

**MINUTES OF THE BLACK HAWK COUNTY PLANNING AND ZONING COMMISSION MEETING
HELD ON MARCH 19, 2019 HAROLD E. GETTY
COUNCIL CHAMBERS - WATERLOO CITY HALL.**

Chairman Beck called the regular monthly meeting of the Black Hawk County Planning and Zoning Commission to order at 7:06 pm, Tuesday, March 19, 2019, in the Harold E. Getty Council Chambers- Waterloo City Hall.

I. Call to order and roll call

Members present: Allen Sage, Deb Nagle, Kamyar Enshayan, Peter Beck, and Amanda Fesenmeyer
(Participated by Phone)

Members absent: Gary Wurtz and Renata Sack

Also present: Black Hawk County Planning Staff – Seth Hyberger and John Dornoff, and 8 members of the public.

Approval of the agenda.

It was moved by Enshayan and seconded by Nagle to approve the agenda. Motion to approve the agenda carried unanimously.

II. Approval of minutes of the February 19, 2019 regular meeting.

It was moved by Sage and seconded by Enshayan to approve the minutes. Motion to approve the minutes carried unanimously.

III. New Business

1. 6114 Ford Road – Koenen Rezone

Request to rezone 4.95 acres from “A” Agricultural District to “A-R” Agricultural-Residential District in order to build three new single family homes.

Hyberger gave the staff report and later read an email aloud that was submitted by Dixie Anderson. Ms. Anderson was in opposition to the request and was concerned that having three additional homes in the area would severely impact her country lifestyle. In addition she was concerned: 1) local farmers would be forced to change their established agricultural practices; 2) impacts to property values; 3) impacts to property taxes; 4) eliminating trees and increasing the carbon footprint; 5) trees may have been originally planted as part of a NRCS federal program; and 6) was concerned about increased traffic & and additional wear and tear on county roads that are already poorly maintained.

Shawn Koenen, 6114 Ford Road, they are simply looking at dividing a portion of their property into three lots to allow for three single family homes and share the area with other people. The land is not being used or farmed right now because it has a lot of trees on it. The trees have been there since the 1980’s. Beck asked Koenen how long he had been at his current residence. Koenen noted he has lived at his property since August of 2010. Beck noted he was not able to visit the site and asked how tall the trees were. Koenen noted there is a lot of pine trees out there with some hardwoods mixed. Most of the trees are not very tall. Beck asked how far the proposed rezone is from Waverly Road. Koenen indicated that the proposed rezone area is a mile from Waverly Road.

Enshayan noted his concern is that the site is highly valued agricultural land and it is the role of the Planning and Zoning Commission to preserve this land. It shouldn’t matter if the ground contains trees or not. Enshayan noted they could do a lot of things on high value soil and indicated that the property and the

surrounding area are all zoned “A” Agricultural District as well to the north, south, east, and west. Everything is very agricultural in that area.

Beck noted that he understands what Enshayan is saying and understands why people want to live in the country. Beck noted he likes trees and has planted a lot of them and likes his neighbors a half mile away. The trees were planted five, ten, or more years ago. No, one is ever going to cut down those trees to farm it. There are also several homes already off of Waverly road and the rezone area is only one mile from Cedar Falls. Beck noted personally he does not want homes to be placed in areas that are farmed or contain prime farm ground. He does get what the applicant is doing and isn’t necessarily opposed to it. It has been the temperament of the Planning and Zoning Commission to support similar rezone requests. The rezone area seems like a good place to build homes due to its location near Cedar Falls and a black top road. There are other neighbors in the area as well. Beck also noted he does not see traffic as being an issue as well. The lots are a decent size and are not talking about one acre lots either with septic systems. Beck also noted that it would be a good place to build homes.

Nagle asked Beck if he helped work on the existing future land use map. Beck indicated that he did help assist with the creation of the future land use map. Nagle noted that the future land use map is used as a guide for future growth and the map designates the surrounding area as Agricultural and this land was meant to remain agricultural in the future by the persons who created the future land use map. Beck noted that he and Aric Schroeder worked on the existing future land use map and it has been 15 years. Beck also noted that the Comprehensive Plan usually dictates that the future land use map should be updated every ten years and maybe it is time to do another update for the Comprehensive Plan. The intent of the future land use map was to protect agriculture. Beck also noted the growth of Waterloo and Cedar Falls and that more people want to live in the country. In the past things have been placed on prime farm ground and several homes half popped up in the county over the last five or ten years. If a person looks back 10 to 15 years ago there were several roads in the county that had few or no homes on them. Beck also remembers previous proposals for Buck Ridge and Turkey Foot Heights near the rezone area and neighbors did not want new homes there as well.

