

Dubuque County Zoning Commission

Minutes of February 21, 2017

Chairperson Kevin Soppe called the meeting to order at 6 p.m.

1. ROLL CALL: Members present: Mary Klostermann, Kevin Soppe, Jerry Sigwarth and Cathy Caitlin. Staff Present: Tammy Henry. Members Absent: John Goodman, Janet Reiss & Leo Gansen

2. APPROVAL OF MINUTES: A motion was made by Mr. Sigwarth, **seconded by Ms. Klostermann and passed unanimously to approve the minutes of the January 17, 2017 and January 24, 2017 meetings. Vote: 4-0.**

3. PLAT APPROVAL:

a) Plat of Survey of JeaneB Acres-Final Plat

Plat of Survey of Lot 1 thru Lot 3 of JeaneB Acres comprised of that part of Lot 2 of the NW-NW, the NE-NW and the SW-NW quarters, Section 6, (T87N- R2E) Washington Township situated NW of Relocated Highway 151, Dubuque County, Iowa.

The property is owned by Ricky & Amy Bergfeld. It is located 4.30 miles southeast of the City of Dubuque at the corner of Ryan Road and Monastery Road. The property is zoned R-1 Rural Residential and R-2 Single Family Residential with a total of 14.576 acres surveyed. The purposes of the plat is to create 2 Residential Lots and farm the balance.

The survey creates 3 Lots. Lot 1 has total of 11.75 acres surveyed and will remain in current ownership and use. Lot 2 has a total of 1.15 acres surveyed and will remain in current ownership and be used for a new home site. Lot 3 has a total of 1.67 acres surveyed and will be combined with a lot with a home and it will be owned by Randy Urbain.

Lot 1 will use an existing field entrance off of Ryan Road. Lot 2 will use an approved residential access off of Ryan Road on entrance permit #16-63. Lot 3 will use an existing residential entrance off of Ryan Road.

Speaking to the Board was Rick Bergfeld, 15212 Depot Ridge, Peosta. He said the plat is to allow a new home for himself, a future home for his son and plat off some property to a neighbor.

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 plat. The motion passed unanimously. Vote 4-0.**

b) Plat of Survey of Whispering Hills Estates No.3 -Final Plat

Plat of Survey of Lot 1, Lot 2 and Lot A of Whispering Hills Estates No.3 comprised of Lot 5 and Lot 6 of Whispering Hills Estates, Section 33, (T90N-R2E) Peru Township, Dubuque County, Iowa.

The property is owned by Dennis & Jean Ann Althaus. It is located 0.88 west of the City of Sageville along Highway 52 North and Whispering Ridge. The property is zoned R-2 Single Family Residential with a total of 4.568 acres surveyed. The purpose of the plat is

create a lot for a well to sell to the Whispering Hills Estates Homeowners Association (HOA).

The survey creates 3 Lots. Lot 1 has a total of 2.245 acres surveyed with a home that is up for sale. Lot 2 has a total of 2.138 acres surveyed and will remain in current ownership and use. Lot A has a total of 0.185 acres surveyed with a well and it will be sold to the Homeowners Association.

Lot 1 and Lot 2 will both use residential accesses off of Whispering Ridge. Lot A will have access off of Whispering Ridge.

Speaking to the Board was Dennis Althaus, 39232 Hwy 52, Bellevue. He said when the developers put in the wells for the subdivision they put them on lot lines. The home he owns in the subdivision is up for sale. The well has since been used by other homes in the subdivision and he would like to protect the homes that use the well from the potential buyer of the home he is selling.

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

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

4. REZONING CASES:

1) ZC#02-06-17 Emil & Darlene Weber and Virgil & Daniel Weber A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1 Agricultural to A-2 Agricultural Residential 2.12 acres more or less, to replace an existing home on 2.12 acres and continue to assist in the farming operation. The property located 2.99 miles northwest of the City of Bernard at the corner of Sundown Road and Hunt Road, is legally described as SW NW Section 17, (T87N R1E) Prairie Creek Township, Dubuque County, Iowa and S 39.40 AC SE NE Section 18, (T87N R1E) Prairie Creek Township, Dubuque County, Iowa.

