

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, April 1, 2022, with Chairperson Tom Harper and board members Carol Schlueter, Martha Peterson and Brad Akers present, Virginia Cooper was absent. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator were also in attendance.

Others present for this hearing: Mike Birkinbine.

Tom Harper: Okay, I will open the public hearing of the Muscatine County Zoning Commission and I will read the mission statement. The Muscatine County Zoning Commission is a five-member group of residents of the County who are appointed by the Muscatine County Board of Supervisors. We serve as non-professionals and without compensation. Our purpose is to advise the Muscatine County Board of Supervisors on managing the growth of the County. This involves reviewing subdivisions, rezoning requests, the use of public property, and reports related to land use policy and long-range planning. Recognizing that our decisions will not satisfy everyone, we attempt to base our decisions on what is best for the long-term interest of the County. We ask for your input, pro or con, on issues before us in order that we may formulate the best decisions possible. Please take this opportunity to share your thoughts and concerns with us. Our recommendations are not taken lightly by the Board of Supervisors, but the Board of Supervisors, your elected representatives, make the final decisions on all issues. We have minutes that were sent to us to review. If there are no changes or corrects, is there a motion to approve the minutes as written?

Carol Schlueter: So moved.

Tom Harper: Is there a second?

Martha Peterson: Second.

Tom Harper: Okay, there has been a motion to approve the minutes as written from the last meeting and the motion has been seconded. Any further comments? Hearing none, all those in favor of approving the minutes as written, please say Aye (4) Opposed (0) Absent (Cooper). The motion carried. Okay, now for the disclaimer, this is normally a five-member board, but we have one member absent today. You have the right up until the time we take a vote on any action to request that we table this request until the next meeting and hope that we have five members, but I can't guarantee it. And if this is a tie vote, the request would be a recommendation to deny going to the Board of Supervisors. Do you wish to continue?

Mike Birkinbine: Yes, I will go ahead.

Tom Harper: Eric, can you please read the request?

Eric Furnas: Zoning Agenda Item #01. Simply-Lean Enterprises Inc., Record Owner by Michael J. Birkinbine, request rezoning a portion of this property in Fulton Township. This property is located in the SW $\frac{1}{4}$  of Sec. 36-T78N-R1E, Parcel K, containing approximately 8.46 acres, and sits at the corner of Hwy. 61, Zachary Avenue and 160<sup>th</sup> Street, currently zoned A-1 Agricultural District. Mr. Birkinbine would like to rezone the eastern six (6) acres of the property to C-2 Commercial District in order to have rental storage.

Tom Harper: Was there any correspondence?

Eric Furnas: Yes, we received one email just this morning, we did not have time to email it to you ahead of time. It is from Lisa and Brandon Dickens. It will be made part of the file.

This email is in response to agenda item #1 for today's zoning meeting, concerning the land owned by Simply-Lean Enterprises. As nearby landowners, we are absolutely against this proposition for the following reasons:

1. Storage facilities attract theft and crime at a higher rate than agricultural, residential, and even other commercial facilities. Given the location is on the very border of the Muscatine County line, it could take law enforcement considerable time to arrive on scene should an incident occur.
2. Being in close proximity to highway 61 and semis frequenting SSAB, traffic is already high at this area, and adding a commercial property would only confound matters. If the proposal is for outdoor storage, including RVs, busses and the like, this could also create traffic flow issues as these large vehicles are attempting to enter/exit/turn/back into the property.
3. The land is not currently set up for storm water runoff. There are not sufficient ditches or drainage on site. This would create significant water flow issues for the neighboring lands and waterways.
4. Altering a property from Agricultural to Commercial is a significant, broad change in the feel of the community. We, as surely most of the others living in the area, chose to live there due to its rural setting and lack of commercial development. Putting in a high-traffic business would significantly change the structure of our neighborhood for the worse.
5. The corner of 160th Street and Zachary Avenue is a designated bus stop, and our children will be there daily. This is concerning as there would be increased traffic and clientele from the storage facility that could also linger in the area.
6. As a storage facility, the clientele would likely be given 24/7 access to the property and could therefore come and go at any hour of the day and night. Our portion of 160th Street is a dead end road with only 2 houses on it. This change would pose an unwanted invitation to numerous visitors on our street throughout the night.
7. This proposal does not serve the community's needs, as there are already indoor and outdoor storage facilities within a mile that have openings. This proposed storage facility would be better suited to the Blue Grass business park, just up the road. Blue Grass created that development to keep businesses contained in one area, and not dispersed in residential/agricultural zones.
8. The community often complains of the lack of farmland, as new housing developments swallow up fields. This would further that complaint as it would consume several acres of farmland and turn it into a solid surface property.

