

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, June 5, 2015, with Chairperson Emily Geertz and members Virginia Cooper and Dana Pittman present, George Alt and Tom Harper were absent. Steve Boka, Interim Zoning Administrator and Dixie Seitz, Office Administrator was also in attendance.

Others present for this hearing: Amber Freyermuth.

Emily Geertz: Okay we will open the public hearing by reading 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 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. Board members, are there any changes from the minutes of the previous meeting?

Virginia Cooper: Not that I am aware of – no.

Emily Geertz: Okay, if not, can I have a motion to approve the minutes?

Virginia Cooper: I will make a motion to approve the minutes from the last meeting.

Emily Geertz: Can I have a second?

Dana Pittman: I will second.

Emily Geertz: All in favor please say Aye (3) Opposed (0) Absent (Harper & Alt). Okay the minutes have been approved from the previous meeting. I also need to tell the applicants that there are only three members present. So you would need a simple majority, a 2 to 1 vote, to pass this request favorably onto the Board of Supervisors. You can choose to go ahead with the request or you can have it tabled until the next meeting, but there is no guarantee that we will have four or five at the next meeting.

Amber Freyermuth: We will go ahead today.

Emily Geertz: Okay, Steve would you like to read the first request?

Steve Boka: Thank you. Agenda Item #1. Scott A. and Deborah J. Horton, Record Owners, request a vacation of a 15' utility easement currently existing between Lot 34 & 35, Chatham, Kent Estates. This property is located in Bloomington Township, South of Hale Street, Kent Estates, in the SW¼ of Sec. 23-T77N-R2W, containing approximately 1.80 acres and is zoned R-2 Residential District.

Emily Geertz: Steve, was there any correspondence?

Steve Boka: The only correspondence that we had, and I think that it was just handed out to you from the attorney for the Horton's. It is from the HOA from the subdivision, Whispering Pines HOA and it is in support of this request. That was the only contact that we have had.

Emily Geertz: Okay, would the applicant or their spokesperson please state your name and tell the board about your request?

Amber Freyermuth: Sure, my name is Amber Freyermuth and I am with the law firm of Stanley, Lande and Hunter. I think I have been before some of you before. The request is for Scott and Debbie Horton, they just purchased lots 34 and 35 of Chatham Addition, which is in the Whispering Pines subdivision. The Whispering Pines HOA has given their approval of it, and they are very active actually. So the purpose of it is simply they want to build their house in the center of the lots. They can't build their house in the center of the lots if there is a utility easement still there. So they just want to vacate the utility easement for the purpose of being able to build their house. We have contacted Martin & Whitacre, they sent out the vacation plat and we have gotten the approval from other utility companies, they are fine with this. We have also met with the HOA. The HOA have seen their building plans, they are working with the HOA. I think there is pretty much general approval of the final plans. So we are vacating the easement now as well. I also know that notices were sent out by Steve on behalf of the commission to all the adjoining property owners. We have not received any questions or issues with this, and this has been done on several other properties in this subdivision. In fact if you look at the magic map, I highlighted in red one of the other properties that had actually been done before. So it is something that is routinely done. When these subdivisions are developed, they just put easements in between each one of the lots. Even if you look at that map it's at the very end of that road and all of that subdivision that you see off to the left....well I guess it would be the right to you, it is undeveloped. So that has easements all throughout it, even though there's no utilities there. So it's a pretty standard thing. All of the rest of the rules are fine with the HOA and they are on board with this as well. So we are just asking for your approval and for it to be recommended onto the Board of Supervisors for their final decision. I guess I should also say, this isn't going to affect any roads or right-of-ways.

Emily Geertz: Okay. Does anybody else here have any comments? Steve do you have any comments on this request?

Steve Boka: It's pretty straight forward really. It's an internal easement vacation which will just affect the utilities and they are checked off and the HOA's, it's pretty standard stuff.

Virginia Cooper: So it won't affect anything... it looks like they purchased these two lots but even in the future if they sell, since the house is in the middle of the lot it will all go together and that won't affect anything in the future?

Steve Boka: Right.

Amber Freyermuth: In fact it's already one parcel, that's why you can't see the lot line.

Emily Geertz: Does anyone on the board have any questions or concerns? Not hearing any, I will ask for a motion.

Virginia Cooper: Yeah, I will make a motion to recommend to the Board of Supervisors approval of the request of the vacation of the 15 foot utility easement that currently exists between lot 34 and 35 in the Chatham, Kent Estates.

Emily Geertz: Can I have a second?

Dana Pittman: I'll second.

Emily Geertz: All in favor of the motion to recommend to the Board of Supervisors approval of this request please say Aye (3) Opposed (0) Absent (Harper & Alt). The motion has passed. It will now go onto the Board of Supervisors.