Enshayan noted that allowing additional homes in the county is under their watch. Previous Planning and Zoning Commission members before them allowed those previous housing developments to take place, but he is here to protect prime farmland. It’s a mandate in the zoning ordinance and makes sure good planning happens. Beck noted the land for this rezone request is not prime farmland. Brian Schoon at the technical review committee did indicate that the land is two points away from being considered high agricultural value land, but the site is still considered to have moderate agricultural value regardless. Enshayan reiterated it is still prime farmland and it’s a farming region. Beck noted that he has seen things built on prime farm ground. Nagle then noted the Planning and Zoning Commission cannot prevent cities in Black Hawk County from building on prime farmland. Nagle later noted how much does a tree grow in 20 years or how long does it take to regrow a tree that has been chopped down for development. Beck noted that members of the Planning and Zoning Commission remember the Peregrine Financial project that was built in a sensitive environmental area, but it was a super green building. That is what they wanted to have. Prime agricultural ground is important until it’s not important. The proposed wind turbines are also going to be built on prime farm ground as well.

Beck and Fesenmeyer were in favor of the rezone request due to its close proximity to Cedar Falls and it being only a mile from an existing rural housing development off of Waverly Road.

It was moved by Enshayan and seconded by Nagel to deny the request to rezone 4.95 acres from “A” Agricultural District to “A-R” Agricultural-Residential District in order to build three new single family homes. Motion to deny carried 3-2 with Beck and Fesenmeyer voting nay.

2. North and East of 10626 Mark Road – Bosier Rezone

Request to rezone 4.5 acres from “A” Agricultural District to “A-R” Agricultural-Residential District in order to build three new single family homes.

Hyberger gave the staff report. Hyberger later indicated that two people who were unable to attend the meeting, but wanted to note their opposition to the request. Jerry Martinson 10505 Mark Road and Jerry Roling at 10770 Mark Road both indicated they were in opposition to the project and did not want three additional neighbors. They moved out to the country in order to get away from people.

Jim Bosier, 6410 N Butler Road, noted he lives north and west from the proposed rezone areas and owns 112 acres of land. He has owned the land for 15 years and lives approximately ½ mile from the site. Bosier noted 2 years ago the Hoy property to the south of his property was approved by the Planning and Zoning Commission for a rezone request to construct two single family homes. Last year he submitted a request to rezone three lots from “A” Agricultural District to “A-R” Agricultural-Residential District in order to build three single family homes. The three sites were vacant lots and the rezone request was denied by the Planning and Zoning Commission. He moved the three rezone sites away from Mark Road to help keep the dust down and does not see an issue with having a long driveway. Jerry Roling at 10770 Mark Road has a long driveway as well. The driveways for the three proposed sites will be no longer than current driveways in the area. Bosier noted that he talked with all of his neighbors in the area regarding the project and some of them do not want more people by them, but the area that they live at is already a housing development and there are new homes already being built in the area. A lot of these people are country folks that grew up in the country. So, they can have timber and raise a pony for one of their kids. Bosier also noted it is not great farmland for growing crops. The three proposed sites are back by trees and there are people that would love to have the opportunity to live in the country and build a home. He also wants to make sure he is selling the home to the right people that will not build a cracker jacks box homes out there.

Beck asked if the three parcels you plan to build are on higher ground. Bosier noted yes. Beck asked Bosier where he thinks the driveways will go. The lot furthest east already has a lane right now and the other two proposed lots will most likely use a lane along the tree line. Fesenmeyer asked if the two western lots will use a shared driveway and if Bosier would be open to just having one lot there instead of two. Beck asked if a County Engineer was at the meeting. Hyberger noted that Ryan Brennan was there at the meeting and indicated there was no discussion regarding driveways at the Technical Review Committee meeting, but road access would be up to the Black Hawk County Engineering Office. Fesenmeyer then asked the size of the lots. Hyberger indicated that they were all 1.5 acre lots. Fesenmeyer noted that this request was very similar to the previous request and noted they previously rejected Bosier’s rezone request because it was on vacant land. Beck noted that was correct. Fesenmeyer then asked if building on vacant land was the main reason for the denial. Hyberger noted that was part of the reason for the denial, but a neighbor did oppose the request at the meeting as well. Beck noted the open farm ground was his main reason for the denial, but the land LESA score was very close to having low value agricultural ground. Indicating it was poor farm ground.