In sum, we moved to this area because of the rural setting, lack of traffic on our dead end road, and because we felt it would be a quiet, safe place to raise our family. This proposal is a poor decision for the community for several safety and environmental reasons and does not fill a need. This business would be better suited in a commercial space that has already been set up, so that this land can remain agricultural. Denying this proposal is the best outcome for all.

We submit this commentary as concerned landowners, and welcome any and all questions the commission may have. Thank you, Lisa and Brandon Dickens, 3922 160th Street, cell 563-381-7796

That is all that we received as far as correspondence.

Tom Harper: Alright, would the applicant please state their name and tell us about your request?

Mike Birkinbine: Good morning, my name is Mike Birkinbine, 3957 Hwy. 61. I have some documents, can I bring to you? You might have some similar ones, but I just thought I would bring them to you. This 8.46 acres, my wife and I purchased... oh I don't know, it's probably been five or six years ago. We purchased it for the sole reason for us to keep an eye on it, because it used to be grown up in weeds and everything. So we wanted to kind of take care of it like our property. Then as times went on... I thought it was a great spot to put storage in, outdoor storage. So I am requesting that the zoning be changed from the A-1 Agricultural District on the six acres to C-2 Commercial District, based on Eric's comments to me on what we want to do. I am requesting that. The goal for that, because we live close by, we can keep our eyes on it. And again,

it's going to be right there on the west side and we can see it from our home. All I am looking for right now is some outside storage out there with a chain link fence around it. That's my request.

Tom Harper: Is outside storage facilities not a permitted use in C-1 Commercial District?

Eric Furnas: Correct, it requires the C-2 Commercial District.

Tom Harper: Okay, so that's why we are asking for C-2 Commercial District on this?

Eric Furnas: Yes.

Tom Harper: Does the board have any questions?

Martha Peterson: Yes, when you are talking about outside storage, are you talking about trailers? What kind of outside storage?

Mike Birkinbine: More like recreational type vehicles was kind of my thought. So campers, RV's, boats... that's the type of stuff that I am looking for.

Carol Schlueter: So you are not going to put a building up?

Mike Birkinbine: No.

Carol Schlueter: It's just going to be a chain link fence?

Mike Birkinbine: Yes, at this point that is all I am going to do. Because I have done some research with people that have had storage with buildings and in some cases they feel like the outside storage is just the best approach. I am looking at it for a little bit of income to pay the taxes and upkeep on it.

Carol Schlueter: But the chain link fence would be ... would the people have access to it? Would it be open all the time or just locked?

Mike Birkinbine: It would be locked.

Carol Schlueter: And you'd probably have it lit up?

Mike Birkinbine: Only very low. It would have to have a couple of lights on it, but one thing... anyone that goes to Phoenix or Arizona, one thing about lights, they keep their light levels low because I don't want a lot of light around there. I live just next door to it, so that's not my intention.

Carol Schlueter: Okay, so this six acres now, is that hay ground now? Is somebody cutting hay off of there now? Or what is it being used for right now?

Mike Birkinbine: I've been mowing it, last year I did have somebody cut it, but it's not good stuff. I mean, instead of just bush-hogging it, I decided ... why not let somebody bail it. And that's what I have done with it.

Carol Schlueter: Okay, Eric, if this gets approved and this six acres is rezoned to C-2 Commercial District, this whole parcel stays as one parcel, or does it get split?

Eric Furnas: If it were to be approved, since he has provided such a specific measurement, which I told him that it would be able to be identified what portion would be rezoned...that it could remain as one entire parcel. So it could be a parcel that could have two zonings.

Carol Schlueter: Okay, so if rezoned ... down the road this six acres could be split off and sold to somebody else and they could use it for anything that is listed in the C-2 Commercial District?

Eric Furnas: Okay, so are you asking about a portion if it's rezoned?

Carol Schlueter: Yes.

Eric Furnas: Yes, if it was successfully rezoned and it was split or he could sell it as a whole with the partially zoning, but yeah if it was rezoned to C-2 Commercial District it allows any of the permitted uses in C-2 Commercial District.

Carol Schlueter: So I didn't get the list, so explain to me. In C-2 Commercial District can a gas station go there?

Eric Furnas: Yes.

Carol Schlueter: A restaurant?

Eric Furnas: Yes, any of the land uses that are permitted in C-1 Commercial District and C-2 Commercial District would be allowed, so bars, restaurants, gas stations, convenience stores, nothing industrial but basically all of the permitted commercial uses.

