

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, October 7, 2016 at 10 a.m. with Vice Chairperson Virginia Cooper, and board members Carol Schlueter, Dana Pittman, and Tom Harper present, Chairperson Emily Geertz was absent. Eric S. Furnas, Planning & Zoning Administrator and Dixie Seitz, Office Administrator was also in attendance.

Others present for this hearing: Mark Brockway, Jeff Turkle, Pam Turkle, Don Schumaker, Daniel Schumaker, and Dennis Holmes.

Virginia Cooper: I will open the public hearing since we are pretty sure that Emily will not be coming.

Dixie Seitz: I'm pretty sure that she would be here by now if she were coming. She said that if the weather was good that she would be farming.

Virginia Cooper: Okay, I will go ahead and open the public hearing of the Zoning Commission. 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. At this time I would like to ask if the board has any changes to the minutes from the previous meeting. If not, I would ask for a motion to approve the minutes from the previous meeting.

Tom Harper: I will make a motion to approve the minutes from the previous meeting.

Virginia Cooper: Is there a second?

Carol Schlueter: I'll second it.

Virginia Cooper: All those in favor of the motion to approve the minutes from the previous meeting, please say Aye (4) Opposed (0) Absent (Geertz). I would ask that the applicant or their representative for the Turkle rezoning, if you are present? We would like to know if you would like to continue with the board today. We only have four members, so there is a possibility that we could have a tie vote. A tie vote is a no vote. It would pass this request onto the Board of Supervisors as unfavorable. So you could either go ahead with your request today and take that chance or you could ask that it be tabled until the next meeting, when we may or may not have a full board. So that decision is yours.

Mark Brockway: Could we retain that decision after some discussion?

Eric Furnas: Yes, prior to their vote.

Mark Brockway: I think we will do that and yes we are here.

Virginia Cooper: Alright, thank you. Eric, I'd ask you to read the request.

Eric Furnas: Zoning Agenda Item #01. Jeffrey A. or Pamela R. Turkle, Record Owners, request rezoning their property from the current A-1 Agricultural District to the proposed I-1 Light Industrial District. This property is located in Fulton Township, South of Iowa Interstate Railroad, West of Vine Avenue, adjacent to the City of Stockton, in the NE¼ of Sec. 5-T78N-R1E, containing approximately 0.39 acres, currently zoned A-1 Agricultural District. This case was tabled at the August 5, 2016, hearing.

Virginia Cooper: Was there any correspondence?

Eric Furnas: All correspondence has been supplied to the commission, they are citizen complaint forms.

Virginia Cooper: Okay, at this time I would ask for the applicant or the spokesperson to please stand, state your name and tell the board about the request.

Mark Brockway: I am Mark Brockway; I am representing Jeff and Pam Turkle. I am a planning consultant. I've worked in planning for a number of years on the public side, so I am familiar with the position. But what I do now is I assist cities with city planning and city administration, as well as individuals and developers on planning and zoning issues. I've read through Eric's staff report very closely and I don't take any issue with what he has presented there to you. What I would like to mention is I'm sure that you are very well aware of the property and you've seen the property. The history of the property back to the 1800's has been... has not been agricultural. It started with a stockyard going then to a coop fertilizer facility, and then to a dirt track and then now for the last numbers of years, it has been a wood processing facility of Turkle's. If you look through the Zoning Ordinance, I looked through it in detail; the first thing I was looking for under the agricultural uses was a saw mill and whether or not a Special Use Permit would be an option for him. It's not listed in your ordinance. The closest thing you find is when you get into the I-1 Light Industrial District, it talks about a lumber yard. But when I think of a lumber yard, I think more of retail sales of lumber, which is really different from what they do. What they do is they recycle; they take urban trees that are not used typically for lumber and milling, and they process it at the site, producing lumber. Basically recycling the wood and then selling it for use. So what that does is it avoids the landfill cost and the landfilling of the materials. So I think a real key, and a couple of issues I would make is that it's long standing as not being agricultural, it doesn't have viability use according to the CSR2 rating. The site has been somewhat industrial related in use in history. It's been a continued use. So from a technical standpoint, I think and again, Eric may or may not agree, but I have determined that it is a legal non-conforming use. The use has been continued to be allowed, but it's not in the appropriate zoning district, because A-1 Agricultural District doesn't allow wood processing, either a permitted use or as a Special Use Permit. In talking to Eric about the case, and in talking with Jeff and Pam, we are well aware of the concerns particularly of the complaints for the burning, open burning. That was an issue that came up in the relatively recent past. They had been burning stumps at the property and they have since stopped the open burning. They clearly would not continue with the open burning. I think that's kind of a moot point at this stage. They recognize that something is not going to be allowed with the concerns of the neighbors, so that's the first issue. The second issue would be, potentially noise, and how that would impact the residential properties to the east. They would agree to restrict the use for hours of operation. So we thought what we'd do today is present their proposal with the specific conditions to address the concerns that have been raised, to make sure that they are a good neighbor. I think that there are those that may be able to comment about how this property is actually, even though there is a lot of logs there, it has been improved from the historically

use as it relates to the intensity and the landfill nature of the lot and the debris from the property. So we presented a proposed condition, and proposed conditions for use. So the last one I think is probably as significant as any, we would agree, they would agree that this can be reviewed annually. They will come back to you one year from today or upon the Board of Supervisors approval, to make sure that they are accountable in the use of the property, and that complaints don't arise and that they have addressed those. So they are again, to be accountable for the continued use and operation as a wood processing facility. So I guess with that, if there are any questions, I would be glad to answer those.

