

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, September 11, 2020, with Chairperson Tom Harper and board members Carol Schlueter, Virginia Cooper, and Brad Akers present. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended the hearing.

Others present for this hearing: Kirk Latta.

Tom Harper: I will open this public hearing and 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. Okay, we received the minutes from Dixie in an email. Are there any corrections? If not, is there a motion to approve the minutes as written?

Carol Schlueter: Motion to approve the minutes as written.

Tom Harper: Is there a second?

Brad Akers: Second.

Tom Harper: Okay, a motion has been made to approve the minutes as written and it has been seconded. Any further discussion? Not hearing anyway – all those in favor please say Aye (4) Opposed (0). The motion passed. Eric, would you read the first request?

Eric Furnas: Zoning Agenda Item #01. Kirk and Kim K. Latta, Trust, Record Owners, request approval to rezone their property located in Moscow Township, in the SE¼ of Sec. 10-T78N-R2W, West of N. Isett Avenue, 1172 N. Isett Avenue, containing approximately 36.79 acres from the present A-1 Agricultural District to the proposed R-1 Residential District. This request was tabled from last month.

Tom Harper: Okay, so again we just have the four members today, we have not had the fifth member appointed yet. So if it's a tie vote – it's a no vote. You have the option of continuing today or you may ask to have us table this request. Even if we vote to deny the request – you can still go before the Board of Supervisors. I believe it just takes a bigger majority to approve.

Kirk Latta: Yeah, I'll go ahead today.

Tom Harper: Eric, was there any correspondence?

Eric Furnas: No sir.

Tom Harper: Okay, can you please state your name and tell us a little about your request?

Kirk Latta: My name is Kirk Latta. I would like to get my ground rezoned so that my daughter can build a house on there next to the shed. There is a little five acre field that's been in grass for 20 some years. I would like to get that rezoned

because that's the only way that I can do it with the zoning rules. It is only a half of a mile from the city limits and the future expansion of Wilton and it's supposed to head out that way. I know some people don't really like spot zoning, but I'm saying this isn't spot zoning it's first of the zoning in that area. Wilton right now has no place to expand for housing developments. There's no way a couple can go out in the county and build a new home, unless it's rezoned and my daughter would like to build a house in the country.

Tom Harper: Okay, Eric do you have anything?

Eric Furnas: I don't have anything additional from the last month. While I understand the desire of the applicant, you know, and as I think that we talked before, the corn suitability rating and the overall productivity of this farm as a whole is not exactly high, but the area itself is. I just don't believe that the Comprehensive Land Use Plan would consider this an ideal place to rezone it for residential development. Although, I am acknowledging what Mr. Latta is proposing that it isn't really development but anytime you rezone ground, that opens the door for development. It is within a general development zone, within two miles or less of the city limits, which is where the Comprehensive Plan suggests that we generally would see development grow outward from, however, this property that is in the City of Wilton is zoned industrial. I just think I would be remiss in not suggesting that that doesn't mean that every site that is within two miles of a city limits is primed for any type of development. It's a general suggestion. It is in close to state management facilities, they are not right next door, however, there is some rather intense ag use in this area that there is some potential nuisance with a residential development in this area. And again, maybe not necessarily his development but once you start rezoning 36 acres that establishes a precedent for additional residential development in the area. The road is gravel at this time and we have issues with dust and an aging bridge, we have frost coming out in the spring and embargoed roads. This is a tough one. I guess to summarize my comments, I just don't feel like the Comprehensive Land Use Plan would support residential development in this particular area. There isn't any existing or adjoining residential area nearby. And by my definition, it would be spot zoning. Not to say that you couldn't grow from that if it was an acceptable area, he is right, you do have to start somewhere with the first rezoning if it is an acceptable area for residential use. We would have to accept that it is acceptable for future expansion of that particular zoning district. I just think that that is something that you should think about, that not only are you rezoning this property but you are basically saying that you could see potential and other residential developments in this area. If that's the case, then that's the case. Because sometimes you do have to start with the first rezoning of a parcel.

Tom Harper: Okay, is there any questions or concerns by the board members?

Carol Schlueter: Yeah, I have some concerns. How far away is this from the Wilton city limits?

Kirk Latta: It's within a half of a mile.

Carol Schlueter: Where would that be? It has got to be more.

Kirk Latta: No, it's the railroad tracks, it's the steel mill.

Carol Schlueter: That you have to show and prove to me. To me, this is way too far from Wilton, it's got to be more than a half of a mile to the city limits. (looking at the map in her packet)

Tom Harper: No it's the steel mill property that comes down there, it's zoned industrial.

Kirk Latta: The steel mill purchased all that property.

