

Dubuque County Zoning Commission Minutes of January 19, 2021

Chairperson Sam Boyes called the meeting to order at 6 p.m.

1. ROLL CALL: Members present via a Zoom teleconferencing meeting: Jerry Sigwarth, Cathy Caitlin, and Kathleen Scherrman. Members present at the Dubuque County West Campus, 1225 Seippel Road: Kevin Soppe, Sam Boyes and Ken Runde. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Tammy Henry and Angela Steffens.

Ron Breitbach joined the meeting at 6:02 p.m.

Ms. Henry told the Board that the conditions were missed in the December 15, 2020 minutes for ZC#12-28-20 Sauser Farms Inc, but it has been fixed.

2. APPROVAL OF MINUTES: A motion was made by Mr. Runde, **seconded by Mr. Sigwarth, and passed unanimously to approve the minutes of the December 8 & 15, 2020 meetings. Vote: 7-0.**

3. PLAT APPROVAL:

a) Plat of Survey of Wildcat Third Addition-Final Plat

Plat of Survey of Lot 1 thru Lot 3 Wildcat Third Addition comprised of Lot 25 in Wildcat First Addition, City of Farley, Dubuque County, Iowa and Part of Lot 1 of Lot 1 of Lot 5 of the SW ¼ of Section 8, (T88N-R1W) Taylor Township, Dubuque County, Iowa.

The property is owned by CJB Farm Holdings LLC and Wildcat Investment Group LLC and is located adjacent to the City of Farley along Bobcat Ave SE and US Hwy 20 with a total of 65.200 acres surveyed. The property is zoned A-1, Agricultural and part is located within the city limits of the City of Farley. The purpose of the plat is to increase the size of Lot 2 to allow for a duplex

The survey creates 3 lots. Lot 1 has a total of 65.500 acres surveyed with farm buildings and it will remain in current ownership and agricultural use. Lot 2 has a total of .203 acres surveyed and will be part of the site of the new duplex and will be completely annexed into the City of Farley. Lot 3 has a total of .159 acres surveyed and will also be part of the site of the new duplex and is located within the city limits of the City of Farley.

Lot 1 thru Lot 3 will all use access off of Bobcat Ave SE.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st North, Farley. Mr. Schneider said the owners would like to sell a lot in their subdivision and the buyer would like to build a duplex. The buyer will need the lot to be bigger. He said it will eventually be annexed into the City of Farley.

Ms. Boyes asked if anyone had any questions. No one spoke.

Ms. Caitlin asked if there were any zoning issues with this case, and wanted to know if it was just a platting issue. Ms. Henry said there were no zoning issues they just need to do the plat.

A motion was made by Ms. Caitlin, **seconded by Mr. Soppe to approve the plat. The motion passed unanimously. Vote 7-0.**

b) Plat of Survey of Brehm Acres-Final Plat

Plat of Survey of Lot 1 and Lot 2 Brehm Acres comprised of Lot 1 of Lot 1 and Lot 4 all in the SE ¼ and the E ½ of the SW ¼ all of Section 36, (T89N-R1E) Center Township, Dubuque County, Iowa.

The property is owned by John & Dianne Brehm and is located adjacent to the City of Dubuque along Cottingham Road with a total of 121.15 acres surveyed. The property is zoned R-1, Rural Residential and C-1, Conservancy. The purpose of the plat is to create a residential lot around an existing agricultural building that will be converted into a house/shed for their son to live in.

The survey creates 2 lots. Lot 1 has a total of 123.62 acres surveyed with a farm home and agricultural buildings and it will remain in current ownership and agricultural use. Lot 2 has a total of 1.19 acres surveyed and is the residential lot that will have the existing agricultural building that will be converted into a home for their son.

Lot 1 will use an approved entrance on permit #19-55 off of Cottingham Road. Lot 2 will use an existing entrance off of Cottingham Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st North, Farley. Mr. Schneider said they are taking two existing parcels and reconfiguring them. He said there is an existing farm building that the owner wants to convert part of it into a home for one of their children so they will need to split this parcel off. He said it is adjacent to existing residential property.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Breitbach, **seconded by Mr. Sigwarth to approve the plat. The motion passed unanimously. Vote 7-0.**

c) Plat of Survey of Brimeyer Addition-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Brimeyer Addition comprised of Lot 1 NW ¼ NE ¼ and Lot 2 NW ¼ NE ¼ Section 12, (T90N-R1W) Concord Township, Dubuque County, Iowa.

