

Dubuque County Zoning Commission

Minutes of September 20, 2016

Chairperson Kevin Soppe called the meeting to order at 5 p.m.

1. ROLL CALL: Members present: Janet Reiss, John Goodmann, Kevin Soppe, Leo Gansen, Jerry Sigwarth and Cathy Caitlin. Staff Present: Anna O’Shea & Tammy Henry.

2. APPROVAL OF MINUTES: A motion was made by Mr. Gansen, seconded by Mr. Sigwarth, **and passed unanimously to approve the minutes of the August 16, 2016 meeting. Vote: 5-0.**

John Goodman arrived at 5:04 p.m.

3. PLAT APPROVAL:

a) Plat of Survey Lot 1-6 & Lot 2-6 of Paradise Heights Subdivision No. 3-Final Plat

Plat of Survey of Lot 1-6 & Lot 2-6 of Paradise Heights Subdivision No. 3 comprised of Lot 6 of Paradise Heights Subdivision No. 3 located in the SE ¼ of Section 26, (T89N R1E) Center Township, Dubuque County, Iowa.

The property is owned by Larry & Sharon McDermott and is located adjacent to the City of Dubuque. The property is zoned R-2 Single Family Residential with a total of 18.261 acres surveyed. The purpose of the plat is to separate the home so that the daughter may purchase it.

The survey creates 2 Lots. Lot 1-6 has a total of 5.525 acres surveyed with a home and it will be sold to the daughter. Lot 2-6 has a total of 12.736 acres surveyed and will remain in current ownership and use.

Lot 1-6 will use an existing residential access off of BMR Lane. Lot 2-6 is applying for an access off of Humke Road.

Speaking to the Board was Larry McDermott, 16070 Frontier Ct, Dubuque. He stated he would like to plat off his home from the rest of this property. The home will be sold to his daughter and the balance will be used as an extra lot.

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

Ms. O’Shea informed the Board that there is not an approved entrance for the new lot. The new entrance will have to go in front of the Board of Supervisors for approval.

A motion was made by Mr. Goodmann, **seconded by Ms. Reiss to approve the plat subject to the entrance permit being approved by the Board of Supervisors. The motion passed unanimously. Vote 6-0.**

b) Plat of Survey Lots 1 thru 3 of Arthofer Addition – Final Plat

Plat of Survey of Lots 1 thru 3 of Arthofer Addition comprised of Lot 1 of Sub. of Lot 1 of Anton J. Fischer Place in Section 1, (T87N R1E) Prairie Creek Township, also in Section 6, (T87N R2E) Washington Township, and Lot 2 of Lot 1 of NW ¼ of NW ¼ Section 6, (T87N R2E) and located in the NW ¼ of Section 6, (T87N R2E) Washington Township and NE ¼ of Section 1, (T87N R1E) Prairie Creek Township all in Dubuque County Iowa.

The property is owned by Michael & Mary Arthofer and is located 4.18 miles south of the City of Peosta along Ryan Road. The property zoned A-1 Agricultural with a pending rezoning request on ZC#08-27-16 to rezone to R-3 Single Family Residential with a total of 5.275 acres surveyed. The purpose of the plat is to allow the grandson to build a home on the site.

The survey creates 3 Lots. Lot 1 has a total of 1.723 acres surveyed with a home and it will remain in current ownership and use. Lot 2 has a total of 1.453 acres surveyed and Lot 3 has a total of 2.099 acres surveyed and they will be sold to the grandson for future home sites.

Lot 1 will use an existing residential access off of Ryan Road. Lot 2 & 3 will use a shared residential access off of Monastery Road.

Speaking to the Board was Ben Arthofer, 3605 Mya Rose Ct, Dubuque. He stated had nothing else to add to what was stated.

Mr. Goodmann asked if this case has been approved by the Board of Supervisors? Ms. O’Shea stated yes. It was rezoned to R-3, Single Family Residential.

