

Dubuque County Zoning Commission Minutes of March 21, 2023

Chairperson Dave George called the meeting to order at 6 p.m.

1. ROLL CALL: Members present at the Dubuque County West Campus, 1225 Seippel Rd: Dave George, Kevin Soppe, Sam Boyes, Kathleen Scherrman, Ron Breitbach, Carmen Dunkel and Lisa Flanagan. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Tammy Henry and Amy Schmerbach.

2. APPROVAL OF MINUTES: A motion was made by Mr. Breitbach, **seconded by Ms. Dunkel, and passed unanimously to approve the minutes of the February 21, 2023 meeting. Vote: 7-0.**

3. PLAT APPROVAL:

a) Plat of Survey of Valentine Place No. 4 – Final Plat

Plat of Survey of Lot 1 thru Lot 3 of Valentine Place No. 4 comprised of Lot 1 of Valentine Place No. 3, except Lot A of Lot 2 of the NW ¼ SW ¼ located in the NW ¼ & the SW ¼ of Section 3, T88N, R2E, Table Mound Township, and Lot 1 of Valentine Place No. 3 and except Lot 1 A of Valentine Place No. 3, in the City of Dubuque, Dubuque County, Iowa.

The property is owned by Gary Valentine and is located adjacent to the City of Dubuque along Edval Lane with a total of 107.970 acres surveyed. The property is zoned A-1, Agricultural, A-2, Agricultural Residential and part of the property has been annexed into the City of Dubuque. The A-2, Agricultural Residential on ZC#01-02-20 was to allow for the construction of a new home. The purpose of the plat is to allow Lot 1 to be separated for a future home for Gary's son Sam and also to combine the property that's in the City to the part of the property in the County.

The survey creates 3 lots. Lot 1 has a total of 1.940 acres surveyed and will be the future site for the new home for Sam. Lot 2 has a total of 97.895 acres surveyed with a home and farm buildings and will be partially in the County and partially in the City, it will remain in current ownership and agricultural use. Lot 3 has a total of 8.135 acres surveyed and will remain in current ownership and agricultural use.

Lot 1 will use an approved residential entrance #19-63 off of Edval Lane. Lot 2 will use an existing field entrance off of Edval Lane. Lot 3 will use an existing field entrance off of Walser Lane.

Speaking to the board was Gary Valentine, 11429 Edval Lane, Dubuque. Mr. Valentine said the goal was to create a lot for his son however a few years back when they rezoned a piece of property for his son the City of Dubuque wanted him to annex all of the land into the city and he did not want to do that and that's why they did not finish the platting process. He said they waited a few years and the State of Iowa made a law change that no longer requires them to sign a pre-annexation agreement with the City of Dubuque.

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

b) Plat of Survey of Metcalf Acres #2 – Final Plat

Plat of Survey of Lot 1 and Lot 2 of Metcalf Acres #2 comprised of Lot 1 of the West 43 acres of the E ½ of the NW fractional ¼ of Section 1, T88N, R1E, Vernon Township, Dubuque County, Iowa.

The property is owned by James Metcalf and is located .04 miles south of the City of Dubuque along McClain Lane and Chesterman Road with a total of 40.771 acres surveyed. The property is zoned R-1, Rural Residential and C-1, Conservancy. The purpose of the plat is to create a lot to sell to his sister, Deb Vize for the future construction of a new home.

The survey creates 2 lots. Lot 1 has a total of 5 acres surveyed and will be sold to Deb Vize for the construction of a new home. Lot 2 has a total of 35.771 acres surveyed and will remain in current ownership and agricultural use.

Lot 1 will use an approved residential entrance permit# 23-06 off of Chesterman Road. Lot 2 will use an Existing Field entrance off of McClain Lane.

Speaking to the board was Jessalyn McDermott, Buesing & Associates, 1212 Locust St, Dubuque. Ms. McDermott said it was a plat that was correctly zoned that allowed Mr. Metcalf to easily sell a piece of property to his sister for a home.

