

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, September 10, 2021, 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 were also in attendance.

Others present for this hearing: John Eichelberger, Lory M. Eis, Larry Kemper and Carolyn Kemper.

Tom Harper: I will open this public meeting and start 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 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 are a full board today. We need to approve the minutes that were sent to everyone, you should have had a chance to read them. If there are no corrections, is there a motion to approve the minutes as read?

Carol Schlueter: So approved.

Tom Harper: Is there a second?

Martha Peterson: Second.

Tom Harper: There has been a motion and it has been seconded to approve the minutes as read. Any further discussion? Hearing none, all those in favor of the motion please say Aye (5) Opposed (0). The motion has passed, the minutes are approved. Eric, would you please read the first request?

Eric Furnas: Yes, it is Zoning Agenda Item #01. Dennis R. Hetzler, Record Owner, requests approval of the proposed two lot agricultural subdivision, Hetzler Corner 17. This property is located in Bloomington Township, in the NE¼ of Sec. 11-T77N-R2W, South of 170<sup>th</sup> Street and West of Hwy. 38, containing approximately 75.71 acres and is zoned A-1 Agricultural District.

Tom Harper: Any correspondence?

Eric Furnas: I had one phone call with a person that had a couple of questions, but that's it, nothing in writing.

Tom Harper: Okay, is the owner or applicant here?

John Eichelberger: No, but I am here on his behalf. My name is John Eichelberger, I am the attorney for Denny Hetzler.

Tom Harper: Okay, if you would give us some background on your request?

John Eichelberger: Denny is planning on selling part of his farmland and because he had previously divided part of his property by selling his mother's homestead to his son, this would be the second split on this property. So under state and county regulations, he is required to go through the subdivision process in order to get permission to sell off part of the property for ag purposes. As shown on

the subdivision plat, the waterway that exists on the property is going to be the dividing line. He is selling off Lot 1 to a neighboring farmer and will continue to own Lot 2, which is the property around his mother's old homestead.

Carol Schlueter: But Lot 1 is the small parcel, is that correct?

John Eichelberger: No Lot 1 is the larger parcel that is split by the waterway. The zigzag line is the waterway.

Virginia Cooper: So he is selling the farm ground and keeping the homestead?

John Eichelberger: Well it is all ag land, and he has already sold off the homestead that's up in the northeast corner.

Brad Akers: That's Amended Parcel E?

John Eichelberger: Yes. But because of that transaction, the sale of that house ... that was the first "free" split. So now we are into a second split, so we have to do a subdivision.

Virginia Cooper: And he's adding what to this?

John Eichelberger: His son owns Lot E and that's a separate deal that's been split off. He is just going to continue to own Lot 2, which is the ag land around his son's parcel. Sorry to confuse you.

Virginia Cooper: No it's fine.

Carol Schlueter: So Lot 2 he is keeping?

John Eichelberger: Yes.

Carol Schlueter: And that is only 16.79 acres?

John Eichelberger: Correct.

Carol Schlueter: And Lot 1 is 60.25 acres, which is what he is going to be selling?

John Eichelberger: Correct.

Carol Schlueter: Eric, on either one of these lots, can someone build a house?

Eric Furnas: The only way a house could be built on these lots would be by farm exemption. They are fairly high CSR2 soils on these and I believe that the Board of Adjustment wouldn't grant the Special Use Permit. This really isn't as complicated as it looks. It is just that the house had been previously split and he wanted to split the remaining ag ground so that he could sell some of it to a neighboring farmer and then retain the rest of the balance of the tillable acreage that is separated by the waterway.

John Eichelberger: Yeah he doesn't know ... but maybe someday his son will want to buy this remaining property that is listed as Lot 2. This property is located within two miles of the City of Muscatine, so we had to get city approval of the subdivision, which has already been done.

Tom Harper: Okay, is there anyone here that wishes to speak concerning this request, either for or against? If so, please state your name before you speak. Are there any comments, questions or concerns? Hearing none, does the board have anything?

Carolyn Kemper: Wait a minute, wait a minute. Do you want to speak?

Lory Eis: Well I'm just concerned about this being sold. I certainly do not want a subdivision there.

Tom Harper: Right, but ...

Carolyn Kemper: So it will remain farm ground?

