 350’ tall and the tower agreement is until 2034.

Ms. Klostermann asked if anyone wished to speak in favor of this case?

Zoning Commission Meeting Minutes –June 21, 2016

Speaking to the Board was Tim Stecklein, 204 Tyler St SE, Cascade. He stated he used to be the Mayor of Cascade. He stated some people are afraid of change and the direction that the building faces it is towards agricultural ground. He feels the Reiter's have cleaned up the property and he has no issues with the rezoning request.

Speaking to the Board was Tom & Tammy Connolly, 25648 Garryowen Rd, Cascade. Ms. Connolly stated they are in favor of the rezoning request. She stated the building faces their new home and the Reiter's keep the property clean. The Connolly's have run a concrete and excavating business for 19 years and know how hard it is to keep up with the laws and regulations. All the Reiter's want to do is to keep farming and run their small garbage truck business.

Speaking to the Board was Dan White, 151 Jack Oak Dr, Cascade. Mr. White stated he owns property on the west side between the City of Cascade and the Reiter's property. He said the Reiter's keep their property clean and the trucks will not be visible to the road. He has no problem with the rezoning request.

Speaking to the Board was Bernie Trumm, 7482 Ridgewood Dr, Cascade. He stated he knows people on both sides of this case. He said that Jake and his sons are good operators and farmers. They keep things neat. He does not see the issue with the rezoning and feels the Reiter's are trying to work with everyone.

Speaking to the Board was Cody Hansen, 24739 Riverview Rd, Cascade. He stated he owns Cohan properties within the city limits of Cascade. He said there is a vacant building next to his property that could have any business come into it that could be worse by having odor, noise and long operating hours. He feels the Reiter's take care of the property they own. He is in favor of the rezoning.

Speaking to the Board was Justin Reiter, 28598 9th Ave, Bernard. He is the son of Jake & Beverly Reiter. He feels the opposition of the zoning change is due to a building being on the property. He says that there was opportunity for the neighboring property owners to purchase the property if it was prime real estate. He feels it does not matter what is in the building, it is still going to be there. He stated the City of Cascade has not had any opposition to other properties around town being recently rezoned and as long as his family owns the property, they are not going to annex into the City of Cascade. The county road D61 was a designated truck route for Cascade and traffic should not be an issue. They will only be storing empty garbage trucks in the building with no composting, sorting recycling or storing of garbage. Mr. Justin Reiter said he is doing the garbage business to support his true passion of farming and it does not make much sense to have two separate buildings and two separate sets of tools.

Ms. Klostermann asked if anyone wished to speak in favor of this case? No one spoke.

Ms. Klostermann asked if anyone wished to speak in against this case?

Speaking to the Board was Jim Trumm, 1921 2nd Ave SE, Cascade. He stated that Mr. Reiter said he could not be assessed as agriculture within the city limits, but he is asking for an M-1 zoning on an agricultural property. He wonders why someone would put up such a large building with all the things that are available in the Industrial Park. The property was up for sale at \$30,000.00 an acre. No wonder there were no bids. The central

location they wanted was available in the building they had in the Industrial Park, less cold storage. He feels it is the Reiter's fault for not being aware of what could be done with the property and he was instructed that the building is to be used for agriculture. He is not opposed to the operation of the sanitation business as long as it is in the Industrial Park. He feels if it is approved, it sets a precedence for future offenders.

Speaking to the Board was Ed Manternach, 25601 Garryowen Rd, Cascade. He stated he agrees with what was said about the Reiter's being good people, but his concern is that the property will not revert back to agriculture once it is rezoned. He just does not think this belongs across the road from him.

Speaking to the Board was Markus Behnken, City of Cascade Mayor, 609 7th Ave SW, Cascade. He wanted to state that across from the Reiter's building there is one home and a vacant lot in the city limits of Cascade and two lots with homes in the county. He stated that the Reiter's wanted a place to operate their business when they were previously located in the Industrial Park. This is not a character issue with the Reiter's. It is a zoning issue and if the Board makes exceptions for this case how does it affect future requests? He feels you should look at the long-term effects of a zoning change before a decision is made. He said the case was tabled from the May 17, 2016 meeting to have a whole board present and there is only still four members present tonight.

