

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, December 2, 2016, with Chairperson Emily Geertz and board members Virginia Cooper, Carol Schlueter, Tom Harper, and Clyde Evans present. Eric S. Furnas, Planning & Zoning Administrator and Dixie Seitz, Office Administrator were also in attendance.

Others present for this hearing: Mike Birkinbine, Ken Ferris, and Peg Ferris.

Emily Geertz: I will open up this public hearing and the first thing we need to do is to elect a new chair and a vice chair. So I will open it up to nominations for a chair.

Clyde Evans: I will nominate the chairs that we had before.

Carol Schlueter: I will second that.

Emily Geertz: I would like to nominate Tom for chair.

Virginia Cooper: I second the motion for Tom. (laughter)

Eric Furnas: Well we have two separate motions.

Carol Schlueter: Emily, would you prefer not to be chair again?

Emily Geertz: I would prefer not to, I will just say that.

Clyde Evans: Well I guess that I will withdraw my motion then.

Eric Furnas: We had a motion to elect Tom Harper as chair and it was seconded.

Emily Geertz: I will make a motion to cease nominations.

Eric Furnas: Okay, all in favor of Tom Harper for chairperson please say Aye (4)  
Opposed (Tom Harper).

Carol Schlueter: (laughter) Oh you're good.

Tom Harper: Now we need a motion to nominate a Vice Chairperson.

Emily Geertz: I will nominate Carol Schlueter as Vice Chairperson.

Tom Harper: Is there a second?

Carol Schlueter: Do you not want to be Vice Chairperson?

Virginia Cooper: I'm alright with it.

Emily Geertz: Okay, I will nominate Virginia Cooper as Vice Chairperson.

Tom Harper: Okay, we have a motion to nominate Virginia Cooper as the Vice Chairperson and it's been seconded. Any further nominations? Not hearing any, we will vote ... all those in favor please say Aye (5) Opposed (0). The motion has passed Virginia Cooper will be the Vice Chairperson. Alright, 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. Okay, we will proceed with the first case. Eric, will you please read the request?

Eric Furnas: Zoning Agenda Item #1. Kenneth W. Ferris, Record Owner, requests rezoning of approximately 11.50 acres from the present C-2 Commercial District to the proposed R-1 Residential District. This proposed rezoning is located in Fulton Township, SE¼ of Sec. 36-T78N-R1E, between US Hwy. 61 and 160<sup>th</sup> Street, 3977 160<sup>th</sup> Street, Blue Grass, containing approximately 29.27 acres, currently zoned C-2 Commercial District.

Tom Harper: Okay, was there any correspondence?

Eric Furnas: No sir.

Tom Harper: Is the applicant or the spokesperson here?

Ken Ferris: Yes.

Tom Harper: Could you please state your name and tell us about your request?

Ken Ferris: My name is Ken Ferris. The property was zoned agricultural when we bought it. Then we were running a tree farm on this location and the county wanted us to rezone it to commercial. I will no longer run the tree farm here. But it was our intent when we bought the property to build a house there with the ponds on there.

Peg Ferris: The county made us rezone it, we didn't want to.

Ken Ferris: Well I do run another business on this property.

Tom Harper: So the tree farm is going away?

Ken Ferris: Yes.

Carol Schlueter: So the trees that are left there, you are just going to leave there?

Peg Ferris: There's some there.

Ken Ferris: There's some, but most of them will be moved and actually what our plan is to plant evergreens all along Highway 61 and to the east.

Carol Schlueter: But that will stay commercial?

Ken Ferris: That will stay commercial.

Emily Geertz: We just rezoned that recently, didn't we?

Carol Schlueter: Well that's what I was going to ask, when was it rezoned?

Ken Ferris: I believe it was 2004.

Emily Geertz: I thought it was more recent than that.

Ken Ferris: I'm sorry?

Emily Geertz: I was thinking it was more recent than that.

Carol Schlueter: So in 2004 you came here and wanted it all rezoned to commercial?

Peg Ferris: We did not want it rezoned to commercial.

Ken Ferris: I really didn't.

Peg Ferris: No, it makes no sense to rezone it to commercial.

Carol Schlueter: Oh, okay, but because of the business you had to.

Ken Ferris: Yeah so that's why it was rezoned. I would have rather had it stay agricultural.

Peg Ferris: Me too. I just didn't understand why the county was making us rezone.

Carol Schlueter: Well it's probably because of your business. Okay, the buildings that are there now... what, there are two buildings?

Ken Ferris: Yes.

Carol Schlueter: Okay, so there is not a residence in one of those now?

Ken Ferris: Yes, we live there now.