Carol Schlueter: I mean, where it is located, to me, I think it's a good spot. Like I said, it's good for a Casey's or something like that. So if someone were to come to Mike and say hey, I'm interested in doing a business here, he could put the building up and lease it out, right? But he couldn't sell off part of it?

Eric Furnas: He would have to go through subdivision proceedings to split it off.

Carol Schlueter: But he could?

Eric Furnas: Sure. Once it's C-2 it could be divided up, he could have storage, he could lease out a space for a Casey's on there, or something like that.

Tom Harper: Anything could be possible once it's rezoned to C-2 Commercial District for anything in the listed permitted uses under C-2.

Eric Furnas: Right.

Carol Schlueter: So this ... what we are being asked to do, it's not considered spot zoning?

Eric Furnas: It's not really... this one is a little tricky. Mike and I had multiple conversations and we looked at different things. Because there has been recent residential zoning in this area, but as we kind of drilled down and looked at it deeper and looked at this particular intersection... Yes there is some rural residence in that area, it has been there for a long time. It's not residential zoned, other than where Mr. Birkinbine lives and Mr. Ferris lives. But if you look at this as a corridor into Blue Grass, from a long-term standpoint, particularly because Zachary Avenue is already an industrial avenue corridor... I mean, since the steel mill was allowed south of this location, that is a main arterial road for heavy industrial traffic. So as I think about future land use, I don't know that that immediate intersection is really ideal for additional residential development because of the amount of heavy trucks using that intersection. So you start looking at what are the other and best uses for it. They are not agriculturally... economically viable agricultural units there, there is not a large swath of agricultural ground there. It's not prime farm ground. So obviously it is within a two-mile limit of the city of Blue Grass. It's a corridor coming into Blue Grass. It already accommodates heavy industrial traffic

turning down Zachary. So I think in the long-term standpoint we probably want to look away from encouraging residential... at least on the south side of Hwy. 61. Maybe north of Hwy. 61 for residential zoning, because the trucks are not turning north. But yes there is C-2 just to the east already, it's Ferris's property.

Carol Schlueter: Ferris is C-2?

Eric Furnas: Yes, a portion of it is. He owns some that is zoned R-1 and some that is C-2.

Carol Schlueter: Did we change that or how did that get changed?

Eric Furnas: That was changed to C-2 quite a while ago and then he recently changed part of it to R-1 and built a house on it.

Carol Schlueter: Oh, so we rezoned it back for him to build a house on it?

Eric Furnas: Yes. I think it is time to take a long term look at the use of this area. I would probably not recommend any additional residential zoning moving forward, simply because that Zachary Avenue is going to be forever heavy truck traffic. And I think a large amount of traffic too. It's a fully paved road, it's an industrial road.

Mike Birkinbine: The industrial... with SSAB down there, the truck traffic through the week is just tremendous. Although we do have housing developments down there. So what I am trying to accomplish here is not going to disrupt anything from that standpoint. Across from us where Blue Grass annexed that piece in, we don't know what they are going to do with that. I have heard rumors, but that is across the street.

Carol Schlueter: What do you mean across the street that they annexed?

Brad Akers: Across 61?

Eric Furnas: Yes, across from that there is a property that was Egolf Industrial Services Inc. that the City of Blue Grass annexed.

Carol Schlueter: To the north of Hwy. 61?

Eric Furnas: Yes.

Mike Birkinbine: It used to be our farm by the way. The ground that says Blue Grass in purple on the corner, that used to be our farm years ago.

Tom Harper: So where your house is, is that still A-1?

Mike Birkinbine: My house is zoned A-1.

Eric Furnas: But then he also has a large piece where the pole barn is, that's R-1.

Carol Schlueter: So where did they annex? I can't figure that out.

Tom Harper: It's outlined in purple at the top.

Carol Schlueter: So that has been added into Blue Grass? (everyone talking at once looking at the aerial) Where is that guy that built that building without...

Mike Birkinbine: That's it, it's Egolf and then Blue Grass annexed it.

Tom Harper: So according to this then that line also goes west behind those other properties.

Eric Furnas: Yes.

Mike Birkinbine: Yeah, I think it incorporated all of Egolf's farm.

Tom Harper: Was that voluntary?

Eric Furnas: Yes, he worked with the City of Blue Grass to do that.

Tom Harper: Just like Bermel's was out there by Ripley's.

Carol Schlueter: So this drawing that you have, is that showing buildings that you are putting up? It's marked here as driveway.

Mike Birkinbine: No that's just outside parking, that's not a building.

Carol Schlueter: No not a building, I'm sorry. But where you got a driveway here, is that there already?

Mike Birkinbine: Yeah, the driveway is there already. All I want to do is just fence this off.