Ms. Klostermann asked Mr. Behnken what the zoning classification was within the city limits was across from the Reiter's property? Mr. Behnken said it is Industrial and Residential but there is line between the two zoning districts.

Mr. Soppe asked Ms. O'Shea about the B-2, Highway Business to the south of the Reiter's property? Ms. O'Shea stated it is a campground that is accessed through Jones County. Because it is in the flood plain, it does not have a lot of infrastructure.

Speaking to the Board was Steve Leitinger, Attorney for the City of Cascade, 526 2nd Ave SE, Cedar Rapids. Mr. Leitinger stated this issue is emotional for both sides, but the Board's decision should not be based on emotions. He stated according to the Iowa Supreme Court this request for rezoning should be denied as matter of law with a motion off the table. The zoning for the City of Cascade across the street from the Reiter's is zoned Residential. He said the rezoning would be spot zoning and create a small island of property that would have different restrictions than the surrounding property.

Mr. Leitinger went on to say that, the Iowa Supreme Court has adopted a three-prong test to determine whether a particular incidence of spot zoning is legal.

The first prong being whether the new zoning is germane to an object within the police power. Mr. Leitinger stated that nothing within the County's police power would justify rezoning the property, but rather the rezoning is proposed to benefit the applicant only.

The second prong being whether there is a reasonable basis for making a distinction between the spot zoning land and the surrounding property. Mr. Leitinger stated that there is not anything distinguishing on the 1.38 acre parcel that would make it different from the remainder of land owned by the Reiter's or adjacent agricultural landowners. The only difference is the Reiter's put up a building, which was permitted as an agricultural shed.

The third prong is whether the rezoning is consistent with the comprehensive plan. He pointed out in the Dubuque County Comprehensive Plan adopted in 2014, which shows that the area the Reiter's own shows the future use of the property is residential. The target area for residential development is to encourage residential development to locate within existing cities and establish urban fringe development areas from encroachment by incompatible land uses. The Comprehensive Plan does not show any type of industrial use within the target area. Mr. Leitinger said the Future Land Use maps were developed with input from cities, but was approved by the Dubuque County Board of Supervisors.

Mr. Leitinger quoted from an Iowa Supreme Court case of Jaffe vs. City of Davenport, which stated if an ordinance constitutes piecemeal or haphazard zoning of a small tract of land similar in character and use to the surrounding property for the benefit of the owner and not pursuant to a comprehensive plan for the general welfare of the community, it is arbitrary, unreasonable, and invalid. He closed by stating that the City of Cascade requests that the applicant's request for rezoning be denied.

Speaking to the Board was Mike Beck, 7432 244th St, Cascade. He stated he owns property across from the Reiter's in the City of Cascade and can try to assist the Zoning Board with questions on the maps.

Mr. Sigwarth said the Reiter's property has a tower. As long as the tower is on the property there cannot be any home built in the drop zone.

Mr. Leitinger stated the issue is not what is on the side of the road in the city, but what is being proposed in the county.

Ms. Klostermann asked if anyone wished to speak in against this case? No one spoke.

Ms. Klostermann said the Board is aware of what spot zoning is and that zoning goes with the ground and not an individual. She stated when Mr. Goodmann was present at last month's meeting his concern was with individuals asking for forgiveness. She said the Zoning Board is made up of volunteers who have been to training and do their best in making their recommendations to the Board of Supervisors. They are not lawyers who have reviewed court cases.

Mr. Sigwarth said in the past, restrictions have been placed on other properties that were rezoned and the building that was built by the Reiter's is not going away. He also said that Mr. Reiter could put in a feedlot with cattle, which could be worse for the neighbors. Ms. O'Shea said the cattle lots are regulated by the DNR and ag uses are exempt from zoning in the county in unincorporated areas.

Ms. Klostermann asked if you could be forced into annexing? Ms. O'Shea said there is voluntary and involuntary annexation. Voluntary annexation would be 100% of people requesting to annex. Involuntary would require a minimum of 80% of land around a property to annex before they can annex someone who does not want to annex.

Mr. Sigwarth asked if a property had a feedlot for livestock on it and the city was going to annex could they make you remove it? Ms. O'Shea said it is her understanding that it is grandfathered in whether or not you have the proper zoning for the city.