The property is owned by Emil & Darlene Weber and sold on contract to Virgil Weber and Daniel Weber. 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.

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 Daniel Weber, 3585 Sundown Rd, Bernard. He said the rezoning is for financial reasons so they can replace the existing home with a new home.

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. Klostermann to approve the rezoning with the conditions that 2.12 acre more or less around the home be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural and that the balance of the parcel is not allowed to have another**

dwelling unless the property is rezoned for that use. The motion passed unanimously. Vote 4-0.

2) ZC#02-07-17 Genesis Two Holdings LLC and Genesis Three Holdings LLC/Ron White and Republic Services/Frank Banigan R-1 Rural Residential to B-2 Highway Business and B-2 Highway Business to M-1 Industrial

The applicants are requesting to rezone from R-1 Rural Residential to B-2 Highway Business 3 acres more or less, to be allowed to build a Wastewater Plant with removal of current lagoons. The applicants are also requesting to rezone from B-2 Highway Business to M-1 Industrial 3.89 acres more or less, to allow for a new 10,000 square foot recycling building to be used for transferring recycled materials from Truck to Semi-Truck. The property is located 0.80 miles southwest of the City of Dubuque along Highway 20 and Depot Ridge Road, and is legally described as SW SW Section 7, (T88N R2E) Table Mound Township, Dubuque County, Iowa and Lot 2-1 SE SE Section 12, (T88N R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by Genesis Two Holdings LLC and Genesis Three Holdings LLC/Ron White Principal. Zoning in the area includes R-1, Rural Residential to the north, south, east and west. R-2, Single Family Residential to the west and south. R-4, Multi-Family Residential to the east and west. A-1, Agricultural to the north and south. B-2, Highway Business to the North and west. M-1, Industrial to the north. The B-2, Highway Business on ZC# 12-20-05 to the north was to allow a Diesel Component Service Business with conditions. The M-1, Industrial to the north on ZC# 11-06-88 was to allow a fabrication, packing and assembly of office equipment business. There has been one previous rezoning case attached to this property on ZC#9000-14-81 to rezone from R-1, Rural Residential to B-2, Highway Business to allow for a Truck Stop/Restaurant and Motel. There is one Special Use Permit attached to this property on BA Case# 10-26-86. Sixteen (16) rezoning notification letters were sent to the property owners and the City of Dubuque was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 135 objective 5.4 Chapter and 12 Land Use page 179 Objective 3.5 and Chapter 7 Economic Development page 105 objective 3.2 and 3.4 may apply to this case.

Ms. Henry said that Sam Shea with the Iowa DOT stated that the DOT will not be exercising its acquisition authority under the Corridor Preservation Zone and they do not have a planned future transportation need that would necessitate their acquisition of this property now.

Speaking to the Board was Ron White, Owner of Genesis Two & Three Holdings LLC, 3197 Highland Park Dr, Dubuque and Frank Banigan, Representing Republic Services, 10491 Cypress Dr, Peosta. Mr. White said the rezoning from B-2 to M-1 is to be able to build a building for recycling. The recycling would be kept in the building at all times.

Mr. Banigan said the building would be near the highway. It would have three solid sides and have bay doors opposite of the highway. He said there are limited outlets for recycling. It will be a transfer place and not for processing the recycling. It will be residential recycling. It would be about one additional truck entering the building a week.

Mr. Sigwarth asked if they plan to use the service building for servicing the trucks? Mr. Banigan said yes.

Ms. Klostermann asked the reason for the M-1 zoning? Ms. Henry said that is because the recycling business requires the M-1 zoning.

Mr. Soppe asked what do the current lagoons service in the area? Mr. White said it is for the Truck Stop, Storage Units, Brown National Lease and Republic Services. He said the lagoons have been there for the last 25 years and it has not been in compliance. He has been working with the DNR to be able to build a new up to code system. The DNR approved the updated plan on January 26, 2017. The location on the map was chosen in order for the new system to meet setback of 900' away from residents.

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

Mr. Soppe asked if anyone wished to speak against this case?