Martha Peterson: How big of an area are you thinking?

Mike Birkinbine: It's about three-quarters of an acre.

Carol Schlueter: So then you would have room to do something else there?

Mike Birkinbine: Oh yeah, I would have lots of room.

Carol Schlueter: Maybe room for a drive thru coffee shop? (laughter)

Martha Peterson: What is the zoning of the business that is down the road from there that they do dressing deer?

Carol Schlueter: Yeah, on the north side of Hwy. 61?

Eric Furnas: Yeah that was Fowler's, it's zoned C-1 Commercial District.

Carol Schlueter: Really we changed that to C-1?

Eric Furnas: That in my mind could be spot zoning because it's farther out from the city limits. You know if you look at where the city limits has extended to there's a lot of things that would point towards development in this area. It is very near existing city limits with water and sewer can readily be extended as commercial businesses pop up. Again, had Zachary not be used for the main artery to the steel mill it may not have been the most ideal for commercial use and we might have continued to look at residential development. But I think because of the industrial traffic on that it lends itself ... the immediate area of that traffic area lends itself more to commercial than it does to residential.

Brad Akers: What do you suppose the traffic count is on Zachary a day?

Eric Furnas: I would hate to venture a guess. I mean, it's significant.

Brad Akers: Five or six thousand cars a day?

Eric Furnas: Well it's also trucks hitting Jake brakes as they pull up to the stop sign on Zachary to go onto Hwy. 61.

Mike Birkinbine: Yeah, I would have loved for them to have had a different entrance because I was literally building my house when I found out that the steel mill had been rezoned with my property right there, because at that time I was on a dead-end.

Carol Schlueter: Yeah.

Eric Furnas: Yeah, and that's something that I think we just have to take into consideration about the zoning down at IPSCO and this is one of the main entrances for it. It impacts the area all the way out to Hwy. 61 potentially.

Carol Schlueter: Okay, I read the letter from your neighbor. Did you read the letter from your neighbor? Do you know your neighbors?

Mike Birkinbine: I talked to Radetzki, I never talked to those neighbors. I will make a statement, they own storage facilities in Scott County.

Carol Schlueter: These people do?

Mike Birkinbine: Yes, Space Station at ??... I had no idea, I mean, they could have contacted me and I would have talked to them. I went and talked to Mr. Radetzki and we had a conversation.

Carol Schlueter: They live in the next property there?

Mike Birkinbine: Yeah, they live next to him.

Eric Furnas: And I would point out, and you already kind of pointed out Carol, this request is not proposing to rezone the entire property. We sat down with Mr. Birkinbine and we talked about different things, because there are some residential uses in this neighborhood. So he wanted to just rezone a portion of the property, which would stop short of those driveways. So it wouldn't increase traffic going past the two residences that are down there already. Now, there is always an argument that could be made, now can they see the light, can they hear the cars? But I think taking as a whole for traffic on Zachary with semi's loaded with whatever coming and going...

Brad Akers: Well they aren't far from Hwy. 61 either.

Eric Furnas: Right and that's the other thing, and I think I pointed that out in the development report, Hwy. 61 and Zachary Avenue has approved DOT turning lanes for large traffic counts already. So sometimes when we talk about a commercial enterprise going on a highway like this... if there's not a turn lane or an established appropriate intersection, it's a challenge and this has all of that already because of Zachary's use. It's designed for heavy traffic flows. Obviously, even if he had 60 campers parked there, is the traffic count on Hwy. 61 going to drastically increase? I don't believe so, not for an outdoor storage facility, even if it was a convenience store.

Brad Akers: It would be a good spot for a convenience store.

Mike Birkinbine: That's not my intent.

Brad Akers: I understand that.

Eric Furnas: Well you all have to look at the potential uses in the zoning, and again I'm not specifically speaking of the outdoor storage.

Carol Schlueter: I think it would be a good place for a drive thru coffee shop. Oh well... So how many do you think you could store in there?

Mike Birkinbine: Well my anticipation, if you look at the one page there that I have, I'm looking at 56 total spots to start. I don't know if it's going to be that many or not. I still have to go through the process of looking at the cost, as far as putting the lot in. But that's my plan.

Carol Schlueter: So this is not a definite plan then?

Mike Birkinbine: This is my plan.

Brad Akers: So you'd gravel it and fence it in?

Mike Birkinbine: Yes.

Carol Schlueter: And it slopes there, there's no problem with drainage or anything like that Eric?

Eric Furnas: Well anytime there's construction we would have to work with the owner to address any stormwater issues.

Carol Schlueter: Okay.