Amber Freyermuth: Thank you.

MUSCATINE COUNTY ZONING COMMISSION  
By Steve Boka, Interim Zoning Administrator

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Others present for this hearing: Terry Martin and Carmen Martin.

Emily Geertz: Steve, could you read the next item on the agenda?

Steve Boka: Sure, Agenda Item #2. Terry T. or Carmen D. Martin, Record Owners, request approval of a preliminary and final plat of the proposed one lot agricultural subdivision, Martin's Subdivision, containing approximately 1.3 acres. This proposed subdivision is located in Fruitland Township, 2227 41<sup>st</sup> Street South, in the SW $\frac{1}{4}$  of Sec. 18-T76N-R2W, containing approximately 19.20 acres and is zoned A-1 Agricultural District.

Emily Geertz: Okay. Steve was there any correspondence?

Steve Boka: We have not had any contact.

Emily Geertz: Would the applicant or spokesperson state your name and tell the board about your request?

Terry Martin: Yeah, I'm Terry Martin. I bought this farm and I own the adjoining farm and we want to divide the house off so that I can sell it to my daughter and son-in-law.

Emily Geertz: Okay.

Virginia Cooper: So we are looking at lot one and that's the total parcel and then the little division down below is lot two is the house?

Terry Martin: Yes.

Emily Geertz: Steve, do you have any comments on this request?

Steve Boka: Again, this is fairly standard, the dwelling is existing. The lot, although it is misaligned, it is not square. It is done that way in respect to the required setbacks, distances, septic tanks and fields. So it is made to conform for the requirements of a new lot. Other than that, everything is in order.

Emily Geertz: Okay, does anyone on the board have any comments or questions?

Virginia Cooper: So nothing on the remainder of lot one changes? Everything still stays the same? It's still ag?

Steve Boka: Yes, it will continue to be used for agricultural purposes.

Emily Geertz: If there is no more discussion or questions, do I have a motion?

Virginia Cooper: Yeah, I will make a motion to recommend to the Board of Supervisors to approve the request for the preliminary and final plat of the proposed one lot ag subdivision, Martin's Subdivision in Fruitland Township.

Emily Geertz: Is there a second?

Dana Pittman: I will second it.

Emily Geertz: All in favor please say Aye (3) Opposed (0) Absent (Harper & Alt).  
Alright, we will favorably pass that onto the Board of Supervisors.

Terry Martin: Thank you.

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Others present for this hearing: Sherri Campbell-MacGowan and Arnie Hart.

Emily Geertz: Steve, could you read zoning agenda number three?

Steve Boka: Yes, Agenda Item #3. Sherri L. Campbell-MacGowan, Record Owner and Arnold Hart, Proposed Buyer, requests approval of the preliminary and final plat of the proposed two lot agricultural subdivision, Hart's Cedar Addition. This proposed subdivision is located in Goshen Township, off of Penn Avenue Road, in the SW¼ of Sec. 25-T78N-R3W, Parcel A, Gov. Lot 7, containing approximately 2.33 acres and is zoned A-1 Agricultural District.

Emily Geertz: Steve, was there any correspondence?

Steve Boka: We have not had any contact.

Emily Geertz: Could the applicant or spokesperson state your name and tell us about the request.

Sherry Campbell-MacGowan: My name is Sherry Campbell-MacGowan and I own 2.3 acres and he has always had a cabin next to me and I am proposing to selling my cabin home, my retirement home and I've always promised him that I could give him, sell him his land before I left, because whoever buys mine could kick him out, because it's all one big piece. So we divided it so he has one acre and I have an acre and a third left. That's basically it. We would just divide it off so he owns the land that his home is on.

Virginia Cooper: And how did that happen prior to him building or was this cabin there already?

Sherry Campbell-MacGowan: Yeah, it was there already. Yeah, back before I bought their property, there was a great big property owned by a farmer and three people that lived on this property decided that... the farmer wanted to sell and they wanted to buy. So they divided it between the three of them and each property had multiple dwellings on it. I bought my property and it had spaces for three cottages. In 2008, right that's when we lost that? Yeah, the third property that was there got lost in the flood and we have no intention of ever replacing that. We like just having the open area. But the other people have split down there's, so like every owner has their own piece too. But that's what we had at least three places on this one piece of land, but the land went with the land of the guy's property that I bought.

Virginia Cooper: And Steve that is all farmed in from old zoning along time ago?

Steve Boka: Yes, as best as I can tell.

Virginia Cooper: Okay.

Dixie Seitz: Well they are all Seasonal Recreational Cottages.

Virginia Cooper: Okay.