Tom Harper: Look at this map, here is the railroad crossing with all the flood plain south of it. Right here at this corner is the steel mill property.

Carol Schlueter: Okay, so from here it is only a half of a mile?

Tom Harper: Yeah.

Carol Schlueter: Okay, are these swine confinement buildings and the poultry confinement buildings... I mean, they can put more of them up, right Eric? I mean the people that have them now, they can put additional ones there and we couldn't stop that either, right?

Eric Furnas: Well potentially... depending upon the size of any expansion and whether or not any master matrix gets triggered. Residential subdivisions can create a barrier to certain levels of expansion. I just don't know... it just depends upon on how big their proposed expansion would be as to whether or not it would trigger the master matrix.

Carol Schlueter: But possibly if they were to get rezoned to residential it may stop a farmer from expanding his livelihood?

Eric Furnas: It certainly would create some barriers.

Kirk Latta: Is there farther distances for residential property versus ...

Eric Furnas: I think that these would be far enough away that it wouldn't necessarily stop the expansion ... it would be 1,250 feet.

Kirk Latta: Yeah, I'm a half of a mile from the hog confinement.

Eric Furnas: Yeah and the other one is seven-tenths. But why I point those out is because a livestock facility of that size is not just that building, but they utilize quite a bit larger area for manure application. So it's just potential nuisances with future residential development. Again, I don't think that he is proposing a subdivision but we have to consider this as it starts to open the door for a residential subdivision. It makes the case for the next adjoining landowner to be rezoned much more easier and they want to put a subdivision in and then we potentially have conflict with manure application, noise, dust, odors and that type of thing. That's just something that we look at in the totality of the rezoning request and the land use.

Carol Schlueter: Okay, I have one more question. If this property, the 39 or what is it? Is it 36 acres? Yeah, 36.79 acres, if it is rezoned and I'm not saying that Kirk is going to do this, but if he were to sell this property it can be developed into a subdivision if it's zoned residential and they go by all the subdivision guidelines, right?

Eric Furnas: Well it certainly makes submitting a residential subdivision plan possible. We wouldn't even be able to accept a proposed residential subdivision plat if the property wasn't zoned residential. Now the plat, presumably if the plat meets the standards for lot configuration and road right-of-way's and that type of thing, it is a little more difficult for the county to say no we don't believe that this is an area that is acceptable for a residential development. We would look at the number of lots, the density ... we could say it's better suited for five-five acre lots or that type of thing. So I don't want to say that you could completely say no or you have to completely say yes. The Zoning Commission does have some authority ... depending upon the intensity and number of lots.

Tom Harper: Didn't you say that the majority of that property that he wants to rezone is in the flood plain?

Kirk Latta: Yeah it's only that five acre field that's not in the flood plain and where our other house sits, which will be split off too. So really it's only about a five acre field that's not in the flood plain.

Carol Schlueter: Do I have that?

Dixie Seitz: Yes, the flood plain is in blue on that map.

Carol Schlueter: So all of this is in the flood plain? (Yes)

Virginia Cooper: I have a question Eric. In the development report that you submitted to us, between number four and number five, it says, the proposed development is within a two mile radius of the corporate limits of Wilton and identified on the future land use map as an area where future development could be expected. And number five it says, but it hasn't made it to the future land use plan use map in the Comprehensive Plan, correct?

Eric Furnas: So it's not necessarily designated on the future land use map as expected residential development. It's left it as just a two mile area around a city limits as general development and could be considered in these areas, but then we would have to take a look at it.

Brad Akers: So it is undefined?

Eric Furnas: It's undefined as to what type of development, probably because the property within the City of Wilton that's the closest to this, is zoned for industrial use. You know, more commonly like down on the island we would say this is where we expect to see future heavy industrial, because they have established that in the area. The land use map here, doesn't particularly say. In some areas it says that we expect to see future residential, it's marked as such because adjoining property is zoned residential. Here the closest zoning, other than agricultural, is industrial and that's within the city limits of Wilton.

Tom Harper: And since this is farmland all around it's just general development, it's zoned A-1 Agricultural District.

Eric Furnas? Well it's more or less because it's within the two miles of the city limits and there are more pros of being within two miles of the city limits, than those outside. You know, it's easier to extend services of any type, fire, sanitation, sewer and water, the closer you are to a municipality for those types of services.

Virginia Cooper: Okay, thank you.

Kirk Latta: I mean yeah, it does have industrial out there on Hwy. 6 or Hwy. 38.

Carol Schlueter: Okay, Kirk what you are planning for is that you want to get this rezoned and what you want to do is to take off your house and sell it, correct?

Kirk Latta: Right.