Ms. Reiss made the point that the petition submitted by the Reiter's contained many signatures in favor of the rezoning.

Ms. Klostermann said she is torn because it is not about running a business, it is about land use. Ms. Klostermann made the point that if there was a home on the property they could use this building for more personal use. Ms. O'Shea agreed with her by saying without having a home, the building is strictly agricultural use and limited to the ag uses on the property.

Ms. Klostermann asked if there was a Special Use Permit that the Reiter's could have done for this use? Ms. O'Shea said the property is zoned ag and the Zoning office was told the building was going to be used for agricultural purposes, which made it exempt from zoning. Therefore, the Reiter's were given a permit for ag use. Ms. O'Shea said a Special Use Permit could be applied for if the business was specifically for the sale of agriculturally related materials that does not alter the character of the neighborhood. The sanitation business is not an agricultural use, in her opinion.

Mr. Soppe stated according to the maps, the residential lots are already close to the Industrial area of the City of Cascade.

Ms. Klostermann recalled Mr. Jake Reiter so that Mr. Sigwarth could ask him a question.

Mr. Sigwarth asked Mr. Reiter asked if the tower was already on the property when he purchased it? Mr. Reiter said yes and will be there until 2034.

Ms. Klostermann recalled Mayor Markus Behnken so that Mr. Sigwarth could ask him a question.

Mr. Sigwarth asked how soon this property was set up for annexation? Mr. Behnken said discussion has just taken place on the future for the City of Cascade and annexing sections that give them room to expand. The city has hired attorneys to help assist them with the annexing process and options the city might have. He said the area was planned in the near future, but with the applicant for this case as well as the surrounding property in favor of the rezoning, the likelihood of this area being annexed now is unlikely.

Mr. Soppe asked even though the Future Land Use map shows residential, does it actually have to be? Ms. O'Shea said the Comprehensive Plan has goals and objectives and the map shows the desired uses of the area. When this area was looked at, the future land use was recommended for residential.

A motion was made by Mr. Soppe, seconded by Mr. Sigwarth to approve the rezoning with the conditions that if the property is sold to someone other than immediate family or the business ceases to operate, the property will revert back to A-1 and that the rezoning is only for use as a maintenance shop for the storage and maintenance of Ag equipment, including operation of a sanitation business with a maximum of three trucks being stored and maintained on the property. This does not include the processing, storage and/or sorting of garbage or recycling materials. The motion passed. Vote: 3-1. Mr. Soppe, Mr. Sigwarth, Ms. Reiss in favor. Ms. Klostermann against.

2. ZC# 06-19-16 Johanna Gloeckner A-1 Agricultural to A-2 Agricultural

The applicant is requesting to rezone from A-1 Agricultural to A-2 Agricultural 2 acres more or less, to allow a second home to be built on the farm for Johanna to live in so that her son can take over the farm home and assist in the farming operation. The property, located 3.53 miles south of the City of Epworth along Pleasant Grove Road, is legally described as NW SE Section 36, (T88N R1W) Taylor Township, Dubuque County, Iowa.

The property is owned by Johanna Gloeckner. Zoning in the area includes A-1 Agricultural to the north, south, east and west. A-2 Agricultural Residential to the north. R-2 Single Family Residential to the east. The A-2 Agricultural Residential on ZC# 08-17-15 to the north was to allow for a single family home to be built. The R-2 Single Family Residential to the east on ZC# 06-17-98 was to allow for 15 acres to be developed into a subdivision adjacent to the golf course. ZC# 06-10-97 was to allow for 6 single family homes. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Six (6) rezoning notification letters were sent to the property owners.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 objective 3.1 and Chapter 8 Housing page 122 objective 12.7 may apply to this case.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley and Johanna Gloeckner, 21385 E Pleasant Grove Rd, Epworth. Mr. Schneider stated Ms. Gloeckner's son is assisting in the farming operation. The son is going to occupy the current home and Ms. Gloeckner is going to build a new home.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the rezoning with the conditions for one home only and the balance is to stay A-1 with no additional homes unless the property is rezoned. The motion passed unanimously. Vote 4-0.**

