

**MINUTES OF THE BLACK HAWK COUNTY PLANNING AND ZONING
COMMISSION MEETING**

Harold E. Getty Council Chambers - Waterloo City Hall

Wednesday, March 15, 2022, 6:00 p.m.

Meeting was also conducted via Zoom

Hyberger called the regular monthly meeting of the Black Hawk County Planning and Zoning Commission to order at 6:00 pm, Wednesday, March 15, 2022, at the Harold E. Getty Council Chambers - Waterloo City Hall.

I. Call to order and roll call

Members present: Schares, Agee, and Schaefer participated via Zoom. Bosier participated in person.

Members absent: Sage and Nagle

Also present: Black Hawk County Planning Staff –Seth Hyberger and Lexi Blank participated in person and 25 members of the public participated at the meeting.

Approval of the Amended Agenda

It was moved by Agee and seconded by Schares to approve the agenda for March 15, 2022. Motion to approve the agenda carried unanimously.

II. Approval of the minutes for the January 19, 2022 regular meeting.

It was moved by Agee and seconded by Schaefer to approve the minutes. Motion to approve the minutes carried unanimously.

III. New Business

1. 6925 Ansborough Avenue Becker Rezone

Request to rezone 1.5 acres from “A” Agricultural District to “A-R” Agricultural-Residential District in order to construct one new single family home. This rezone request was previously approved by the Board of Supervisors on 1/18/2022, the legal description is simply being updated.

Hyberger gave the staff report. Bosier asked if the number of acres being rezoned changed. Hyberger noted he was given the legal description for the rezone request for 1.5 acres, but a portion of the land was right-of-way. The revised rezone legal description contains 1.5 acres with no right-of-way included, in compliance with the zoning ordinance.

It was moved by Agee and seconded by Schares to approve the request by Mark Becker to rezone 1.5 acres from “A” Agricultural District to “A-R” Agricultural-Residential District in order to construct one new single family home at 6925 Ansborough Avenue. The request was unanimously approved.

2. 6925 Ansborough Avenue Becker Minor Plat

Request by Mark Becker to plat 1.5 acres in order to allow for the construction of one new single family home.

Hyberger gave the staff report. No additional discussion.

It was moved by Agee and seconded by Schares to approve the request by Mark Becker to plat 1.5 acres in order to allow for the construction of one new single family home at 6925 Ansborough Avenue. The request was unanimously approved.

3. North of 4902 S Raymond Road Even Rezone

Request to rezone 4.54 acres from “A” Agricultural District to “A-R” Agricultural-Residential District in order to construct two new single family homes at 4902 S Raymond Road.

Hyberger gave the staff report and indicated the gravel driveway approach is approximately 80 feet south of the north property line and that is where the road access would come off of and head westward to connect to the rezone areas. Hyberger noted that Ryan Brennan with the Black Hawk County Engineering Department did not have any concerns regarding the gravel driveway approach.

Harold Even at 4316 McStay Road noted he is requesting to rezone the property because that land will not grow anything. Even stated that east of Gilbertville he owns some property and it was recently approved for a rezone.

Russ Frost at 5745 Sierra Drive had concerns regarding the well and septic systems and if his property would be impacted by two additional homes next to his property. Hyberger indicated there should not be any issues because each lot will be over two acres and Eric Heinen with the Black Hawk County Health Department attended the Black Hawk County Technical Review Meeting and did not have any issues with this request because each proposed lot will be over 1.5 acres in size.

Karen and Todd Taylor at 4632 S Raymond Road indicated they were against the rezone request because the two proposed rezone sites are too close to their home that was built over 30 years ago and Karen Taylor indicated they enjoy their quiet country living. A substation was recently built north of their property and she was concerned that her property value may be impacted if two additional homes were built near their property. The Taylors approached Even’s father in-law about buying additional land near them, but they could not afford the \$11,000 per acre price for the property. Taylor indicated that when they received approval for their rezone request in 1989 that they had signatures from surrounding property owners that supported their request. In addition she was concerned that the new home owners would not maintain their properties.

Even noted that the Taylor’s got their dream home’s land from his father in-law and that he is a farmer. Even stated that the Taylors are trying to control what he is doing with his land. Bosier indicated the driveway approach will serve at least one home and asked Even what access point will be used to serve the second driveway approach. Even noted that the driveway access will serve both homes. Bosier asked if the land is currently being farmed or when the land was last farmed. Even noted that the land is not being farmed, has not been farmed in years, and the land will not even grow hay. Bosier asked if he had either proposed lot sold now and would he be willing to sell the land to the Taylors. Even noted he would sell the land at a fair price. Agee asked if staff responded to Lesley Ortner’s email. Hyberger indicated that he did respond.