Carol Schlueter: And your daughter wants to build a new house close to the one you want to split off?

Kirk Latta: Correct.

Carol Schlueter: So if it's not rezoned, he can't do it right?

Eric Furnas: It doesn't appear to have the separation distance for another rural residence on that property.

Kirk Latta: So if there were another alternative, I would go that direction.

Carol Schlueter: But the ground to the south that you own, which is hay ground, I went over there and looked at it... that is where you are proposing to build a new house for yourself?

Kirk Latta: Yes.

Carol Schlueter: And for that house you will just get a farm exemption, correct?

Kirk Latta: Correct. That's if everything works out.

Carol Schlueter: Right.

Tom Harper: Is there any other discussion or questions? If not, are we ready to make a motion to recommend to the Board of Supervisors?

Carol Schlueter: I will make a motion to recommend to the Board of Supervisors approval of this rezoning on their property located in Moscow Township, in the SE¼ of Sec. 10-T78N-R2W, West of N. Isett Avenue, 1172 N. Isett Avenue, containing approximately 36.79 acres from A-1 Agricultural District to the R-1 Residential District.

Tom Harper: Is there a second?

Brad Akers: I'll second that motion.

Tom Harper: Okay, a motion has been made and seconded to recommend to the Board of Supervisors the rezoning on this property from A-1 Agricultural District to the R-1 Residential District. Is there any other discussion? Hearing none, all those in favor please signify by saying Aye (Harper & Akers) Opposed (Schlueter & Cooper). Okay, it's a tie vote. So you are back where you were.

Eric Furnas: Well you can still present your request to the Board of Supervisors. Since they did not recommend this property to be rezoned, it does require a higher hurdle from the Board of Supervisors in order to pass. But it doesn't mean that it's dead in the water. The Board of Supervisors will have to agree that this is a good idea in order to pass. I think you have to have four out of the five to vote for it, instead of just three out of five. So I just wanted to tell you that. Just tell me if you want to go before the Board of Supervisors and we can schedule that hearing before the Board of Supervisors.

Tom Harper: You just have to make sure that all five supervisors are there.

Kirk Latta: Yeah, I know that's what happened to me the last time.

MUSCATINE COUNTY ZONING COMMISSION
By Eric S. Furnas, Planning, Zoning & Environmental Administrator

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, September 11, 2020, with Chairperson Tom Harper and board members Carol Schlueter, Virginia Cooper, and Brad Akers present. Eric S. Furnas, Planning, Zoning & Environmental Administrator and Dixie Seitz, Office Administrator also attended the hearing.

Others present for this hearing: Allen F. McCleary, Alberta M. McCleary and Mathew McCleary.

Tom Harper: Okay, so the applicants are here. So you were here when I stated that we only have four members present today and a tie vote would be a no vote. Do you wish to continue or would you like us to table this request? Although, like I said, we currently do not have a fifth member so I'm not sure when it would be that we'd have a full board. But this is a recommendation to the Board of Supervisors and they would have the final say on the rezoning request. But it's up to you.

Mathew McCleary: Yeah, we'll go ahead.

Tom Harper: Okay, Eric would you read the request?

Eric Furnas: Zoning Agenda Item #02. Allen F. or Alberta M. McCleary, Record Owners and Mathew L. McCleary, Contract Holder & Applicant, requests approval to rezone their property from the present A-1 Agricultural District to the proposed R-1 Residential District. This property is located in Seventy-Six Township, in the SE $\frac{1}{4}$ of Sec. 1-T76N-R3W, containing approximately 7.21 acres and is currently zoned A-1 Agricultural District.

Tom Harper: Was there any correspondence?

Eric Furnas: No sir.

Tom Harper: Okay, would the owner or spokesperson please tell us about your request?

Mathew McCleary: Yeah, these are my parents Allen and Alberta McCleary and they purchased the property in the early 80's. When they purchased the property there was an existing home on the property. When they purchased that property they had the intention of building a home there, that never came to fruition. I purchased the property from them on contract five years ago, I think I am five years into that contract. I wanted to pay the property down a little bit, get a little equity in the property before I started building. As I started looking at building, I realized that it was zoned A-1 Agricultural District, but it is taxed as R-1 Residential District. I bought the property with the understanding that I could build out there and they sold the property with the understanding that I could build out there. I think there is a rule about 750 feet away from the next nearest property and they tell you where you can build and it's a certain spot on the property. I guess I'm not sure about that, I guess I didn't look into that too much. I guess they had talked to the Board of Supervisors ... Vince Gaeta was the realtor on that and they had a letter at one point that the Board of Supervisors had approved for them to build. But I looked at the Comprehensive Lane Use Plan and it was listed on the county website, starting at Melon Avenue and the Funks Hill area it showed that that could be developed in a residential area. There is a property that is just to the west that has just been rezoned into residential. So if there is any concern about me subdividing the area, and having dense residential... if you look at the property there is about an acre or an acre and a half of a flat spot that would be for my home site. The rest of the seven acres has hills and ... I suppose you could develop it but there would be a lot of excavation in order to do that. But anyway, that is not my intent. I just want to build one house on this seven acres.