The property is owned by James & Mary Brimeyer and James & Joan Paisley and is located 1.45 miles west of the City of Balltown along James Road with a total of 40.469 acres surveyed. The property is zoned A-1, Agricultural. The purpose of the plat to re-establish the right of way per the centerline of James Road.

The survey creates 2 lots. Lot 1 has a total of has a total of 32.441 acres surveyed and will remain in current ownership and agricultural use. Lot 2 has a total of 8.028 acres surveyed and will remain in current ownership and agricultural use.

Lot 1 and Lot 2 will both use existing entrances off of James Road.

Speaking to the Board was Jim Brimeyer, 22802 James Road, Holy Cross. Mr. Brimeyer said that in 1946 when the road was re-done it was a zig zag road and now it is a curve. He said they would like the property on his side of the road to be his and the property on the Paisley side to be theirs.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Soppe, **seconded by Mr. Runde to approve the plat. The motion passed unanimously. Vote 7-0.**

d) Plat of Survey of Brimeyer Addition #2-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Brimeyer Addition #2 comprised of Lot 2 of Brimeyer Addition and Lot 1 of the NE ¼ NE ¼ and Lot 2 of the NE ¼ NE ¼ all of Section 12, (T90N-R1W) Center Township, Dubuque County, Iowa.

The property is owned by James & Mary Brimeyer and Michael & Mary Beth Theis and is located 1.20 miles west of the City of Balltown along James Road with a total of 42.422 acres surveyed. The property is zoned A-1, Agricultural and R-1, Rural Residential. The purpose of the plat is to correct the boundary lines to allow the property owners to own what they currently maintain.

The survey creates 2 lots. Lot 1 has a total of 1.149 acres with a home and will remain in current ownership and residential use. Lot 2 has a total of 47.273 acres and will remain in current ownership and agricultural use.

Lot 1 and Lot 2 will both use existing entrances off of James Road.

Speaking to the Board was Jim Brimeyer, 22802 James Road, Holy Cross. Mr. Brimeyer said this plat is being done to correct the lot lines making the Theis's lot about an acre and the Brimeyer's will own the rest. He said it is basically what the assumed lot lines were. The plat will fix the lines to make them legally correct.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Runde, **seconded by Ms. Scherrman to approve the plat. The motion passed unanimously. Vote 7-0.**

4. REZONING CASES:

ZC#01-01-21 Kordell Properties, Broadview Court LLC and Mary Ferring R-1 Rural Residential, R-4 Multi-Family Residential & B-2 Highway Business to M-1 Industrial

The applicants are requesting to rezone from R-1, Rural Residential, R-4, Multi-Family Residential & B-2, Highway Business to M-1, Industrial 6.91 acres to be allowed to build a new dealership for a sister company, Kordell Truck and Trailer Sales that would include office space, customer waiting area, mechanic & detail shops and potentially a body shop. The property, located .66 miles southeast of the City of Dubuque at the corner of Hwy 20 and North Cascade Road and is legally described as Lot 2-2-3 E ½ NW & of NW NW; Lot 2-2 E ½ SW & of NW SW; Lot 2-1-2-3 E ½ NW, NW NW, Lot 1-2 E ½ SW, NW SW; Lot 1A-2 E ½ SW & of NW SW (Former Road Right of Way Described in M/B 1578-98) all in Section 7, (T88N-R2E) Table Mound Township, Dubuque County, Iowa. The property is owned by Kordell Properties, Broadview Court LLC and Mary Ferring. Zoning

in the area includes A-1, Agricultural to the west. R-1, Rural Residential to the east and south. R-2, Single Family Residential to east. R-4, Multi-Family Residential to the south. B-1, Business to the northwest. B-2, Highway Business to the south & west. M-1, Industrial to the north. The R-4, Multi-Family Residential to the south on ZC#09-21-92 was to allow 24 acres to be rezoned for the purpose of the construction of a Mobile Home Park. The B-1, Business to the northwest on ZC#09-08-83 was to allow the construction of a greenhouse for retail sales. The M-1, Industrial to the north on ZC#11-06-88 was to allow for fabrication, packaging and assembly of office products such as furniture and partitions. The M-1, Industrial to the north on ZC#08-14-84 was to allow for wholesaling and warehousing of steel products and welding supplies. The M-1, Industrial to the north on ZC#06-04-86 was to allow for a warehousing business.