Hyberger read the questions and answers at the meeting.

Some concerns we have are:

*How this would affect our well and septic. Will adding additional units affect others and seepage into adjacent properties. No, each of these properties will be over two acres in size and should have no impact regarding septic seepage onto adjacent properties. The Black Hawk County Health Department does not have a minimum recommended lot size for septic systems, but indicated that having a lot size of over 2 acres should be of sufficient size for the area.

You can contact Eric Heinen at 319-291-2413.

*With potential new neighbors/property owners moving in, raises concern on property value and privacy? We bought and built here for the fact it was “country” and the location it provided. There is a high demand for lots and homes in the unincorporated Black Hawk County with a limited supply. There are already approximately 20 homes along Sierra Drive. Two more homes in the immediate vicinity with their own access coming off S Raymond Road should have minimal to no impact on property values.

*Will there be covenants put in place if this passes on how potential new owners have to keep up their property or the type of home/buildings they can put up? That will be up to the property owner.

*That this isn't the only property he wants to rezone but just a start. Will he eventually put more homes on the rest of the land in future and then we have a housing addition?

For the lot where the two rezone areas are located. Hyberger noted Mr. Even can only request to rezone for two new homes, because the lot had already been split off for one new home and a pre-1982 home. In addition, if Mr. Even wanted to build more homes, the site would be considered a major subdivision and Mr. Even would have to build a sanitary sewer system and water system to serve the site.

Where does this end if this gets approved? All future rezone requests will have to go before the Planning and Zoning Commission for a recommendation and the Board of Supervisors will have the final vote. A new public hearing will be required for all future rezone requests.

Agee noted that Even made a threat to the Taylors if this rezone is not approved and was concerned if Even was making a threat to the Planning and Zoning Commission members if they did not approve the request. Even noted that he is a farmer that raises cattle and hogs. He is running out of land to store his manure and he has the right to place it on his property. So, he plans placing manure on the lot that contains the two rezone areas and Iowa Department of Natural Resources noted that it is legal for him to place a hog building on that site.

Schaefer asked the applicant if he is threatening to place manure on the property if his rezone does not get approved. Even asked Schaefer if she would prefer to have two homes out there or a hog building. Schaefer noted that she could not answer the question because it does not impact her. Even noted that he would only be able to put two homes out there if the rezone request is approved. Even is asking the Taylor's if they would rather have two more homes out there or a hog confinement building. Schaefer noted that Mr. Even is giving an ultimatum to the Taylors and asked Even what he plans on doing with the remainder of the land if the rezone is approved. Even noted that he will continue to farm corn on that land. Schaefer asked if the address for the property was 4902 S Raymond Road. Hyberger noted no, that the 4902 S Raymond Road property is south of the parcel where the two rezones are being requested and noted the triangular gravel area 80 feet south of the Taylor's driveway is where the road access

will come off of for the two properties.

Bosier noted that he is denying the request because the land can still be farmed.

It was moved by Bosier and seconded by Agee to deny the request by Harold Even to rezone 4.54 acres from "A" Agricultural District to "A-R" Agricultural-Residential District in order to construct two new single-family homes at north of 4902 S Raymond Road. The request to deny was unanimously approved.

4. 440 Main Street Voorhies Heartland CO-OP Rezone

Request to rezone 0.2 acres from "A-L" Agricultural-Limited District to "C" Commercial District in order to allow for a commercial building with a primary grain office/scale use and employee housing as a secondary use.

Hyberger gave the staff report. Terry Frahm with Heartland CO-OP at 2829 Western Parkway, Ste. 350, West Des Moines, indicated that they are proposing the zoning change for their property. The current use is as an office building and they are requesting to have housing in the basement for their workers. They have worked with (H-2A) visa workers and part of the agreement is that they provide housing for their workers.

David Henke at 6426 Voorhies Road, indicated he was against the request and had a signed petition. The petition stated that, "We, the undersigned residents of Voorhies, Iowa and surrounding area petition the Commission and ask the rezoning request by Heartland CO-OP in Voorhies, Iowa be denied. This small unincorporated, town is not equipped to support migrant (H-2A) workers as there is no grocery store, restaurant, gas station, medical service, taxi or bus service, entertainment, in our small town. If these employees, cannot legally drive they will not be able to walk anywhere to get even the most basic needs or services they will require. Heartland CO-OP should not be allowed to "warehouse" these employees in an office building with a septic system that was never designed for this purpose and where they have no access to anything. In their down time, they cannot walk or get on a bus to go shopping or out to east, see a doctor, etc. All of this creates a safety concern for everyone involved."