Tom Harper: Okay, Eric would you give us your take on this?

Eric Furnas: Yeah I would point out that I think that this property is surrounded on three sides, by property that is currently zoned R-1 Residential District. Its primary use is residential on the north side of the road in that immediate area. Farther out from the Swayze property, as he referred to, I would maybe hesitate because I think we get into more of the agricultural property. However, as he pointed out there is already residential property that extends even farther west than this property. There is residential to the north and residential to the east. It's the primary use in the immediately surrounding property. Burlington Road, although not paved, is a hard surfaced road... it's a seal coat so it's not gravel. So it's more conducive to the type of traffic for residential use. The topography and the size of the property, and the soil type makes it basically not economically viable for any kind of agricultural on this property. It does not have agricultural value. This is right on the edge of an expected development zone, as you can see on the map by the green. As I mentioned also that there is existing residentially zoned ground next to it. I think because of the Comprehensive Land Use Plan and the nature of the lot, I would support a recommendation to rezone this property.

Tom Harper: Okay, on the application and in the letter it says that there is two parcels here. So both parcels are included?

Eric Furnas: Yes, both parcels are included. The main parcel that he wants to build on is closer to the road and then there's this small and narrow parcel to the north that would make no sense to leave that agricultural when the next parcel north of it is already zoned residential. So this would include both parcels that he is buying, the 7.21 acres.

Tom Harper: So this would close in that area from Funks Hill to Swayze's?

Eric Furnas: Correct... well there may be one or two other neighbors along there, but yeah it would start to close in that gap.

Tom Harper: Okay, is there any further discussion or questions?

Carol Schlueter: To the south... I don't know where Burlington Road is, but to the south of this property it's all agricultural ground then?

Eric Furnas: Yes, this has frontage along Burlington Road and to the south it's all agricultural. I zoomed out so that you could see the residential zoning in the vicinity already. But yes, across Burlington Road it is all agricultural. So I think that would be a whole other conversation if we were on the south side of Burlington Road. I don't think that I could support residential development there at this time.

Virginia Cooper: And the green section just to the left of this on the map, that's the Swayze property that we set precedence with a year ago?

Eric Furnas: I wouldn't say that you set precedence because it also still had some of the same factors as this request.

Tom Harper: Well the Swayze had an existing homestead but the house was missing.

Carol Schlueter: So then what is this little bit here, is it agricultural?

Eric Furnas: Yes there is still a little bit of undeveloped ground that it is zoned agricultural.

Carol Schlueter: Is that just ground then?

Eric Furnas: There may be a house there, it's rolling hills. But yeah, the brown color on the map is zoned A-1 Agricultural District.

Carol Schlueter: Okay, I can work with that.

Tom Harper: And you are talking about building where that cleared spot is? I think the old foundation is there.

Mathew McCleary: Yes there is an open spot there and there is an existing foundation there. My dad always told me to leave that foundation there, that that is proof that there was a house there. I don't know if that matters to you guys or not – but that's why it's not filled in. But I would like to remove that old foundation.

Carol Schlueter: So then there is room for septic and all of that? He would have his own septic and everything?

Eric Furnas: Sure, yeah there's seven acres there total. There's plenty of room for septic and well.

Tom Harper: Okay are there any other comments, questions or discussion? If not, I will entertain a motion for this request.

Carol Schlueter: I will make a motion to recommend to the Board of Supervisors to approve the rezone of this property from the present A-1 Agricultural District to the proposed R-1 Residential District.

Tom Harper: Okay, is there a second?

Virginia Cooper: Second.

Tom Harper: A motion has been made and seconded to recommend to the Board of Supervisors approval of this request that would rezone this property from the present A-1 Agricultural District to the proposed R-1 Residential District. Any further discussion? Hearing none, all those in favor please say Aye (4) Opposed (0). The motion carried.

Mathew McCleary: Thank you.

Carol Schlueter: You bet.

Tom Harper: I will entertain a motion to close the hearing.

Virginia Cooper: I move that we close the public hearing.

Carol Schlueter: Second.

Tom Harper: All those in favor of closing the public hearing please say Aye (4) Opposed (0). The motion carried.

Carol Schlueter: We're done.

Tom Harper: We're done.

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