3. ZC#06-20-16 Jeffrey & Stephanie Then A-1 Agricultural to M-1 Industrial

The applicants are requesting to rezone from A-1 Agricultural to M-1 Industrial 1.40 acres more or less, to allow an existing precast stone business to get into compliance with the Zoning Ordinance. The business manufactures small concrete items for residential & commercial use that simulate cut stone. The items are made inside the buildings & stored outside on pallets awaiting delivery. The property, located 2.075 miles south of the City of Peosta along Sundown Road, is legally described as Lot 2 Lansing Sub Section 28, (T88N R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by Jeffrey & Stephanie Then. Zoning in the area includes A-1 Agricultural to the north, south, east and west. M-1 Industrial to southeast. The M-1 Industrial on ZC# 07-04-11 was to rezone from B-1 Business Conditional to M-1 Industrial Conditional three (3) acres more or less, to allow for the continued use of the property as a combination contractors shop, inside storage, and office building and to allow for the additional use of outside storage on the property. The original A-1, Agricultural to B-1, Business was from ZC# 06-19-98 to allow a contractors shop. There are no previous

rezoning cases attached to this property. There are no Special Use Permits attached to this property. Four (4) rezoning notification letters were sent to the property owners.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 135 objective 3.3 and 5.4 may apply to this case.

Speaking to the Board was Jeff & Stephanie Then, 7517 Sundown Road, Peosta.

Ms. Klostermann asked Mr. Then how long have they owned this property? Mr. Then stated they purchased the property in November 2014.

Ms. Klostermann asked if they are currently farming any of the farm ground? Mr. Then stated they used to farm down the road and then purchased this property when they lowered the price. After they purchased the property, they used the current buildings for their business because the building they were using for the business had maintenance issues. They produce small precast items. The hours of operation are 7 a.m. to 3:30 p.m. with five employees and they use the existing buildings on the property. They started the business on the property in 2015.

Ms. Klostermann asked the reasoning for the M-1, Industrial rezoning? Ms. O’Shea said they are manufacturing with outside storage. Mr. Then said two people could handle the products they produce easily. They mold concrete into precast concrete. Mr. Then stated they had hard years with the economy and they are in that position again with having to rezone. Ms. Klostermann stated the property is surrounded by agricultural zoned property and this would be considered spot zoning. Ms. Klostermann said an individual should not allow a business to run in an agricultural area.

Mr. Sigwarth asked if the heavy equipment and dirt being moved was part of cleaning up the property? Mr. Then stated they are putting in a practice baseball field for his children.

Mr. Sigwarth asked if the driveway was ever approved for commercial use? Ms. O’Shea stated the driveway did not meet proper spacing they need 500’ and the existing entrance is only 469’. They will have to apply for a variance for the entrance with the Board of Supervisors.

Mr. Soppe asked Mr. Then if Richard Knight purchased his property before or after him? Mr. Then said they owned their property prior them purchasing.

Ms. Klostermann asked what the KC Hall is zoned? Ms. O’Shea said they are zoned A-1. They tried to rezone it for recreational purposes. They wanted to put in a bar and campground. Currently it is a semi-public recreational use facility in A-1, Agricultural.

Ms. Klostermann asked what the zoning was on the Monastery Caskets? Ms. O’Shea said they were rezoned about 6 years ago to M-1, Industrial and only a small amount of property was approved.

Mr. Then said they average about 43 vehicles for the business since the first of the year to today.

Ms. Klostermann asked if anyone wished to speak in favor or against this case?

Speaking to the Board was Joan Vaske, 7674 Sundown Rd, Peosta. She stated that her husband and her farm across the road from the Then's. She said she has no problem with the Then's or that they want to run a business, but not in an agricultural zoned area. She feels it is spot zoning and it will open the possibility of other properties in the area to be rezoned.

Speaking to the Board was Bev Conter, 7083 Sundown Rd, Peosta. She stated she is against the rezoning of the property. She said they are requesting to rezone an existing precast business that was not existing on the property when it was purchased. She feels the rezoning is a benefit to the Then's and not a benefit to the community because it is agricultural ground. She feels they have Industrial Parks for a reason and that is where the business belongs.

Speaking to the Board was Cindy Kramer, 18870 Roddy Lane, Peosta. She said she is against spot zoning. She thinks it is great to run a business, but the business was in a different location when they purchased the property. Then they moved the business to the agricultural property. She thinks they should have checked into the zoning of the property before they purchased to avoid having to try to rezone the property. She said she consistently wants to keep agricultural land agricultural. She said if you do pass this case be ready for more cases to follow and to make sure the Board puts on strict conditions to avoid complications down the road.