There was one (1) rezoning case attached to this property on ZC#9000-3-69 was to allow for the expansion and establishment of a new sales lot for the Mobile Home business, Ferring Homes Inc, that exists adjacent to this site and for related business. There are no Special Use Permits attached to this property. Eleven (11) rezoning notifications 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 may apply to this case.

Speaking to the Board was Misty Winders, on Behalf of Kordell Trucking, 14868 W. Ridge Lane, Dubuque. Ms. Winders said they are requesting a rezoning so they can expand their current dealer ship. She said they are a small family owned company that is experiencing some growth. She said they have to operate the business with different departments located in three separate locations. Ms. Winders said they currently have twenty-five employees and with the expansion they would be able to hire fifteen to twenty more good paying jobs with benefits. She said there are other commercial properties in the area.

Ms. Henry read the following comments that were submitted regarding this case.

Speaking to the Board was Ryan Reeg, 10795 Golden Oaks Drive, Dubuque. Mr. Reeg said he lives in a subdivision behind Kordell Properties. He asked if there was a freeze on rezoning in that area. Ms. Henry said there was but it was lifted. Mr. Reeg said he doesn't feel that seven acres should be changed from residential to business zoning districts. Ms. Steffen said that most of the area is already Industrial and this parcel is the last in the area that is residential. Mr. Reeg was concerned about where the entrances were going to be after they changed the highway. He was also concerned about the noise and light pollution from Kordell. He asked if the County has any Industrial Islands for businesses to buy property. Ms. Henry said no, but the map shows that Kordell is in a business area. Ms. Henry explained that Dubuque does have a comprehensive plan and the business development of this area is in the current plan.

Ms. Henry ready Chapter 5.4 from the Comprehensive Plan:

Permit agricultural services, businesses, and industries that serve the local agricultural community in rural areas if compatible with adjacent uses, and located along a road that is adequate to support projected traffic demand.

Speaking to the Board was Ann McDonough, private citizen but acknowledged she is a County Supervisor, 2469 Whitetail Drive, Asbury. Ms. McDonough said she would have liked to see more current maps showing the new diamond back and showing the way the traffic will be flowing. She feels like the people that live in the trailer park on North Cascade road should have all been notified even if the land is not titled in their name. Ms. Henry said that they have never notified every person that lived in trailer parks. She said they notify anyone who is within 500' and the owner of the property. Ms. McDonough said she thinks each individual should be getting notified. She asked if the City of Dubuque was notified. Ms. Henry said yes we have sent them the documents and if they have an issue they would normally contact us and we have not heard anything regarding this case.

Ms. Henry said she never thought about having the maps for the future development of this area. She said she would contact Anthony Bardgett and get them. She said she was confident that the new frontage road would be able to handle the business expansion because of all the businesses that are there already. Mr. Runde said that frontage road is going to make it much safer for all the trucks coming and going to the businesses.

Mr. Sigwarth said they are building the frontage road to handle all the truck traffic and doesn't feel that Kordell's expansion will make it any worse or any noisier. He said there is already a lot of truck traffic from the Kloeckner business.

Ms. Caitlin said she feels like the tenants in the trailer park should have been notified because it will affect them. She feels like they need to be sensitive to the neighbors that live closely.

Mr. Runde said that this plan for the diamond has been in the planning for a very long time. He feels like this is going to make it much safer. He said Kloeckner's have been coming in and out of that business twenty-four hours a day with lights on and he doesn't feel this is going to make any difference.

Ms. Boyes said she doesn't feel like anyone would buy this property for a residential purpose so she feels like this expansion would be fine.

Mr. Breitbach asked which part of the property was zoned residential. Ms. Henry explained that the part of the lot that is closest to the highway is the residential zoned area.