Eric Furnas: It will remain zoned A-1 Agricultural District, which is subject to the land use restrictions that any other land that is zoned agricultural would have. The only way a house could be built on it, is if it was the farmer of the property. Everybody gets nervous when there hear the word subdivision. But that does not automatically mean residential development. Subdivision is just a process that the farmer, in this case, had to go through in order to sell part of the farm ground. It is not rezoning the property, it doesn't allow for residential development, because it's all zoned agricultural.

Carolyn Kemper: But other types of buildings could be built on this property?

Eric Furnas: Nothing different then what could have already been built on it, because it is still zoned agricultural.

Carolyn Kemper: Like barns or...

Eric Furnas: Sure, I mean that is allowed to build a barn on agricultural zoned properties. Grain bins, farms, livestock operations, anything that is allowed under the A-1 Agricultural District.

Carolyn Kemper: But not dwellings?

Eric Furnas: Only for the farmer that is issued a farm exemption. They have got to apply for farm exemption, but they likely would be entitled to farm exemption because they would be receiving money from the farming operation.

Tom Harper: So on the 17 acres that is surrounding the existing house, the only thing that could be built on that would be farming type structures?

Eric Furnas: It could possibly be a farm exemption house too.

Tom Harper: But anything under the uses permitted could be built in the A-1 Agricultural District.

Eric Furnas: Yes, is it was a Special Use Permit, it would need to be approved by the Board of Adjustment. But this process does not allow anything additional than what was already allowed in this zoning. Whether this subdivision happened or not, they can only do what is in the uses permitted under the A-1 Agricultural District.

Virginia Cooper: Isn't it more likely that if they do look at changing things and housing, it is going to come from the city end as they creep into the county, not come from the county? Since it is high CSR2?

Eric Furnas: Well the city doesn't control rezoning or land use in the county.

Virginia Cooper: No, but in that two mile radius that they can expand into? I would think that the city would have more control over that.

Eric Furnas: Yeah, but I don't think that the city has any current plans as of right now.

Virginia Cooper: Not that far?

Eric Furnas: No, not that far.

Virginia Cooper: So it's probably just right on the edge.

Eric Furnas: Well anything within the two-mile limit is an expected development zone. Our Comprehensive Plan also talks about steering away from high productive soils. So from the county's perspective, I don't see this as being rezoned to residential or commercial for a long long time. Now if the city annexation reached out that far, someday it may.

Carolyn Kemper: What does CSR2 mean?

Eric Furnas: It stands for corn suitable rating. It is just a measure of the productivity of the soil. The county discourages development on this type of ground. We want to keep it in agricultural.

Lory Eis: Right, that's better.

Eric Furnas: But again, this doesn't allow for anything other than what was already allowed in the A-1 Agricultural District.

Carolyn Kemper: But in the future if someone would want to change the zoning, we would be notified?

Eric Furnas: We send notices to homeowners 500 feet around the entire property, place a legal ad in the paper and on the county's website to notify them of the hearing.

Martha Peterson: There's also a vague statement about adding some ground to his son's property?

Eric Furnas: Well I believe that they are going to add to the son's property a little too. Were they going to increase the size of his lot a little?

John Eichelberger: No, quite honestly if they are doing that, I was unaware of that.

Virginia Cooper: Yeah, it says for the lot size to be increased slightly.

Eric Furnas: Yeah, that was my impression of this too. I mean I can look at it compared to what it was.

Martha Peterson: Yeah, maybe that second line ... that's a dotted line that goes around the parcel, is what is increasing?

Brad Akers: Well it says Amended Parcel E, so there has been some sort of change.

John Eichelberger: Yeah, I know that that was discussed but Denny dealt directly with the surveyor.

Eric Furnas: Alright, so they already did that previously. They had already increased that when they did this subdivision, that's why it says Amended Parcel E.

Tom Harper: Okay.

Eric Furnas: Yeah, they split off the mother's home, and then just before this subdivision plat, they increased that ground around the home. So this subdivision does not increase that lot.

Tom Harper: Okay, is there any other questions or comments concerning this plat?

Carol Schlueter: I think she has another question.

Lory Eis: Well I was just wondering why he wanted to sell it and why he doesn't want to keep it whole?

Eric Furnas: Well that's his personal choice.