Mr. Gansen asked if the entrances for the new lots has been approved? Ms. O’Shea stated yes. The two new lots will have a shared access. The existing home already had an entrance.

Mr. Soppe 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. Goodmann to approve the plat. The motion passed unanimously. Vote 6-0.**

c) Plat of Survey Bradley Acres-Final Plat

Plat of Lot 1 and Lot 2 of Bradley Acres a division of Lot 1-1 of the W ½ of the NW ¼ Section 36, (T88N R2E) Table Mound Township, Dubuque County, Iowa.

The property is owned by Brian D Bradley Etal and is located 1.14 miles south of the City of Dubuque along Laudeville Road. The property is zoned R-2 Single Family Residential with a total of 41.06 acres surveyed. The purpose of the plat is to plat off the existing home for estate purposes.

The survey creates 2 Lots. Lot 1 has a total of 1.99 acres surveyed with a home and it will be deeded to Brian & Kim Bradley. Lot 2 has a total of 39.07 acres surveyed and will remain in current ownership and use.

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

Speaking to the Board was Mike Weber, Weber Land Surveying, 26789 46th Ave, Bernard. He stated the purpose is to plat the current home from the farm ground.

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

A motion was made by Mr. Goodmann, **seconded by Ms. Reiss to approve the plat. The motion passed unanimously. Vote 6-0.**

4. REZONING CASES:

1) ZC#09-30-16 Richard Reuter & Daniel & Jill Reuter A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1 Agricultural to A-2 Agricultural Residential 1.5 acres more or less, to separate the newly constructed home for financing purposes and to continue to help in the operation of the farm. The property located 0.61 miles south of the City of Peosta along Dutch Lane Road, is legally described as NW SW Section 17, (T88N R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by Richard Reuter. 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. Two (2) rezoning notification letters were sent to the property owners and the City of Peosta 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.

Speaking to the Board was Dan Reuter, 9434 Dutch Lane, Peosta. He stated he is co-owner of the farm. They want to purchase the home and the land will stay in his dad's name, Richard Reuter.

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

A motion was made by Mr. Sigwarth, **seconded by Ms. Caitlin to approve the rezoning with the conditions that 1.5 acres more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural and that the balance of that parcel is not allowed to have another dwelling unless the property is rezoned for that use. The motion passed unanimously. Vote 6-0.**

2) ZC#09-31-16 Kenneth & Darla Hosch A-1 Agricultural to B-1 Business

The applicants are requesting to rezone from A-1 Agricultural to B-1 Business 9 acres more or less, to allow for their daughters to start a beauty salon in the existing home. The property located 0.06 miles south of the City of Peosta along Sundown Road, is legally described as NW NE Section 16, (T88N R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by Kenneth & Darla Hosch. Zoning in the area includes A-1 Agricultural to the south, east and west. B-1 Business to the north. The B-1 Business to the north on ZC# 10-44-95 was to allow for storage buildings. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Three (3) rezoning notification letters were sent to the property owners and the City of Peosta was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 objective 3.1 and page 135 objective 5.4 and Chapter 7 Economic Development page 105 objective 3.3 may apply to this case.

Speaking to the Board was Ken Hosch, 7034 Then Rd, Epworth and Daniella Dupont, 20484 E Pleasant Grove Road, Peosta.

Mr. Goodmann asked if the entire home was going to be converted into a salon? Mr. Hosch said yes.

Mr. Hosch stated both of his daughters are in the beauty salon profession and they would potentially work together. One daughter currently lives in the home. He was instructed that if there is more than one employee in a Home Occupation they would have to rezone the property.

Ms. O’Shea stated that if you have a Home Occupation you have to live on the property to work in the business.

Ms. O’Shea asked how many people would be employed with the new business? Ms. Dupont said 2-3 people to start the business. In the future, it could possibly be up to eight.

Ms. Dupont said the building they currently have as a salon was bought out and they have to move.

Ms. Caitlin asked why they needed 9 acres rezoned? Mr. Hosch said if the salon business goes well they would like to build a new building. He said depending on where they located the new business they would have to avoid the gas lines on the property.