Mike Birkinbine: Everything flows down. Mr. Radetzki, that was one of his questions to me. We went all through it. One of the things that I did on my property, which you may or may not know, we get all the water from Hwy. 61 and it goes across all of our properties. I did put a pond in and I have something on my place that helps limit some of the flow and the mad rush that comes down there. So I talked about it with him and the only question he brought to me was another driveway at the end and there's a plugged culvert and some of the water does not flow like it should going down that way. I talked about that if this comes to fruition, I will go down and talk to the County Engineer's Office about can we clean that culvert out. We should do that anyway, but that is beside the point. But he had no issue with it and that's why he is not here.

Eric Furnas: But we do have a process in place as far as the site plan approval for commercial properties and we would work with him on the appropriate storage and retention of water.

Tom Harper: Yeah and that's another thing, even though it's a flat lot it is still subject to building permits?

Eric Furnas: Not if there is not a structure, no. There might be electrical if he wants to put in lights.

Carol Schlueter: So again, if it's rezoned and down the road... and I know this is what Mike is planning and what he wants to do, but if it's rezoned then anything can go in that's under the C-2 Commercial District permitted uses?

Eric Furnas: That's correct. You need to make your decision based on the impact of the area and whether this is a good area for commercial use, not just a storage lot alone, but the potential uses of C-2 Commercial District.

Carol Schlueter: Right.

Tom Harper: But beings this is close to other properties in the area, yes it can impact it, but we have dealt with this before.

Carol Schlueter: Yeah, I know.

Mike Birkinbine: Yeah, it's industrial two and a half miles down the road.

Carol Schlueter: Yeah, I was concerned with spot zoning and stuff like that.

Eric Furnas: Yeah, I think that is a valid concern, but there is always a time that I think we have to start somewhere and you almost have to put a stake in the ground and say hey, because of the traffic count, and the type of traffic on Zachary, what is the highest and best use realistically for that particular intersection.

Carol Schlueter: Yeah, I agree.

Eric Furnas: Unfortunately there are times when you look to developing things towards commercial and industrial, there are always some existing property owners that may be impacted. But we have to establish commercial and industrial someplace. And if you just look at the current use of that road, the proximity to Blue Grass, this is considerably more ideal for C-2 than other places off of Hwy. 61 that don't have the IPSCO traffic already.

Carol Schlueter: Okay, so to the south and south of where Mike lives, there are houses already that are going down on Zachary, right? Did they get notice of this?

Eric Furnas: Every homeowner within 500 feet received a notice.

Carol Schlueter: And we have not heard anything from them?

Eric Furnas: No, we just received that email right before coming to this meeting.

Carol Schlueter: Okay.

Dixie Seitz: But we also placed it in the paper and on our website.

Carol Schlueter: Okay, thank you.

Tom Harper: Okay, is there any other questions or comments? If not, is there a motion to close the public hearing?

Martha Peterson: I will make a motion to close the public hearing.

Carol Schlueter: I'll second it.

Tom Harper: Okay, a motion has been made and seconded to close the public hearing. Any other discussion? Hearing none, all those in favor of closing the public hearing please say Aye (4) Opposed (0) Absent (Cooper). The public hearing is closed. Now the Zoning Commission can discuss this or take action on this.

Carol Schlueter: I have a question for Eric, did you have any other comments that we haven't discussed in regards to this?

Eric Furnas: No.

Carol Schlueter: Okay.

Tom Harper: Any other discussion or comments by the board? If there is nothing else, does anyone on the board care to make a recommendation to the Board of Supervisors on this, one way or the other?

Martha Peterson: I will recommend to the Board of Supervisors that this rezoning request be approved to rezone a portion of this property to C-2 Commercial in order to have an outside storage lot.

Eric Furnas: Can you slightly amend that Martha, to just reflect... per the measurement selected? I think if you were to say just the East six acres would be sufficient. That way it is clear.

Martha Peterson: Yes, to rezone the eastern six acres of the property from the present A-1 Agricultural District to the proposed C-2 Commercial District in order to have a rental storage.

Tom Harper: Is there a second to that motion?

Brad Akers: I'll second.

Tom Harper: Okay, a motion has been made and seconded to recommend to the Board of Supervisors the rezoning of the eastern six acres of this property from A-1 Agricultural District to C-2 Commercial District. Is there any other discussion? Hearing none, all those in favor of the motion please signify by saying Aye (4) Opposed (0) Absent (Cooper). The motion carried.

Mike Birkinbine: Thank you.

MUSCATINE COUNTY ZONING COMMISSION

By Eric S. Furnas, Planning, Zoning & Environmental Administrator