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

c) Plat of Survey of Lot 1-2 and Lot 2-2 of O'Rourke Farms Addition-Final Plat

Plat of Survey of Lot 1-2 and Lot 2-2 of O'Rourke Farms Addition a division of Lot 2 of O'Rourke Farms Addition Section 13, T88N, R2E, Table Mound Township, Dubuque County, Iowa.

The property is owned by the State of Iowa and is located .058 miles south of the City of Dubuque along Olde Davenport Road with a total of 33.20 acres surveyed. The property is zoned A-1, Agricultural with an approved ZC#03-08-22 to rezone 2 acres around the house and garage to R-2, Single Family Residential. The purpose for the plat is to allow them to separate the house and garage to be sold.

The survey creates 2 lots. Lot 1-2 has a total of 31.20 acres surveyed with a Department of Transportation Maintenance Garage, detached buildings and salt storage building and it will remain in current ownership and use. Lot 2-2 has a total of 2 acres surveyed with a home and garage and will be sold for residential use.

Lot 1-2 will use an existing entrance off of O'Rourke Drive. Lot 2-2 will use an existing entrance off of Olde Davenport Road.

Ms. Henry explained the Zoning Board that this plat was already approved by them however it had to come back in front of the board for approval because it failed to obtain all of the required signatures within the one year time limit.

A motion was made by Ms. Boyes, **seconded by Ms. Dunkel to approve the plat. The motion passed unanimously. Vote: 6-0. Ms. Flannagan abstained from the vote because she may have future interest in the property.**

Brad Burger, Iowa Department of Transportation, joined the meeting after the board made their decision to approve the plat.

d) Plat of Survey of Brehm Acres Plat 3 – Final Plat

Plat of Survey of Lot 1 and Lot 2 of Brehm Acres Plat 3 comprised of Lot 1 in Brehm Acres Plat 2 Section 36, T89N, R1E, Center Township, Dubuque County, Iowa.

The property is owned by John & Dianne Brehm and is adjacent to the City of Dubuque along Cottingham Road with a total of 122.390 acres surveyed. The property is zoned R-1, Rural Residential and C-1, Conservancy. The purpose of the plat is to allow the owner to sell Lot 2 to the adjoining property owner, the City of Dubuque. The City of Dubuque plans to annex this lot and sell this lot to Seippel Warehouse, LLC for a warehouse expansion for Simmons Pet Food. The proposed construction is scheduled to begin in April of 2023 and be completed later this winter.

The survey creates 2 lots. Lot 1 has a total of 119.586 acres surveyed with farm buildings and will remain in current ownership and agricultural use. Lot 2 has a total of 2.804 acres surveyed and will be sold to the City of Dubuque for the expansion of Simmons Pet Food.

Lot 1 will use an existing field entrance off of Cottingham Road. Lot 2 will use existing entrances off of Cottingham Road and off of Seippel Road.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st St North, Farley. Mr. Schneider said he was working with Gronen Construction the developer in the Industrial Park and they needed the additional ground to expand their project and the Brehm's were willing to sell a piece of the property. He said an application was submitted to annex the property into the City of Dubuque.

A motion was made by Ms. Dunkel, **seconded by Ms. Boyes to approve the plat. The motion passed unanimously. Vote: 6-0. Ms. Flannagan abstained from the vote because she is employed by Simmons Pet Food.**

4. REZONING CASES:

ZC#03-04-23 Schute Farm Company, Steve Schute & Thomas Schute/Jason Rauen A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 1.83 acres to be able to separate the home and agricultural buildings and sell the rest of the farm. The property is located 2.80 miles southeast of the City of Farley along Pleasant Grove Road and is legally described as the SE NW Section 32, T88N, R1W, Taylor Township, Dubuque County, Iowa.

The property is owned by Schute Farm Company. Zoning in the area includes A-1, Agricultural to the north, south, east and west.