Speaking to the Board was Sandra Regan, 3229 Honeysuckle Ln, Dubuque. Ms. Regan gave her letter to Ms. Henry to read to the Board.

Ms. Henry read from the letter stating that the Regan's are strongly opposed to the rezoning request for the following reasons. Safety is a concern because of the dangerous intersection and the increase in truck traffic is an added danger. They feel the rezoning should be denied until the Iowa DOT proposed improvements to the intersection are implemented. Trash, dust, smell and noise pollution are issues in the area. Water runoff onto the Regan and Siegert properties from the removal of topsoil and breached dikes by Ron White have caused extensive damage to creek crossings, flood gates and etc. The notification letter to residential neighbors have their properties zoned as B-2 when they have all been residential homes for the last 25 years. In addition, the Greg Regan farmstead is zoned R-1 when it should be zoned Agricultural.

Mr. Soppe said farm ground could be zoned residential and agricultural.

Mr. Caitlin asked in regards to the removal of topsoil and breached dikes how long has this been an issue? Ms. Regan said since Mr. White took over the operation.

Speaking to the Board was Robert Brune, 14945 Swiss Valley Rd, Peosta. He said that according to the map it shows the business is already operating on property not zoned for business. Republic Services already travels Swiss Valley Road and it will increase the traffic on the road. Swiss Valley is only a three axle restricted road and law enforcement cannot get everyone who violates the limit. He is also concerned about the sewer treatment water. If it is not properly maintained it could affect people in the area who have shallow wells that could become contaminated. He feels that someone other than the DNR should be monitoring the plant.

Speaking to the Board was Bernard Brune, 14684 Swiss Valley Rd. He wanted to know where the new building and lagoon would be on the property. The Board member showed him the map of site plan. He is concerned if they plan to do heavy excavating that would affect his property. He also stated that there is a lot of truck traffic on Swiss Valley Road.

He is wondering why they are not on city water and sewer? And what happens to the current lagoons?

Mr. White and Mr. Banigan were recalled by the Board.

Ms. Caitlin asked Mr. White & Mr. Banigan if they could address any of the concerns that were discussed? Mr. White said there would not be a lagoon anymore it will be a mechanical system. MSA engineered the project in conjunction with the DNR to get the proper plan to meet the current standards.

Ms. Klostermann asked if there is a plan for removal of the existing lagoons? Mr. White said yes it is all part of when they integrate the new system.

Mr. Sigwarth said in regards to the dust issue are there plans to have the area blacktopped? Mr. Banigan said the dust is from the ground. They have sprayed the lot for dust control in the past. When the new building is up it will give the area more hard surface.

Mr. Sigwarth asked where are they currently recycling the product? Mr. Banigan said they currently do it at other facilities in town or ship it to other counties. The problem is that a lot of the facilities are closing or not operating any longer. All the transfers will happen within the buildings.

Mr. Banigan said he is not fond of the access onto Highway 20 especially in fog or bad weather. If they can, they have the trucks turn right onto Hwy 20 to go into Dubuque to turn around. They have made route changes to avoid using Swiss Valley Road.

Ms. Caitlin said she is concerned when the neighbors have issues and hope that they can be a good neighbor and take into account the issues the neighbors have when they expand the business.

Ms. Klostermann asked if the new building would increase the employees accessing the property? Mr. Banigan said the expansion will add about one additional employee.

The Board agreed to vote on the rezoning requests separately.

A motion was made by Mr. Sigwarth, seconded by Ms. Caitlin to approve the rezoning of B-2, Highway Business to M-1, Industrial with the condition that if the Recycling Business ceases to operate the property will revert back to B-2, Highway Business. The motion passed unanimously. Vote 4-0.

A motion was made by Ms. Klostermann, seconded by Ms. Caitlin to approve the rezoning from R-1, Rural Residential to B-2, Highway Business. The motion passed unanimously. Vote 4-0.

3) ZC# 02-08-17 City of New Vienna & Randy Demmer A-1 Agricultural to B-2 Highway Business

The applicants are requesting to rezone from A-1 Agricultural to B-2 Highway Business 3.9 acres more or less, to allow for C & D Constructions Solutions Inc. to relocate from Delaware County to Dubuque County, and to allow a new commercial park for the City of New Vienna. The property is located adjacent to the City of New Vienna along Petersburg

Road, is legally described as Lot 1 SW SE Section 6, (T89N-R2W) New Wine Township, Dubuque County, Iowa.