Ms. Scherrman asked Ms. Winders what the hours of operation for Kordell are. Ms. Winders said the earliest they start working is 6 a.m. and they are all gone from the business by 5 p.m. and they are not currently open on the weekends. Ms. Winders did say that there was no plans currently for a second shift but they could possibly add that in the future.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Ms. Caitlin, **seconded by Ms. Scherrman to approve the rezoning. The motion passed unanimously. Vote 7-0.**

ZC#01-02-21 Jeffrey & Wanda Pape A-1 Agricultural to M-1 Industrial

The applicants are requesting to rezone from A-1, Agricultural to M-1, Industrial .5 of an acre to allow their son to continue a small fabrication business in the building that he currently lives in. The property, located .40 miles north of the City of Dyersville along Hwy 136 and is legally described as Lot 3 Esch Estates Section 20, (T89N-R2W) New Wine Township, Dubuque County, Iowa.

The property is owned by Jeff & Wanda Pape. Zoning in the area includes A-1, Agricultural to the north, south, east & west. R-2, Single Family Residential to the west. R-1, Rural Residential to the west. B-2, Highway Business to the southwest. M-2, Heavy Industrial to the west. The R-2, Single Family Residential to the west ZC#04-06-99 was to allow for 13 one acre lots for the construction of single family homes. The R-1, Rural Residential to the west ZC#09-25-06 was to allow for the construction of a single family home. The B-2, Highway Business to the southwest ZC#9000-01-77 was to allow for an implement business. The B-2, Highway Business to the southwest ZC#09-18-08 was to allow for the construction of an addition to an existing commercial structure. The M-2, Heavy Industrial to the west ZC#03-06-13 was to allow for the construction of a concrete batch plant on a permanent site.

There is one (1) previous rezoning case attached to this property on ZC#02-09-16 requesting to rezone from A-1, Agricultural to M-2, Heavy Industrial 10.44 acres more or less, to allow for mixing of fertilizers for farming use which was denied by the Board of Supervisors on May 9, 2016. There are no Special Use Permits attached to this property. Nine (9) rezoning notifications were sent to the property owners and the City of Dyersville was notified.

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

Ms. Henry read the comments regarding this case.

Speaking to the Board was Jeff Pape, 31406 Floyd Road, Dyersville. Mr. Pape said he thinks the complaint is all about the road, but doesn't feel that there will be any more traffic by re-zoning this property. He said the his son only receives two shipments a month from UPS and that will not change. He said with all the shipments for the business it ends up being about once a week and there is no drive in traffic for the business.

Mr. Sigwarth asked if there was any retail for the business from that property. Mr. Pape said no that it is online retail.

Ms. Caitlin asked if the customer base for this business is online. Mr. Pape said yes.

Speaking to the Board was Jordan Kirsch, 14374 Route 136, Dyersville. Mr. Kirsch said that Matt Mescher said the business was restoring tractors and wanted to know if that was true. Mr. Pape said that Mr. Mescher said it was a business similar to any other farm stead where you would restore tractors.

Mr. Kirsch asked if they would need the State of Iowa approval to do the business because it's off of a state highway. Ms. Henry said that because the driveway comes off of the highway it would have to be twenty four feet wide if it is being used for a business. Mr. Kirsch said there is more shipping of products going in and out that what Mr. Pape said. Mr. Pape said he would be glad to show them the shipping records from the last twelve months. He said he does not ship daily. He said there has been nothing shipped from the business in the last nine months.

Mr. Kirsch is concerned that if this passes the shipments would become more and more which means more traffic on their road. Ms. Boyes said yes they can do that because they do not monitor how many packages go in and out of a business. Mr. Pape said there won't be any more traffic if they are able to get it rezoned.

Mr. Breitbach asked about the widening of the driveway. Ms. Henry said from the information she has been given, because this is coming off the state highway the county has no control of the access's and that she was told by the Kirsch's today that the state says it must be twenty four feet wide. She said the Pape's have an approved entrance about 530' north of the existing entrance to access their property. She said that in talking to the Kirsch's they do not want to upgrade their entrance to be twenty four feet wide. The Kirsch's would like the Pape's to use the entrance that they have already been approved for to access their business.