There are no previous zoning cases attached to this property. There are no special use permits attached to this property. Six (6) 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 North, Farley. Mr. Schneider said that Jason Rauen was purchasing the entire farm and part of the purchase agreement was that Mr. Rauen had agreed to separate the home and farm building so Thomas Schute could remain living in the home. Mr. Schneider said there is a verbal agreement between Mr. Schute and Mr. Rauen that Mr. Schute could continue to live on the property however the Bank required them to split off the home because of liability.

A motion was made by Ms. Boyes **seconded by Mr. Breitbach to approve the rezoning with the conditions that 1.83 acres more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. 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: 7-0.**

ZC#03-05-23 Leonard Smith II Trust A-1 Agricultural to A-2 Agricultural Residential

The applicant is requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 1.6 acres around the home and garage. The owner will retain 10 acres and the farm buildings to continue his farming operation. The balance of the farm will be sold. The property is located .14 miles south of the City of Peosta along Cox Springs Road and is legally described as the SE SW Section 15, T88N, R1E, Vernon Township, Dubuque County, Iowa.

The property is owned by Leonard Smith II. Zoning in the area includes A-1, Agricultural to the north, south, east and west. A-2, Agricultural Residential to the southeast on ZC#07-14-15 was to allow a home and farm buildings to be sold.

There are no previous zoning cases attached to this property. There are no special use permits attached to this property. Five (5) 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 Mike Weber, Weber Land Surveying, 26789 46th Ave, Bernard. Mr. Weber said Mr. Smith wanted to rezone 1.6 acres around the home. He said Mr. Smith wants to retain 10 acres of the 40 acre parcel to continue to farm so there will be a plat done after the rezoning and it would be a simple plat since it is the first split of the 40 acre parcel. He also added that Leonard owns several hundred acres.

Ms. Henry told the board that the simple plat would not come back to the Zoning Board because it's the first split out of the 40 acre piece. Ms. Henry said the property would most likely be annexed into the City of Peosta in the future.

A motion was made by Mr. Breitbach seconded by Mr. Soppe to approve the rezoning with the conditions that 1.6 acres more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. 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: 7-0.

ZC#03-06-23 Douglas & Charissa Vorwald A-1 Agricultural to M-2 Heavy Industrial

The applicants are requesting to rezone from A-1, Agricultural to M-2, Heavy Industrial .5 acres to extend the M-2, Heavy Industrial zoned area to include the existing house so they can convert it into an office for their existing logging business. The property is located .66 miles west of the City of Zwingle along Washington Mills Road and is legally described as the SE SE Section 34, T87N, R2E, Washington Township, Dubuque County, Iowa.

The property is owned by Douglas & Charissa Vorwald. Zoning in the area includes A-1, Agricultural to the north, south, east and west. A-2, Agricultural Residential to the north on ZC#04-10-19 was to allow the construction of a single family home.

There is one (1) rezoning case attached to this property on ZC#04-09-10 to allow a logging business with outside storage and sales of logs, the manufacture of stakes and the splitting and selling of firewood only. Reversion to "A-1, Agricultural is automatic upon cessation of that use or sale of the property. There are no special use permits attached to this property. Two (2) letters were sent to the property owners and the City of Zwingle was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 135 Objective 3.4 and Chapter 8 Housing page 122 Objective 13.6 may apply to this case.

Ms. Henry told the board that when the Vorwald's decided to rezone and build their new home on the 40 acre lot to the north there was a condition that the existing home on the south 40 acres had to be removed within 90 days after of completion of the new home.

Speaking to the board was Doug Vorwald, 11159 Washington Mills Rd, Zwingle. Mr. Vorwald said he initially wanted to tear down the existing house and rebuild in the same location. Mr. Vorwald said at the time they did not have fiber for internet services, and the property was robbed. They ended up deciding to build on the north 40 acres. He said the property is located along the Dubuque and Jackson County line and now old home has access to internet services which will allow him to install a security system for the business.

Ms. Boyes asked if they could allow to have someone living out of this home with a Special Use Permit. Ms. Henry said no not after it was rezoned for business use however, if the business decided to close the property would revert to A-1, Agriculture and then they can use it for residential use. Ms. Boyes asked if someone could apply for a Special Use permit for a home in M-2, Heavy Industrial area. Ms. Henry said yes.