Carol Schlueter: Eric, all of these citizen complaint forms that are in here, did all of these people come down to your office and fill these out?

Eric Furnas: No, some of them were completed somewhere else and then submitted.

Carol Schlueter: But these are your forms?

Eric Furnas: Yes, we made the forms available after multiple phone calls. Some were taken at the counter, some were brought in.

Carol Schlueter: Okay. And I believe out of all of these complaints, Mr. Holmes, you are here?

Dennis Holmes: Right.

Carol Schlueter: I was out there. I mean, I live close so I went out there to look at it. To me this property cannot be used for anything else. The Schumaker's are here, I think it's by your ground and that. To me, there is no other thing that the ground can be used for. I don't see a problem with getting it rezoned. And with his stipulations on this right here, I think this should take care of almost all the complaints, if there's no open burning. I don't know what else they can do to change anything to help with that. Would that be a help to you, Mr. Holmes? Did you hear what he is saying that he is going to do?

Dennis Holmes: Yeah.

Carol Schlueter: Does that go along with what you want or would that take care of what you said in your complaint?

Dennis Holmes: Well he's been open burning for four years, what about that?

Carol Schlueter: But that's in the past. We are talking about today and getting it rezoned. Now he said no open burning will be permitted on site if this rezoning is approved. Did you give him one of these?

Mark Brockway: No I did not, but I will give him one.

Dennis Holmes: I am saying no.

Carol Schlueter: So that would not help?

Dennis Holmes: No.

Tom Harper: Well as you say, one of the conditions is no open burning, but the open burning is an environmental issue, it's not really ours, it's really above our ... it goes to the State DNR, they regulate that.

Eric Furnas: Well while it shows some willingness to compromise ... the open burning issue is frankly one that does not require voluntary compliance. That

is something that will absolutely not be allowed. It is in violation of the Iowa DNR regulations.

Tom Harper: Right, it's a violation and would not be allowed.

Virginia Cooper: Does anyone here have any more questions for Mr. Brockway? Is there anyone else in the room that wishes to speak either for or against this request?

Carol Schlueter: The two Schumaker's, I know that you are neighbors.

Daniel Schumaker: Well there's really nothing to do with the ground and if you can't burn there, there's not much use other than for the sawmill.

Carol Schlueter: Do you notice the burning and the smoke? Does it bother you where you are farming and where the animals are?

Daniel Schumaker: Yes if the winds the right way, you smell it. It keeps the mosquitos down. But if he can't burn, that's irrelevant.

Virginia Cooper: Yeah, the burning can't be done anyway.

Carol Schlueter: Well I know Turkle's, I respect them and we need them in the town for taking down the trees. I needed them today. But I don't have any problems with rezoning this property where it is located. I mean, you guys looked at it – what else can it be used for?

Mr. Schumaker: There is a train that goes by there and that shakes the house. I have lived there my entire life. I mean there is a freaking train only 40 feet from where the sawmill is. So if you are talking about the noise, the sawmill is quiet anyway.

Virginia Cooper: Eric, do you have any comments on this request?

Eric Furnas: I would only comment that if the Zoning Commission chose to recommend to the Board of Supervisors the rezoning with these conditions as submitted by Mr. and Mrs. Turkle, I would take them to the County Attorney's Office for an opinion on the legal strength of a self-imposed condition. But you can certainly make your recommendation.

Tom Harper: I think it is a good idea, but I know on Special Use Permit's it's a legal standard, but I don't know... do you have to have a review?

Eric Furnas: Yeah, I just want to have the County Attorney look it over.

Carol Schlueter: Is that something that we need to have before we vote?

Eric Furnas: I don't believe so, because the Board of Supervisors takes your recommendation, but they will make the final decision.

Virginia Cooper: Okay, so I think at this time I need to ask you if you wish to table this or move forward.

Mark Brockway: I think we would like to proceed. Can I make one more comment?

Virginia Cooper: Sure.

Mark Brockway: You know one thing that I just noticed today is the property has been classified as residential from a taxing stand point; it has not been classified as agricultural. Historical... residential is not the correct classification in that there is not residence on that property, but it is classified

as residential. With the zoning change and the conditions, it would become an industrial classification, which would be beneficial from a taxing standpoint of the county. And it would encourage them to continue to grow as a small business in the area. So I just wanted to point that out, that it has been classified as residential from a taxing standpoint.

Virginia Cooper: Okay, if there is no further discussion, is there a motion to recommend to the Board of Supervisors?

Carol Schlueter: I will make a motion that we recommend to the Board of Supervisors to approve this rezoning of Turkle's property from A-1 Agricultural District to the proposed I-1 Light Industrial District.

Virginia Cooper: Is there a second?

Tom Harper: I will second the motion.

Virginia Cooper: All those in favor please say Aye (4); Opposed (0); Absent (Geertz). This will move onto the Board of Supervisors and Eric will let you know when that will be.

Mark Brockway: Thank you, we appreciate your time.

Virginia Cooper: You bet, thank you.

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