Speaking to the Board was Ray Kirsch, 960 11th St. NE, Dyersville. Mr. Ray Kirsch said yes they would like them to use the driveway that they were approved for. Mr. Breitbach asked if it was a lane or an easement. Ms. Henry said it is the Kirsch's lane and the Pape's have an easement to use it.

Ms. Caitlin said in her opinion she feels like this is spot zoning. She said this parcel is surrounded by A-1, Agricultural. She read the definition of spot zoning: when a rezoning

decision results in a single parcel, or small island of property, with restrictions on its use different from those imposed on the surrounding property. She said there has been court cases over spot zoning and she feels the board needs to be careful when making these decisions. She said this case does not meet the three requirements to uphold this request and feels that the direct neighbors are against this so they should take that into consideration. Mr. Soppe said he agrees with Ms. Caitlin and says that if they give them the rezoning they will likely have other farmers who want to do the same thing and then have spot zoning all over. Ms. Henry said that Mr. Pape's son is living in the shouse that is on this property and in the M-1, Industrial zoning district you can not live in a house in that district unless it is for custodial purposes which would have to be approved by the Board of Adjustment if the rezoning is approved. She said the intent of the Pape's is to get the property rezoned then ask the Board of Adjustment for permission to live on the property.

Mr. Runde asked if the Board were to approve this case can they put any conditions that they want. Ms. Henry said yes you can put whatever conditions that they felt were needed. He asked if they can condition the road too. Ms. Henry said yes.

Mr. Ray Kirsch said that he has emails from the DOT about the driveway. He said they require it to be twenty-four feet wide because of the two-way traffic coming in and out of the business. They do not want traffic backed up onto the highway. He said the issue they have with this business is the traffic on the lane. He said its overwhelming with the huge trucks coming in and out and feels it is very un-safe.

Mr. Pape said that some of these kids are his son's friends and doesn't feel like they should be able to tell him that they can't bring their trucks down the lane. He said there is another driveway that the previous owner had put in to get to the field.

Mr. Sigwarth said he doesn't think its spot zoning and says he thinks they should approve it with conditions that the zoning would revert back to A-1 if the property was ever sold.

Mr. Pape said his son has no intentions of making the business any bigger than it is right now. He said he wanted to let them know that many of the neighbors are in support of this case.

Ms. Henry explained that the notifications are sent to owners that are 500' from the property lines. She said it goes from every corner of the property line not from the buildings on the property.

Mr. Sigwarth asked Mr. Kirsch if the Pape's were to use the approved driveway would that take away the majority of their opposition. Mr. Kirsch said yes the majority of it but wants the rezoning to be done properly. Mr. Sigwarth said they would have to put conditions on the property.

Ms. Henry asked Mr. Pape how far into the field the approved driveway goes. Mr. Pape said about 130'. She asked him what the current use of that driveway is. He said to get into the field.

Ms. Boyes asked if anyone had more questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Breitbach to approve the rezoning with the conditions that the Iowa Department of Transportation Entrance that was approved on Permit Number 2014-31-0-3 be used to access this property for the home and business and that the fabrication business, Outlaw Fabrication, owned by Jeffrey & Wanda Pape’s son Austin is allowed to be operated and if the business is sold or ceases to operate the property reverts back to A-1, Agricultural. The motion was denied. Vote 2-5. Mr. Sigwarth and Mr. Breitbach voted in favor of the motion, Mr. Soppe, Ms. Caitlin, Ms. Boyes, Ms. Scherrman and Mr. Runde voted against the motion.**

5. OLD BUSINESS: None

6. NEW BUSINESS:

Ms. Henry said they have been busy getting information on the A-2, Agricultural Residential district. She said she will try to get it out to them next week. She said they need to decide how they want to handle this district and whether they want to allow two houses on a 40-acre parcel. She said they are still trying to finish the Zoning Ordinance and gathering information on the Airbnb’s.

7. PUBLIC COMMENTS:

8. ADJOURNMENT: A motion was made by Mr. Soppe, **seconded by Mr. Runde to adjourn the meeting. The motion passed unanimously. Vote:7-0. The meeting ended at 8:10 p.m.**