A motion was made by Mr. Soppe seconded by Mr. Breitbach to approve the rezoning with the conditions that .5 acres more or less be rezoned to M-2, Heavy Industrial for the purpose of operating a logging business with outside storage and sales of logs, the manufacture of stakes and the splitting and selling of firewood only. Reversion to “A-1”, Agriculture is automatic upon cessation of that use or sale of the property and the remainder will stay A-1, Agricultural. 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: 7-0.

5. OLD BUSINESS:

Ms. Henry said ZC#02-02-23 Gerald J & Margie A Behnke Trust/Levi Behnke A-1 Agricultural to A-2 Agricultural Residential & ZC#02-03-23 Todd F George/Jon Mausser A-1 Agricultural to A-2 Agricultural Residential was approved by the Board of Supervisors.

6. NEW BUSINESS:

Ms. Henry said she is trying to schedule a work session for the PC, Planned Complex at the West Campus for next month with the County Board of Supervisors.

Ms. Henry discussed with the board that the Solar Ordinance was approved by the Zoning Board and the Board of Supervisors however she was contacted by the Farm Bureau and Supervisor Harley Pothoff requesting changes before the ordinance was published and codified.

Speaking to the board is Mr. Ed Raber, said he met with the Farm Bureau and the issues they talked about was set-backs, farmland preservation, storm water, and topsoil concerns. They would like to see larger setbacks.

Ms. Henry said that the Farm Bureau’s concern is the property would temporarily not be used as farmland. Mr. Raber said another concern was the topsoil. It could be moved around on the property during construction however, it would not allow for it to be removed from the property. Mr. Raber said the Farm Bureau said they are not trying to restrict the size of the Solar location.

Mr. Raber suggested to the Board to further review the Storm Water retention plan within the Solar Ordinance.

Mr. Raber said he would like to go back to the ordinance and further investigate the solar decommissioning process.

Mr. Raber said he was working with Grant County reviewing their solar process and he has invited them to do a presentation during the COZO meeting being held in Dubuque May 18th.

Mr. Raber said he would like the ordinance to be completed in the next 2 or 3 months and he was still working on obtaining the information regarding the property tax valuation.

Mr. Breitbach stated personally he thinks of himself as a well-educated person however, he does not personally feel comfortable enough to make this decision nor does he think it was in the best interest of the County for the Zoning Board to be responsible on drawing up an ordinance for such a technical project that has such an environmental effect.

Ms. Henry informed the Board that the Board of Supervisors were interested hiring a Planning position for the County. She is hoping this person would be able to provide the information & educate the board to draw up future ordinances correctly.

Ms. Boyes said she was ok with placing the breaks on adopting the Solar Ordinance and she agreed that it was a good idea to do additional due diligence to figure out what standards would be good enough for the adopted ordinance.

Ms. Boyes asked if any information has been provided by the Dubuque County Attorney. Mr. Raber said former County Attorney CJ May had been involved drawing up the ordinance and in the future he assumes the current county attorney will be involved in the decision making process.

Mr. George asked if there was any information in the Solar Ordinance regarding the regulations of the power/battery storage cells? Mr. Raber said that information would be a different ordinance that would be brought to the board as well. He said this was another solar piece that had many moving parts.

Ms. Henry said her goal was to have more conversation and a work session regarding the Solar Ordinance.

Mr. Raber and the Board discussed the potential state legislation changes that may come up in the future with qualifying farm uses that may change tax evaluations.

7. PUBLIC COMMENTS:

Ms. Boyes asked Ms. Henry what the status of the home that was to be removed in her neighborhood. Ms. Henry said she would follow up with her.

8. ADJOURNMENT: A motion was made by Mr. Soppe, **seconded by Ms. Boyes to adjourn the meeting. The motion passed unanimously. Vote: 7-0. The meeting ended at 8:12 p.m.**