Chris Tott, 10626 Mark Road, noted he lives next to the proposed rezone area and he is in opposition to the project. He moved to his property in order to do some small scale agricultural enterprises. They operate pasture for poultry and egg production, maple syrup, and some fruit trees as well. Tott also indicated he plans on purchasing additional pasture to expand his enterprises to incorporate grass feed cattle and lambs, but that would only be if the land was sold as agricultural land in the future. Tott also noted that he will have two new neighbors already to the south of him and those sites were recently rezoned to “A-R” Agricultural Residential District. Having three additional homes would be problematic to traffic and Mark Road is rather narrow. Tott also indicated that he has to clear a lot of brush on his property and will have to burn it to improve the soils. Having two additional properties next to his will severely limit his ability to maintain his property. Tott indicated that if that land ever came available for agriculture. He would definitely buy it, but he could never afford the land if it is rezoned to “A-R” Agricultural-Residential. Tott also noted there are rodents and possums out there. Having additional homes out there would limit his ability to eradicate them and he may have to resort to trapping, which would be less effective. Beck asked Tott how long he had been living at his property. Tott noted he has been at his property for a year and a half. Tott was asked if he had concerns regarding the two homes that were to be build south of his property. Tott noted he made an offer on the properties, but it was only 60% of the asking price. So, he could not afford it, but was aware they were potential building sites.

Jeane Rabune, 10615 Mark Road noted she lives across the street from the proposed rezone area and that she and her husband was at the public hearing for Bosier's previous rezone request on June 19, 2018 and they were in opposition to the project. She noted Jerry Martinson is her father and he gave them the 40 acres to build their home on as required by Black Hawk County. They moved to the country to be in the country and did not come to a county to be part of a subdivision. They were also opposed to the Hoy rezone request in 2017. If the rezone request is approved there will be 7 homes in close proximity to one another. Rabune also noted she didn't want to see additional traffic on Mark Road. If a home was being placed on 40 acres they would not be here at this meeting. Rabune next read a statement from Jerry Martinson. The letter noted that he was opposed to the development. Due to the 500 feet notice requirement, he was not notified regarding this request. The letter also stated that he does not understand why the rezone areas were not on Butler Road instead of Mark Road and was against the proposed development.

Bosier noted that he chose not have the proposed lots off of Butler Road because it's vacant agricultural land and there would be difficulty getting that approved. Bosier asked if it was 40 or 35 acres he could build a home on without having to rezone it. Hyberger noted 35 acres. He already has one home on 122 acres and that leaves him enough land to build two additional homes without a rezone, but that is not what he wants to do. He has no use for the land where the proposed rezone areas are. Bosier indicated he would still like to have those three properties rezoned and he isn't asking for anything that has not been done before. Bozier indicated he was at the public hearing for the Hoy rezone and there was no opposition to it.

Enshayan stated that it was interesting to hear Mr. Tott's information regarding his smaller agricultural enterprises. This is an area with poor quality land, but it should still be used for agricultural activities. The land should not be rezoned and only used for agricultural purposes. There is also a whole world to feed. It's a responsibility to the commons and the Planning and Zoning Commissioners are there to protect the commons. It may be low quality soil, but the land could be improved on. Enshayan noted that he is an Agricultural Engineer and there are several things that could be done with that land. He would hate to see it become residential.

Beck noted those are good points. Beck also noted he was in opposition to Bosier's previous request because of the farm ground. The land was also noted as moderate farm ground and they have to work within the parameters that they have. Enshayan was also correct by stating any piece of ground can be improved upon. Will the soil quality improve over time? Maybe or maybe not. Bosier has done a good job with being a good steward to his land and he does not spray chemicals.

Fesenmeyer noted the likelihood of that land being farmed is minimal due to it being a wooded area and noted there are already five homes in the immediate area as well. Having a few houses out there does fit and the homes are far off from the road. She did not have an issue with the land being rezoned due to there being homes out there already. Enshayan, Sage, and Nagel were concerned about maintaining good farm ground and having three additional homes in the area. Enshayan also wanted to note in the staff report that the land is zoned "A" Agricultural District to the North, East, and West. Hyberger did note that there are currently two properties that were rezoned to "A-R" Agricultural-Residential District to the south of the proposed rezone area. Enshayan later stated that the land is still primarily agricultural. Nagel also commented that land can still be considered agricultural even though it does not have corn or beans. It can still be grazed on and have a small garden. Getting rid of trees and pasture is getting rid of agricultural land. Beck also noted that people who live in areas with trees generally want to keep as many as possible. Fesenmeyer noted that she lives on 6.5 acres. They do garden, and rezoning the land to "A-R" Agricultural Residential will not prevent the potential owners from doing agricultural activities on their land. The area also seems to be more of an agricultural residential area than agricultural.

It was moved by Fesenmeyer and seconded by Beck, to approve the Request to rezone 4.5 acres from "A" Agricultural District to "A-R" Agricultural-Residential District in order to build three new single family homes. Motion to approve was denied 2-3 with Enshayan, Sage, and Nagel voting nay.

IV. Discussion

No discussion items were discussed

V. **Adjournment**

It was moved by Enshayan and seconded by Nagel to adjourn at 8:10 p.m. Motion carried unanimously.

Respectfully submitted,



Seth Hyberger,
Black Hawk County Zoning Administrator