Carol Schlueter: So you live in one of those buildings now?

Ken Ferris: Yes.

Emily Geertz: But that's not what we are rezoning.

Carol Schlueter: I know that, but is that legal?

Eric Furnas: No.

Carol Schlueter: No, that's not legal.

Emily Geertz: Oh...

Eric Furnas: No unless it's on the second floor on a commercial structure.

Tom Harper: Where you are wanting to rezone, there is already an access there?

Peg Ferris: We've put in a curved driveway for the buildings now.

Tom Harper: Okay, is there anyone here to speak for or against?

Carol Schlueter: Okay, why 11.5 acres to be rezoned? Do you need that much for your house?

Ken Ferris: I think it just fits in... it doesn't quite match up with Oscar Russell's next door, but I think it just fits in ... If it were smaller, I would be cutting into the pond and that doesn't make sense.

Emily Geertz: Yeah, well I would rather see it residential than commercial.

Ken Ferris: And quite frankly the commercial... I can't do anything with the property. There's no value there. I mean, I have ponds in there. There's all kinds of commercial property to the east of us, it's that industrial park in Blue Grass that is not being sold very quickly. So I can't really see in my lifetime

the value of my commercial property. I think it just fits in with the Oscar Russell's property for residential.

Carol Schlueter: Yeah. But if we change this, he could come back and subdivide right, and put more houses there?

Eric Furnas: That's correct. Any property over one acre that is zoned R-1 Residential District could be split. That's why when we look at rezoning to residential we have to look at the potential for a residential development in the area. I don't believe that that is their intent at this point however, that is a possibility. He would have to provide a subdivision plat.

Carol Schlueter: Okay, with this other ground that's still yours and is zoned commercial back here, the only way to get back there is through this property where you are wanting to build a house?

Ken Ferris: Yes right now.

Carol Schlueter: So there's no other way to get there, ever?

Ken Ferris: Yeah not now, for now. My intent really is with the property that is left there, I'm just going to farm it or put hay or something in there.

Virginia Cooper: On all of that commercial property with those large buildings?

Ken Ferris: Yeah.

Tom Harper: So the property to the west, which is Mike's, that's still A-1?

Eric Furnas: Correct.

Carol Schlueter: And this is all A-1 Agricultural District surrounding it?

Mike Birkinbine: I just want to ask a question. My name is Mike Birkinbine, I am a neighbor to the west. Can I see the layout? (Eric Furnas gave Mr. Birkinbine the proposed layout)

Carol Schlueter: Where are you proposing to put the house exactly? There are three ponds?

Ken Ferris: I've actually redone some of them. Right here between the two ponds. I fixed the two ponds, they were leaking. So I redid them.

Carol Schlueter: Okay, so if this is approved and you build your new house there, what do we do with the residence that's in the other building? Would it have to be taken out?

Eric Furnas: Well he will not be able to continue to use that as a residential structure without some sort of a very specific Variance being granted. This was not allowed to have a residential use and we have very strict provisions on residential buildings. In C-2 Commercial District they are only allowed on the 2<sup>nd</sup> story, building permits should have been issued, and inspections should have taken place. So that will have to be addressed down the road. It would have to have some Variance issued for it. I would like to speak just a little bit about this proposed rezoning. I know that there are some concerns with a subdivision, however, if you look at the parcel in its entirety right now, it's all zoned C-2 Commercial. Mr. Ferris was within his land use rights to allow that entire parcel into multiple commercial lots to develop. But he is proposing something that is actually less intensive, especially along the frontage of 160<sup>th</sup> Street. We believe that if things were to be developed in that area, that it probably would be better suited for residential development. Like

I said, he could come back with a commercial subdivision plat if he wanted to, to develop this. It's already been rezoned to commercial. We view it as probably an advantage to rezone some of it for residential. It would be more compatible with the uses to the west of this and the residential uses, even though it is not zoned residential. Unless this ground were to be in the city limits of Blue Grass, the commercial use is really not being gobbled into development right now. The demand down the road would probably be more residential in this area. You can see from the topographical map, there are slopes, there are ponds... it's already been taken out of agricultural production. So we are not talking about a loss of prime farm ground.

Tom Harper: Yeah, and I guess this is within the two mile limit of Blue Grass, so any development ... they could get services from Blue Grass.

Mike Birkinbine: Mr. Chairman?

Tom Harper: Yes?