Ms. Kramer asked how is the property going to be monitored on the conditions on the property? Ms. Klostermann said it is through a registered complaint on the property. Ms. O'Shea said they would have to receive a complaint or see the violation as it happens.

Ms. Kramer asked if when a rezoning application is submitted, do you ask what they are currently using the property for? Ms. Klostermann said most people come in after a complaint is made in order to ask to be rezoned. Ms. Kramer said this is becoming a common problem. Ms. O'Shea said it is really showing up lately. Mr. Soppe said in a year and half there has only been about a couple cases. Ms. Reiss said there are people doing things out of their agricultural property, but have neighbors that do not care and it is not hurting anything.

Ms. Kramer would like to keep this area undeveloped. She feels rules were created for a reason.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

Ms. Klostermann said she does not like to tell people no, but the property is in a sea of agriculture.

Mr. Soppe said he wonders why nobody complained about the last business they had on the property before it was sold. Ms. O'Shea asked what type of business? Mr. Soppe said it was a construction business and that was the purpose of the large building.

Ms. Klostermann said do we continue to allow people to do things outside of zoning and then come in and ask for forgiveness? Ms. O'Shea said if the business would have been

there before 1969 when zoning was approved, it would have been allowed to stay as long as it was not being expanded.

Mr. Sigwarth said even with the exception of Connolly Construction being zoned to M-1, Industrial and no matter what decision is made by the Zoning Board, the Board of Supervisors will turn it down. The Board agreed. Mr. Sigwarth also said that he commends them for having a small business, but they are not close to a lot of industrial zoned property.

Ms. O’Shea said that when Connolly’s were rezoned to B-1 in 1998, the case was very controversial.

A motion was made Ms. Reiss, **seconded by Mr. Sigwarth to approve with the conditions that the rezoning is for the precast stone business only, if the property is sold or the business ceases to operate the property will revert back to A-1, Agricultural and the outside storage is screened with a fence or trees so it is not visible from the road. The motion passed. Vote 3-1. Ms. Reiss, Mr. Soppe and Mr. Sigwarth in favor. Ms. Klostermann against.**

4. ZC#06-21-16 Thomas & Jeanette Bell A-1 Agricultural to A-2 Agricultural Residential

The applicant is requesting to rezone from A-1 Agricultural to A-2 Agricultural Residential 1 acre more or less, to allow the grandson who is currently living in the home to purchase the home and continue to assist in the farming operation. The property, located 1.34 miles NE of the City of Worthington along Fortman Road, is legally described as NE NW S 24 AC Section 28, (T88N R2W) Dodge Township, Dubuque County, Iowa.

The property is owned by Thomas & Jeanette Bell. Zoning in the area includes A-1 Agricultural to the north, south, east and west. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Four (4) rezoning notification letters were sent to the property owners and the City of Worthington was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 objective 3.1 and Chapter 8 Housing page 122 objective 12.7 may apply to this case.

Ms. Klostermann stated no one was present for this case and a motion to table was requested.

A motion was made by Ms. Reiss, **seconded by Mr. Soppe to table the rezoning case. The motion passed unanimously. Vote 4-0.**

5. OLD BUSINESS:

1.) Update on previous zoning cases

Ms. O’Shea stated the previous case was the Jacob & Beverly Reiter case, which was revisited in the meeting tonight.

6. NEW BUSINESS:

1.) Discussion on Zoning Code Update -Zoning Districts

Ms. O’Shea asked the Board if they would be willing to do an early work session to go through a couple of the districts. Ms. O’Shea said the meeting would go over the uses in the districts, purpose and intent and format of the districts. Ms. O’Shea said she would send out emails to contact all the members to see what they can setup for the July 19, 2016 meeting if needed.

Ms. Reiss stated the Zoning Board meetings in the past used to go until 10 or 11 o’clock at night.

7. PUBLIC COMMENTS: None

8. ADJOURNMENT: A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to adjourn the meeting. The motion passed unanimously. Vote: 4-0. The meeting ended at 8:35 p.m.**