Lory Eis: I just don't like it broke up in a subdivision.

Tom Harper: Can you please identify yourselves for the record?

Carolyn Kemper: I am Carolyn Kemper and this is my husband Larry.

Lory Eis: My name is Lory M. Eis.

Eric Furnas: Yeah, a subdivision is just a term used to describe a process that would be the second or subsequent split of a property. There are agricultural subdivisions, residential subdivisions, industrial subdivisions and commercial subdivisions. This is just an agricultural subdivision that allows him to sell the ag ground. It does not change the zoning of the property or the permitted land uses.

Lory Eis: Wasn't there a hearing several weeks ago about selling this property?

John Eichelberger: I believe that was the one through the city, because the city had to approve the subdivision plat.

Lory Eis: Because I called you about that.

Eric Furnas: Well you called me when you got our notice.

Lory Eis: No not this one, the one before.

Carolyn Kemper: I called you when we got this notice.

Eric Furnas: I imagine you are talking about the city one then.

Lory Eis: No, it wasn't the city one. And you told me, because I asked you if they could build houses on it and you said no. And I said that I couldn't come to that hearing.

Eric Furnas: We haven't had any other hearings on this subdivision in front of this board.

Lory Eis: It even had a map that I couldn't read.

Eric Furnas: Oh yeah that's the city. They held a public meeting too because it's within two miles of the city limits.

Lory Eis: Oh... okay.

Eric Furnas: It just requires the city to sign off on the subdivision plat.

Carolyn Kemper: We didn't get that notice.

Eric Furnas: I'm not in charge of who the city sends their notices to.

Tom Harper: I was going to say, the only other action that I remember on this property was when they put that LP tank on there and that's been several years. They would have asked for a Special Use Permit through the Board of Adjustment.

Eric Furnas: Right.

Carolyn Kemper: Do you have any other questions?

Lory Eis: No.

Carolyn Kemper: Okay, you could proceed.

Tom Harper: Is there anyone else here or on the board that has any additional questions or comments? If not, is there anyone on the board that wishes to make a motion to recommend to the Board of Supervisors?

Martha Peterson: I will make a motion that we recommend to the Board of Supervisors approval of this two lot agricultural subdivision, Hetzler Corner 17.

Tom Harper: Is there a second to that motion?

Brad Akers: I will second it.

Tom Harper: Okay, a motion has been made and seconded to recommend to the Board of Supervisors approval of this request for a two-lot agricultural subdivision, Hetzler Corner 17. Any further discussion? Hearing none, all those in favor of the motion please say Aye (5) Opposed (0). The motion carried. This will now go onto the Board of Supervisors and you will get a notice for that meeting as well.

John Eichelberger: Thank you.

Others present for this hearing: LeeAnn Smith.

Tom Harper: We will move onto the next request. Eric, can you please read that request?

Eric Furnas: Zoning Agenda Item #02. David W. Johnson Trust, Record Owner, by Barbara and Richard Kaalberg and LeAnn Smith, requests approval of the one lot agricultural subdivision, David W. Johnson Trust Subdivision, containing approximately 1.49 acres. This property is located in Wapsie Township, in the SE¼ of Sec. 18-T78N-R3W, Parcel A, 1689 130<sup>th</sup> Street, containing approximately 22.97 acres and is zoned A-1 Agricultural District.

Tom Harper: Is there any correspondence?

Eric Furnas: I don't believe so.

Tom Harper: Is the owner or their representative here?

LeAnn Smith: Yes, I am LeAnn Smith. I am his sister and the trustee of David W. Johnson Trust.

Tom Harper: Can you please give us a little background on this?

LeAnn Smith: Yes, we are separating off the buildings and the lot with the barn, the garages, and the house in order to be sold. We'd like the bins and the agricultural ground to stay as agricultural in order to maintain the Johnson Trust so that his heirs can keep the property.

Tom Harper: Is this the one that went before the Board of Adjustment just recently?

Eric Furnas: Yes, I was just going to say that if you were on the Board of Adjustment you might recognize this. They had to apply for and they received a Variance to prepare a plat in this fashion because, as you can see, the property line goes between the barn and the existing bins. There is not the normal setback. But it was granted by the Board of Adjustment stating that if there is any damage of the buildings or if they want to build any new buildings, that they would have to meet current setback requirements.