Mike Birkinbine: Mike Birkinbine, and I would like to speak. I am not here for or against this, these are my neighbors. I am only here because I want to understand. It is a commercial piece of property and they are talking about residential. I understand but from my prospective, I don't want to see it turned into a housing development ... but that's Mr. Ferris's right ... because I might want to do the same thing. I'm just looking at it from understanding what my neighbors are doing on their property. I just wanted to make that clear. Like I said, I might be in here doing the same thing.

Tom Harper: Okay, I guess the way I see it, it's just a natural progression ... it's going to happen anyway.

Eric Furnas: Well a residential subdivision isn't a guarantee simply because it's zoned residential. If he decided to attempt the subdividing of this lot in one acres, the Zoning Commission would be challenged on determining whether or not that type of density would be in harmony with the surrounding areas. So it's not to say that you would have to allow a subdivision, there are still avenues that would have to be taken before a subdivision could be approved, there are still safeguards. He would have to parcel off this portion that's being rezoned eventually for the house. So this is just to rezone approximately 11.5 acres. Typically, I want to bring this to your attention, typically we have required a survey that shows exact boundaries of what is to be rezoned. However, we have come to understand that that is costly and time consuming and then you sometimes pay for a survey and then the zoning is denied. So we try to work with landowners and in this case we were able to get a fairly accurate representation of what would be rezoned. If this were to be approved then he would have to have the survey done and this that would become the residential parcel and splits it off from this ground. If he doesn't split it off from the commercial ground, there is a good chance that the tax assessor would take the dwelling as commercial, because the larger portion is zoned commercial and used as commercial. So it would be to their advantage to separate it off what they are going to want to build their house so as to be not taxed as commercial on your house.

Ken Ferris: From what I understand from the assessor's office, if I put it into... if I put the commercial into agricultural (changed tapes) The other thing about the property, we could possibly put maybe one more house on that property over by Oscar Russell's house, but we don't want any subdivisions, we want our views looking south. But that's not saying maybe the next person down the road... say if we sold it, you understand that?

Tom Harper: Yes.

Carol Schlueter: What would be your timeline for putting up the new house?

Ken Ferris: Possibly this summer.

Carol Schlueter: Because I think we really need to address him living there, because you are not legal living where you are at now.

Ken Ferris: Yeah I'm legal living there. It's just when I build the new house, I understand that we couldn't live in two places anyway.

Carol Schlueter: But you said you are living in the commercial building now and you are not legal living there.

Ken Ferris: I think I am.

Tom Harper: Well that's really not a discussion for this board.

Ken Ferris: I mean, I thought that was all addressed way back in 2004. I mean it was agricultural, I was allowed to live there. I was allowed one house on this property. And I was more or less forced by the county to be .... The whole property had to be rezoned to C-2 Commercial District. So I was under the understanding that I was living there legally.

Eric Furnas: That is something that our office will have to deal with.

Emily Geertz: I will make a motion to recommend to the Board of Supervisors approval of this request to rezone approximately 11.5 acres from C-2 Commercial District to R-1 Residential District.

Eric Furnas: Yeah, I would just say approximately because a survey will have to be done.

Ken Ferris: And just... not to interrupt you, but I actually talked to Gary at Martin & Whitacre and I asked him to do a survey.

Tom Harper: Right, so it's not a requirement to be resurveyed but it would be beneficial to be done.

Eric Furnas: In the past we have required it, however, I've tried be sympathetic that there is a considerable expense that's not a guaranteed success. So we were able to pretty accurately portray and described the proposed rezoning, I felt that it wasn't required.

Tom Harper: But if this is rezoned, eventually it would have to be resurveyed?

Eric Furnas: Yes, eventually there will have to be a survey so that we can portray it on our zoning map. But this would allow him to present his request without spending that money without a guarantee.

Emily Geertz: Okay, I will make a motion that we rezone approximately 11.5 acres from C-2 Commercial District to R-1 Residential District.

Tom Harper: Is there a second?

Virginia Cooper: I will second it.

Tom Harper: The motion has been made and seconded to recommend to the Board of Supervisors this request to rezone the existing C-2 Commercial to R-1 Residential District. It would be approximately 11.50 acres bordering 160<sup>th</sup> Street, as portrayed on the map provided by Eric. Is there any other discussion?

Carol Schlueter: I have one more question. It doesn't really say that it's for one house, does it?

Eric Furnas: Well zoning regulations only allow one house per parcel.

Carol Schlueter: Okay.

Eric Furnas: He would have to further subdivide before another house could be built.

Carol Schlueter: Okay, alright.

Eric Furnas: Yes, there are safeguards there.

Tom Harper: Okay, not hearing all further questions or comments, all those in favor of the motion to recommend to the Board of Supervisors to allow this rezoning please say Aye (5) Opposed (0). The motion carries.

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