

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, September 7, 2018, at 10:15 a.m. with Chairperson Tom Harper and board members Carol Schlueter, Virginia Cooper, Clyde Evans, and Carl Kleppe Jr. present. Eric S. Furnas, Planning & Zoning Director and Dixie Seitz, Office Administrator were also in attendance.

Others present for this hearing: Mary Taylor-Daufeldt and Jacob Taylor.

Tom Harper: I will open this public hearing of the Muscatine County Zoning Commission and I have statement to read. 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. Minutes were all sent out and everyone should have had a chance to review them. If there are no changes to the minutes is there a motion to approve them?

Carol Schlueter: So moved.

Tom Harper: Is there a second?

Virginia Cooper: Second.

Tom Harper: All those in favor of approving the minutes from the last meeting please say Aye (5) and Opposed (0). The motion carried. We have all five members present, so that is taken care of. Eric would you read the first request?

Eric Furnas: Zoning Agenda Item #01. Mary E. Taylor-Daufeldt or Jeffrey G. Daufeldt, Record Owners, request approval of the preliminary and final plat of the proposed one lot agricultural subdivision, Taylor Cove Subdivision. This proposed subdivision is located in Fruitland Township in the SW<sup>1</sup>/<sub>4</sub> of Sec. 32-T76N-R2W, 2321 and 2323 Box Car Road, North of Box Car Road, containing approximately 14.72 acres and is zoned I-2 Heavy Industrial District. It probably should say industrial subdivision since it is zoned I-2 Heavy Industrial District.

Tom Harper: Is there any correspondence?

Eric Furnas: No sir.

Tom Harper: Is the applicant here?

Mary Taylor-Daufeldt: Yes.

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

Mary Taylor-Daufeldt: My name is Mary Taylor-Daufeldt and I would like to have this subdivision, Taylor Cove Subdivision be approved.

Tom Harper: Okay, Eric can you give us some background on this?

Eric Furnas: Yes, there are two existing residential dwellings on this property. This property is zoned I-2 Heavy Industrial District it is just part of a larger area of zoning, it is been that way for years and years down on the island. All this subdivision approval does is to provide a separate lot for the two existing houses. The property is primarily used for farm purposes all around it but because this originally quarter quarter had been split previously it needs to be approved in order to split the two houses off. The access remains the same as it was before. It is just more of a technicality.

Carol Schlueter: Why is it zoned industrial?

Eric Furnas: Almost that whole area down on the island is zoned industrial.

Mary Taylor-Daufeldt: Dow Chemical use to own all of that down there.

Eric Furnas: The county rezoned a lot of that area down on the island a long time ago.

Virginia Cooper: Is there actually industry down there?

Eric Furnas: Yeah there is a lot of industry down there.

Virginia Cooper: Well I mean, near this property.

Eric Furnas: No, not by this property. In the immediate vicinity, it is used for agricultural and they can do that in industrial zoned areas. This doesn't allow any additional residential development on the property. These are non-conforming residential dwellings on the property.

Tom Harper: So this is just a split for legal purposes and not for any development?

Eric Furnas: Right.

Mary Taylor-Daufeldt: Because Jake needs to have that property as a farmer. He wants to do stuff to the house.

Carol Schlueter: So if he has it in his own name than he can do improvements?

Mary Taylor-Daufeldt: Right then he would have collateral and he can get a loan on it.

Carol Schlueter: So all we are being asked to approve is the preliminary and final plat? We are not changing the industrial zoning?

Tom Harper: Correct, it is simply a subdivision request to split off the two existing dwellings on the property.

Eric Furnas: Right to give both dwellings their own parcel of land, one of the dwellings actually pre-dates the zoning change.

Tom Harper: Okay, since there is no one else here to speak for or against, is there any other comments or questions from the board? If not, I will entertain a motion to recommend to the Board of Supervisors.

Clyde Evans: I would approve the request as stated.

Tom Harper: Is there a second?

Carl Kleppe Jr.: I'll second.