Tom Harper: So do you have anything further on this?

Eric Furnas: Just kind of the same thing... this would just allow them to split off the existing dwelling and buildings and to split off farm ground. This property remains zoned A-1 Agricultural District and has the same land use restrictions as it did before.

Tom Harper: So your intent is to keep the grain operation with the farm ground and all of the rest of the buildings to be sold off with the house?

LeAnn Smith: Yes.

Tom Harper: And there was a previous split on this?

Eric Furnas: Yes in the quarter-quarter section it had been split.

Tom Harper: Does anyone on the board have any questions or comments? If not, is there 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 one lot subdivision, David W. Johnson Trust Subdivision.

Tom Harper: Is there a second to that motion?

Virginia Cooper: I second.

Tom Harper: Okay, there has been a motion and it has been seconded to recommend to the Board of Supervisors approval of this one lot agricultural subdivision, David W. Johnson Trust Subdivision. Any further discussion? Hearing none, all those in favor of the motion please signify by saying Aye (5) Opposed (0). The motion has passed, it will now go onto the Board of Supervisors.

LeeAnn Smith: Thank you.

Others present for this meeting: John Eichelberger.

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

Eric Furnas: Zoning Agenda Item #03. Tyson Lee Ochiltree, Record Owner, requests approval of the one lot agricultural subdivision, Ochiltree's Subdivision, containing approximately 6.16 acres. This property is located in Moscow Township, in the NW¼ of Sec. 33-T78N-R2W, 2424 152<sup>nd</sup> Street, containing approximately 75.64 acres and is zoned A-1 Agricultural District.

Tom Harper: Was there any correspondence?

Eric Furnas: No sir.

Tom Harper: Is the owner or their representative here?

John Eichelberger: I am representing Tyson Ochiltree on this request, my name is John Eichelberger.

Tom Harper: Would you please give us a little more information on this one?

John Eichelberger: Well I guess it is the theme of today's hearings, this is another ag subdivision. Tyson Ochiltree is trying to sell off the acreage and land around his home. Because part of his property has been previously split, they technically have to go through the subdivision process. It is not within two miles of any city, so we did not have to do that. I would be happy to respond to any questions that you may have.

Tom Harper: Eric, do you have any comments?

Eric Furnas: It's just... is he planning on selling the house and the six acres or selling the remaining farm?

John Eichelberger: From my understanding he is going to sell the house and the six acres. The narrative that we got with the application says to sell the one lot subdivision and retain the remaining farm ground. I believe that he is selling the residence because he does have another house that he is moving too.

Eric Furnas: So sell Lot 1 and retain the farm ground?

John Eichelberger: Yes, I believe that that is true.

Carol Schlueter: Can you come and show us what you are talking about please? I can't figure this out. So I have this here and it says Lot 1 with the house. What is this here?

John Eichelberger: This was the original 40 acres and this was the first free split and that was carved out of it. Now we are carving this out of it, so that's why we have to do the subdivision.

Carol Schlueter: So this is what he is selling?

John Eichelberger: Yeah, it's a fence line.

Carol Schlueter: Oh, okay. I'm sorry.

John Eichelberger: No, no that's fine.

Carol Schlueter: Okay, I got it. And on this they can build a house, right?

Eric Furnas: Only under farm exemption or have Board of Adjustment approval.

Carol Schlueter: No, what they are splitting off.

Eric Furnas: No, there is already a house on what they are splitting off. They are just splitting off the house and six acres from the rest of the farm ground.

Carol Schlueter: Oh, so that's a house there?

Eric Furnas: Yes.

Virginia Cooper: Yeah, it's hard to see.

Tom Harper: Okay, is there any other questions or comments by the board? If not, is there a motion to recommend to the Board of Supervisors?

Virginia Cooper: I will make a motion to recommend to the Board of Supervisors approval of this one lot agricultural subdivision, Ochiltree's Subdivision.

Tom Harper: Is there a second?

Brad Akers: I'll second it.

Tom Harper: The motion has been made and seconded. Is there any discussion? Hearing none, all those in favor of the motion please say Aye (5) and Opposed (0). The motion has been passed, it will now go onto the Board of Supervisors.

John Eichelberger: Thank you very much.

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