The property is owned by the City of New Vienna. Zoning in the area includes A-1, Agricultural to the north, south, and west. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Five (5) rezoning notification letters were sent to the property owners and the City of New Vienna was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 135 objective 5.4 Chapter and 12 Land Use page 179 Objective 4.2 and Chapter 7 Economic Development page 105 objective 3.2 and 3.4 may apply to this case.

Mr. Soppe asked if the property is already owned by the City of New Vienna? Why is the Board reviewing this case? Ms. Henry said because the property is not in the city limits of New Vienna. It owned by the City of New Vienna but they do not want to annex the property into the city.

Speaking to the Board was Randy Demmer, 30559 Golf Course Rd, Dyersville and Terry Demmer, 4935 Wildflower Dr, Dubuque. Mr. Randy Demmer said they outgrew the facility in Delaware County so they are looking to expand. They currently rent a farm to store their equipment. They would like to be in one central location for the business. The property has highway access, which will be beneficial for the business.

Mr. Soppe asked why doesn't the City of New Vienna want to annex this property? Mr. Demmer said because of the city sewer and water. It would not be cost effective to the City of New Vienna to run the lines for sewer and water for the minimal facility the business will be utilizing.

Ms. Klostermann said she was aware that this property was under foreclosure before the City of New Vienna obtained the property. It is in a more industrial area of New Vienna. If the City of New Vienna obtains property in the area they could at that time look at annexing.

Mr. Soppe asked if anyone wished to speak in favor this case?

Speaking to the Board was Pat Hermsen, Mayor of New Vienna, 7493 Washington St, New Vienna. The City of New Vienna would greatly appreciate approval of the rezoning. The city has been looking for businesses to be able to expand a development area. The long range goal is to obtain the farm ground that surrounds the cities lagoons and build an Industrial Park. He said that C & D Construction has a great reputation of their work and will be a good neighbor in the City of New Vienna.

Mr. Soppe asked if anyone wished to speak in favor or against this case?

Speaking to the Board was Joe Fangmann, 2297 Main St, New Vienna. He said he lives across the road from the proposed rezoning property. His concern is that we wants the city to maintain around the fences on either side of the creek.

Ms. Klostermann asked if the property he is concerned about is the one being purchased by Mr. Demmer or is it the property still owned by the City of New Vienna? Mr. Fangmann said the property he is concerned with is owned by the city and is within the city limits of New Vienna.

Ms. Caitlin said the property that Mr. Fangmann is concerned about is not part of the rezoning and the Board has no jurisdiction.

Mr. Fangmann said he is not against the rezoning he just wants to have the property around the fences maintained.

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

5. OLD BUSINESS:

Update on Previous Zoning Cases

Ms. Henry stated that the rezoning for Kenneth & Lois Reuter & Oakland Farms Real Estate has been tabled until the March 27, 2017 Board of Supervisors meeting to provide additional information to the Board regarding this rezoning case. She also informed the Board that the Patrick & Catherine Donovan and Kevin & Melissa Donovan, Dennis Watters and Jeff & Hannah Heiar, Thomas & Nancy Kramer and Jason Kramer, Shirley Klein Estate and Mark Klein all being rezoned from A-1, Agricultural to A-2, Agricultural Residential were all approved by the Board of Supervisor as recommended by the Zoning Board.

6. NEW BUSINESS:

Discussion on Home Industry Zoning Amendment

Ms. Henry stated because Ms. O'Shea was unable to attend the meeting the discussion on the Home Industry will be tabled until the next meeting. The Board also agreed that the Special Work Session meeting scheduled for February 23, 2017 would be cancelled due to not having enough members able to attend.

7. PUBLIC COMMENTS: None

8. ADJOURNMENT: A motion was made by Ms. Caitlin, **seconded by Ms. Klostermann to adjourn the meeting. The motion passed unanimously. Vote: 4-0. The meeting ended at 7:15 p.m.**