Tom Harper: A motion has been made and seconded to recommend to the Board of Supervisors approval of this proposed preliminary and final plat of the industrial subdivision, Taylor Cove Subdivision and it has been seconded. Any other discussion? Hearing none, all those in favor of the motion please say Aye (5) and Opposed (0). The motion is approved. The request will move onto the Board of Supervisors, Eric will be able to tell you with that meeting with be.

Mary Taylor-Daufeldt: Thank you.

Jacob Taylor: Thank you.

Carol Schlueter: Sure.

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

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, September 7, 2018, at 10:15 a.m. with Chairperson Tom Harper and board members Virginia Cooper, Carol Schlueter, Clyde Evans, and Carl Kleppe Jr. present. Eric S. Furnas, Planning & Zoning Director and Dixie Seitz, Office Administrator were also in attendance.

Tom Harper: I will ask Eric to read the next item on the agenda.

Eric Furnas: Zoning Agenda Item #02. Discussion and possible action to recommend the adoption of additional regulations pertaining to the location and construction of telecommunication towers in various zoning districts in Muscatine County. The proposed amendment changes will affect all unincorporated parts of Muscatine County, Iowa.

Tom Harper: And I will let the record state that there is no one here to appear for or against the public hearing. I will open the public hearing for discussion and possible action to recommend adoption of additional regulations to the zoning ordinance.

Eric Furnas: I gave you a little summary in a memo as to why we are here. (Memo attached on the last page) Those of you who also serve on the Board of Adjustment are very familiar with the struggle we recently had. A cell tower company recently asked for a Special Use Permit to approve a telecommunication tower. Telecommunication towers, which encompass not only cell towers but radio and internet towers are approved by a Special Use Permit by the Board of Adjustment in the A-1, R-1, I-1 and I-2 zoning districts. One of the issues that the Board of Adjustment recently wrestled with was that our ordinance does not contain any specific setbacks that are unique to telecommunication towers. The company that had proposed a Special Use Permit, with our most recent case, came in with something less than what the Board of Adjustment was comfortable with. I had made a recommendation and the board had kind of wanted to go in that direction and asked the cell tower company to observe the height of the tower as the setback from the front property line. However, the tower company claimed that they had already done their soil engineering and their site study on the site that was considerably less than that from the front property line. Quite frankly, absent any specific setback or regulations that are applied to these types of towers, the zoning district setback is only 50 feet from the front lot line in most of these districts. So the board asked me specifically to take this issue to the Board of Supervisors and ask them to give them specific direction. The Board of Supervisors asked me to ask the Zoning Commission to give them direction in those regulations. To give us something so that the next time we have a tower request that they know exactly what is required before they do their studies and engineering. I know at the time when the Board of Adjustment considered this last case that they would have liked to have seen or would have liked to require cell tower companies to collocate on existing towers in the area. However, we researched that and there has been some recent legislation in Iowa and we have found that the county cannot do that anymore. If the cell tower company provides a written statement that they swear to be true that they need to build their own tower for financial purposes or maintenance purposes, whatever they deem to be burdensome, they can hold up their hand and swear to it, we cannot require them to collocate on an existing tower. However we have full authority to adopt these kinds of regulations for new towers, we can require setbacks, full screening, fencing, that type of thing. That is what I am proposing that we establish a minimum setback for all new telecommunication towers. My recommendations are there and we can talk about this as much as you would like.

Virginia Cooper: Can we recommend that they co-own and then if they don't they have to follow all of the regulations? Can we ask that they co-own, we just can't make them?

Eric Furnas: You can... the Board of Adjustment can... and I think that would be a very prudent question to ask every applicant, is why are you not considering collocation. I can almost guarantee you from what we are seeing is that they are going to have that prepared statement already in place. But it certainly, I think, a good idea to remind them that we are still urging them to collocate.

Virginia Cooper: Didn't we just write this?

Eric Furnas: What's that?

Virginia Cooper: This... like a year ago?

Eric Furnas: We have not adopted any regulations. You've had some drafts in the previous years.

Virginia Cooper: Well then what did we do about a year ago?

Tom Harper: Wind turbines.

Eric Furnas: Yes wind turbines for commercial use. We do have standards in place for that, but I'm not looking for anything quite that extensive for these.