Mr. Sigwarth asked if there were any comments submitted from the City of Peosta? Ms. O’Shea said there were no comments submitted from the city or any of the surrounding neighbors.

Mr. Goodmann said to Mr. Hosch that he might want to consider a decreased amount of acres in the site plan because the Board of Supervisors may have a problem taking 9 acres out of agriculture.

Mr. Sigwarth said he understands what Mr. Hosch is trying to do but does not feel the Board of Supervisors will approve the 9 acres.

Mr. Gansen said it would have a chance of being approved by the Board of Supervisors if they would cut down the acreage that they want to rezone. Mr. Hosch agreed.

Ms. O’Shea said they are asking for additional acreage because if they add a third address to this property they would have to have a named road with a 66’ right of way, and the setbacks have to be from the 66’ right of way line.

Mr. Gansen asked Mr. Hosch if he has had the property surveyed? Mr. Hosch said no. Ms. O’Shea said a property could have multiple zonings. If in the future the daughters want to own the property that is rezoned, they will have to have it platted off from the rest of the farm.

Ms. Dupont said the third address would be if they would build a new building because the current home and the pipeline are already addressed on this property.

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

A motion was made by Mr. Goodmann, **seconded by Mr. Sigwarth to approve the rezoning as amended for only 5 +/- acres. The motion passed unanimously. Vote 6-0.**

3) ZC#09-32-16 McAllister Real Estate LLC A-1 Agricultural to B-1 Business

The applicants are requesting to rezone from A-1 Agricultural to B-1 Business 1.35 acres more or less, to allow for an additional building to be built on the site for storage of manure pumping equipment and to allow to for inside storage rental. The property located 3.27 miles east of the City of Cascade along McCabe Lane, is legally described as Lot 1 Fillmore Place Section 26, (T87N R1W) White Water Township, Dubuque County, Iowa.

The property is owned by McAllister Real Estate LLC. Zoning in the area includes A-1 Agricultural to the north, south, east & west. B-1 Business to the east and north. R-2 Single Family Residential to the north and east. The B-1 Business to the east on ZC# 9000-22-81 was to rezone ½ acre to establish a feed business. The B-1 Highway Business to the north on ZC#9000-27-80 was to rezone to get a property into compliance. The B-1 Highway Business to the north on ZC# 900-24-80 was to rezone 4 lots to allow for a seed house. The R-2 single Family Residential to the east on ZC#06-20-02 was to allow for a single family home. The R-2 Single Family Residential to the north on ZC# 9000-30-77 was to allow for a single family home. There is one previous rezoning case attached to this property on ZC# 09-28-99 was to rezone 9.7 acres for the purpose of Plant Processing, Cold Storage and Future Resale. There are no Special Use Permits attached to this property. Sixteen (16) rezoning notification letters were sent to the property owners.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 objective 3.1 and page 135 objective 5.4 and Chapter 7 Economic Development page 105 objective 3.3 may apply to this case.

Speaking to the Board was Jake McAllister, 24572 63rd Ave, Cascade. He stated he would like to add a building to the property for storage. There is a business already on this property that is zoned B-1.

Ms. O’Shea said Mr. McAllister is putting up the building in order to place the equipment that is currently stored outside inside to meet the B-1 requirements. If they would like to have more outside storage, he would have to come in and ask to have the property rezoned to B-2.

Mr. Soppe 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. Gansen to approve the rezoning request. The motion passed unanimously. Vote 6-0.**

5. OLD BUSINESS:

1) Update on Previous Zoning Cases

Ms. O’Shea informed the Board that the Shooting Range court case has been appealed. The appeal could take up to a year to have a decision. She stated the Hartbecke Road Property was approved with one correction in regards to odor complaints. If there are odor complaints made to the Dubuque County Zoning Office after May 15, 2017 the county has

the authority to shut down the remaining composting operations after a hearing with the Board of Supervisors. The Robert & Carissa Trilk case going from A-1 to M-1 was denied based on the property being in violation and due to spot zoning. The Board of Supervisors do not want to see industrial in the middle of agriculture. The Board of Supervisors requested that no further enforcement of this property to occur until the home industry amendment is approved and the owner has an opportunity to get into compliance. They are allowed to keep operating on the property until that time. The Shirley Lake A-1 to A-2, Arthofer A-1 to R-3, Timber Ridge A-1 to R-2 and Dennis & Debra Schmitt A-1 to A-2 were all approved by the Board of Supervisors as recommended by the Zoning Board.