Henke stated they he has no issues with the current office use. 1. The Zoning change is only needed so Heartland CO-OP can house employees on site. 2. Heartland CO-OP owns the old Traer Manufacturing Building which has a large office that could house these workers and the town has the amenities to support them. 3. Housing more than seven workers qualifies the site as a migrant camp and Heartland CO-OP is required to follow and be in compliance with Iowa State Code Chapter 138. 4. The basement windows need proper egress so the workers can escape in the event of fire. 5. The temporary workers could have access to office records that contain private information. 6. The workers do not speak English. 7. A 30,000 gallon anhydrous tank on the site must be a minimum of 300 feet from any residential building and this standard has not been met. 8. Everyone of the persons that signed the petition has lived within the Voorhies region before Heartland CO-OP purchased the site.

Heather Olsen at 12008 Main Voorhies Street, wanted to point out to the Planning and Zoning Commission that there were 22 persons from the Voorhies region in the Waterloo City Hall Chambers that are against the request. Olsen stated that she has four children and they came to Voorhies to be in the country. Olsen also indicated that the Heartland CO-OP is not a 24-hour operation and does not support having temporary housing in an office building.

Henke pointed out that these workers will not be working at the Heartland CO-OP Voorhies site and they most likely would be working at locations outside of Voorhies. The eight people living in the office basement will not be working in Voorhies.

Brenda Allen 6915 W Reinbeck Road, noted that they bike and walk in Voorhies during the summer time. Allen wanted it to be known that they are not against migrant workers, but that office is not a good location for migrant housing and was against the request. Allen indicated she was disappointed that the Black Hawk County notice letter did not include enough information regarding the request and notices only were sent to persons living within 500 feet of Heartland CO-OP. Hyberger indicated that he has been the Zoning Administrator for Black Hawk County for over five years and that he was the person that wrote the letter. It was never his intention to mislead or disappoint anyone and that the letter met the notice requirements of the Zoning Ordinance. Hyberger also indicated that the notices he sends out for Black Hawk County are very similar to the ones that are mailed out in the City of Waterloo. Hyberger also stated that he is a one-person operation with two jobs and half of his time is spent serving the citizens of Waterloo.

Donna Oudekerk 242 Main Street, indicated that she was disappointed in Heartland CO-OP because they did not do any outreach with the community in regards to the request. She knew nothing about the request until she received the notice from Black Hawk County.

Schaefer asked Hyberger if this request is something that they should be voting on at this time and wanted staff to do additional research on migrant housing issues and the distance anhydrous ammonia tanks should be from residential properties. Schaefer also had concerns whether this site is a suitable location for migrant housing because there are a lack of services and needed more information concerning state and federal regulations for this type of housing use.

Hyberger noted that he visited the site, but was unaware of state regulations and federal requirements concerning the siting of anhydrous ammonia tanks from residential properties and migrant housing requirements. Hyberger indicated the Planning and Zoning Commission could table the request and come back next month with additional information. Hyberger stated that he has never had a similar request in the past. Schaefer indicated she is uncomfortable with voting and needs more information. Hyberger indicated that they will need to table the request because he needs all four Planning and Zoning Commissioners to vote. Hyberger noted that he will conduct additional research and update the staff report for next months' meeting, so that Planning and Zoning Commission members will feel more comfortable to make a vote.

Angie Wilson 408 Brice Street, indicated she was a part time employee at Heartland CO-OP and Voorhies Grain Inc. Wilson noted that Heartland CO-OP does not do a good job of maintaining the property that they currently have. They also have a history of not maintaining equipment and the temporary workers are kind, but there is definitely a language barrier. Wilson noted Heartland CO-OP is not a bad company, but this is not a suitable location to house their workers.

Dwayne Halupnick, 4929 W Tama Road asked if their would be individuals or families housed there. Halupnick does not want children to be their when he hauls grain to the site. Hyberger noted that the applicant will have to answer that question. Wilson noted that the office and basement are connected. Those sleeping in the basement will have full access to computers and office records.

It was moved by Schaefer and seconded by Agee to table the request by Heartland CO-OP to rezone 0.2 acres from "A-L" Agricultural-Limited District to "C" Commercial District in order

to allow for a commercial building with a primary grain office/scale use and employee housing as a secondary use at 440 Main Street Voorhies. The request to table was unanimously approved.

IV. **Discussion**

No discussion items.

Adjournment

It was moved by Bosier and seconded by Schaefer to adjourn the meeting at 7:45 p.m. Motion to approve carried unanimously.

Respectfully submitted,



Seth Hyberger,
Black Hawk County Zoning Administrator