Emily Geertz: Is there any other comments from anyone in the room? Are there any more questions or comments from the board? Steve, do you have any further comments?

Steve Boka: Yeah, I understand what they are doing and it makes sense to me, the concern that I have ... and I am sorry that their attorney isn't here and I will try to get a hold of him or have Dixie get a hold of him. But the property can be divided, I think that's in order, but for the same reason they want to convey title between them so that they have their own property if something happens in the future, I think there needs to be a level of assure to the folks that have property down that they have a right of access. I'm not seeing anything, nor is anything of record in the recorder's office showing an easement leading from Penn Avenue to this site. In other words, if somebody buys that real estate and they throw a fence across there, it could stop people from going down there. So my recommendation to the commission would be that if you have no other problems with the subdivision request, that the subdivision be approved with the condition that it include some recorded instrument that guarantees access, whether that is an easement or a dedication to Penn Avenue from those properties. It's not just affecting these properties, it's affecting them all. But as this is developed and changes hands in the future, I think most attorneys are going to be concerned that they clients have some kind of right of access to their properties. So that is what this is intended to resolve.

Emily Geertz: Right, that makes sense.

Arnie Hart: Well there is an easement that was written on Walker's, who has the bottom property there, they have record of that.

Steve Boka: If there is, it is not recorded. For it to show up to be considered for legal purposes, it has to be recorded. So if there is one floating around, I wouldn't argue that point, but as far as we are concerned, it doesn't exist. It is not recorded. So until that document is filed appropriately, there is none.

Sherry Campbell-MacGowan: And Ellsworth did this same thing about three or four years ago – I think it was in 2008 or 2009. They said that they have an easement too. So I guess I need to go get that and take it to be recorded.

Steve Boka: Right, and again this is if the commission agrees, the recommendation is to approve subject to receipt of that instrument of record, either get it recorded or get something similar recorded so that is on file and everything is okay as we move forward. Okay?

Sherry Campbell-MacGowan: Yes.

Emily Geertz: Does anyone on the board have any comments or questions?

Virginia Cooper: No, I mean, rather than tabling it I am willing to make a motion of that recommendation. I mean, if it gets that board, than it gets that far.

Steve Boka: Right, if it gets that far than the board will still have to wrestle with it and that recommendation will be passed onto the Board of Supervisors.

Virginia Cooper: Right and hopefully it will be done by the time they receive it.

Steve Boka: Correct.

Virginia Cooper: Than with the information in front of us I recommend to the Board of Supervisors that this subdivision be approved as amended to include a permanent easement or dedication of a common access from this property to a public road and that there be made a public record of that.

Emily Geertz: Is there a second?

Dana Pittman: I'll second.

Emily Geertz: All in favor of that motion, please say Aye (3) Opposed (0) Absent (Harper & Alt). Okay, this has been recommended to the Board of Supervisors with the stipulation concerning the easement. Thank you and we are done.

Steve Boka: I have one other thing, if I can?

Emily Geertz: Yeah.

Steve Boka: The next scheduled meeting of the commission would be July 3<sup>rd</sup> and that is a holiday. We currently do not have anything on the agenda for the July meeting and we had a similar discussion with the Board of Adjustment prior to this meeting. Our recommendation to you is that you not have a meeting in July because of the holiday. However, if there is an emergency or something that needs to move forward than Dixie will contact the chair to see whether they can take the meeting and then she will have to query the members to see whether or not we can put together a quorum. But if that doesn't exist, we recommend that you cancel the July meeting and just have it in August.

Dixie Seitz: So the first Friday in August would be August 7<sup>th</sup>.

Emily Geertz: Okay.

Virginia Cooper: Do you need a motion?

Steve Boka: I would appreciate it that was it is clear. And to dovetail that, it is my final day here and I go back into retirement, where I belong. But I appreciate your efforts and they are actively advertising for a replacement now. Hopefully that will close the end of the month and they will go through a selection process. So there may not being anyone doing that, providing this function in July anyway, but by August there probably will be. So that is another reason why we are suggesting that the July meeting be canceled.

Virginia Cooper: Well I personally would like to take the time to thank you for doing this interim position and being professional about it and guiding us as we needed it. It's greatly appreciated, so thank you for stepping in.

Steve Boka: I appreciate that.

Virginia Cooper: I will make that motion that if we are not forced to have a July meeting, that the July 3<sup>rd</sup> meeting will be postponed and if something comes up in the meantime Dixie will contact us and we will try and put something together, otherwise we will plan on meeting again on August 7<sup>th</sup>.

Emily Geertz: I'll second that (laughter) and all in favor? Ayes (3) Opposed (0) Absent (Harper & Alt).

Steve Boka: Thanks for your time.

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