6. NEW BUSINESS:

1) Discussion on Home Industry Zoning Amendment

Ms. O’Shea said she asked Dave Kubik, Dubuque County Assessor, to speak to the Board on how home industry will effect peoples taxes. She also invited some people that have businesses in the county where the home industry will help them come into compliance.

Speaking to the Board was Dave Kubik, County Assessor, 720 Central Ave. He said assessments are based on the primary use of the property. According to the changes for allowing home industry it would be a secondary use to the property. He stated currently a commercial property is taxed at 90% of the assessed value and residential property is taxed about 55-56% of the assessed value. He said the home industry might create conversions of existing buildings for the business, which could change the valuation to residential or will be taxed with the farm dwelling. He thinks that there has to be some standard on how to determine if the business is secondary.

Speaking to the Board was Richard & Joan Czipar, 7079 Schueller Heights Road, Dubuque. Mr. Czipar stated they ran an apple orchard for 49 years. They have since sold the orchard business to their son. They now want to make wine in their own home to be able to sell at the orchard. The state told them they were not zoned properly to get the license to sell the wine. The question now is do they have to rezone, get a Special Use Permit or wait for the home industry to come into effect.

Mr. Goodmann asked why can they make the wine in their home but not sell it? Ms. O’Shea said they can make wine and give the wine away as a hobby. Once they start to manufacture the wine as a business, they need to meet the winery, brewery and distillery requirements with the county.

Ms. Reiss asked why not make the wine on the orchard site? Ms. Czipar said they did make the wine at the orchard at one time and they gave it away. It has since moved into the home that they occupy.

Mr. Goodmann asked why not allow them to apply for a Special Use Permit? Ms. O’Shea said wine making for resale is not allowed in the R-2 zoning district and they do not have 3 acres of vineyard.

Mr. Goodmann said they should try to find a way to accommodate this business through the home industry. Ms. O’Shea said you could possibly limit the amount they can produce and not allow tasting. Ms. Caitlin stated this use is not much different from a community garden because the orchard is across the road. Ms. O’Shea said certain kinds of businesses in an area could have negative side effects. Ms. Cizpar said they are just looking for some consideration for small businesses. Mr. Goodmann said they should look for ways that they do not have to regulate people in their own homes.

Speaking to the Board was Jake Reiter, 6955 245th St, Cascade. He said he went through the process of trying to rezone his property to M-1 for a sanitation business and was denied. Mr. Reiter stated he could not even park a truck that he uses to haul his grain as well as other people's grain on the property. Ms. O'Shea stated he could ask for a Special Use Permit for the property. It would be for the sale of agriculturally related materials. Ms. O'Shea stated if there is a residential home on the property and the truck was used as a daily work vehicle it could be parked on the property.

Ms. O'Shea stated that the packet on the Home Industry amendment has some highlighted sections that need to be looked over. There is a spreadsheet showing how other counties handle Home Industries and there have been several comments submitted on this topic.

The Board agreed they would like to hear from other people in the county that want to have a business in the county. They will discuss this issue more in the coming months and start establishing the parameters.

2) Discussion on Zoning Code Update -Zoning Districts

There was no discussion on the Zoning Code update.

7. PUBLIC COMMENTS: None

8. ADJOURNMENT: A motion was made by Mr. Goodmann, **seconded by Mr. Soppe to adjourn the meeting. The motion passed unanimously. Vote: 6-0. The meeting ended at 6:39 p.m.**