Tom Harper: Yeah, we don't have enough wind here.

Virginia Cooper: Yeah, I was thinking that we had looked at this once before.

Tom Harper: But the tower issue had come up several times in the last 10 years.

Virginia Cooper: But just not before this group while I've been here.

Tom Harper: Yeah the last one, that was for internet towers in Montpelier, that was maybe four or five years ago.

Carol Schlueter: Yeah the one out in the country, I think it was Night Owl. Yeah and we got them to move it.

Tom Harper: Yeah there was no problem for him to move it, but what was it... maybe a 60 foot tower?

Carol Schlueter: Yeah I think that's right.

Tom Harper: I see you have this in A-1, R-1, I-1 and I-2 zoning districts. Is that then a permitted use in the commercial districts?

Eric Furnas: No.

Tom Harper: Well shouldn't that be another issue then too?

Eric Furnas: We don't typically see those requests in those areas. We usually see them in A-1 Agricultural District. The power companies are doing their infill in the agricultural areas now.

Tom Harper: Yeah and I know there's not a lot of commercial zoning in the county.

Eric Furnas: Right.

Tom Harper: Well I guess we can handle that if it ever comes up, for no more than there is. I mean, I know there's a lot of towers in commercial districts in the city.

Clyde Evans: What considerations do we have for towers in the flight area of the airport?

Eric Furnas: They are already covered by state and federal law.

Tom Harper: Yeah they are already covered by that, we are more interested in the ground law.

Eric Furnas: There are approach zones that are covered by the state and federal. They typical provide those compliance letters to us.

Virginia Cooper: So tell me about what you found out when you actually looked at the other areas... you know, what else is written out there? I'm just sure that there is everything from extreme down to ...

Eric Furnas: By and large the most common is the tower height plus the appropriate zoning district setback. But it's kind of all over the place. I think the reason for the tower height plus the setback is because if it falls it won't cross property lines, other neighboring structures, roads... I mean there are tons of options that you can chose, I'm not trying to make it over overly burdensome or difficult or to require them to lease anymore space in someone's field. I just am looking at public safety.

Tom Harper: I know what the applicant said about the tower, they are designed to fall straight down and not over. But there are several cases out there that there are 1,000 foot towers going up and then it comes 1,000 foot down on the ground.

Eric Furnas: Yeah, that was that particular type of tower that they were proposing and the engineering is applied. But we still see a lot of monopole construction now on these cell towers, and I don't believe that those are designed to self-collapse like the triangular shape one.

Tom Harper: Right, the self-supporting ones are designed to go straight down, plus or minus a little sideways but the guided tower is going to go like a tree, it will fall right over.

Carol Schlueter: Has any towers come down from wind around this area?

Tom Harper: Yes, the radio stations went down about 20 some years ago.

Carol Schlueter: Okay, but not in the last ten years?

Tom Harper: No.

Carol Schlueter: And that was a cell phone tower?

Tom Harper: No that was a radio tower.

Carol Schlueter: So that's not what we are talking about.

Eric Furnas: Well yes that would be considered in these towers. This is going to cover any type of tower that emits any type of signal, whether it is cell phone, radio...

Carol Schlueter: Okay and what is the setback now?

Eric Furnas: Well it depends upon the zoning district and the zoning district also has side and rear setbacks too that are wholly insufficient. It may be only 10 feet on the side lot in A-1 Agricultural District.

Tom Harper: The one in West Liberty that was in an A-1 Agricultural District – right? How far from the front?

Eric Furnas: This last one was I think 125 feet back from the lot line and the tower was going to be 195 feet.

Tom Harper: Right but the setback in that zone was only 50 feet, right?

Eric Furnas: Right. The normal setbacks are meant to apply to one and two story dwellings.

Tom Harper: Well I don't see anything wrong with the height issue, the fencing... they are going to want to fence it anyway for their own security, and you have something on the decommissioning. Well if they have double towers, you know, that they don't have to locate a height distance... you know you don't have to have double the setbacks if they build multiple towers.

Carol Schlueter: So then you are going to say that they are going to be closer together?

Tom Harper: Well if you put up two 1,000 foot towers ...

Eric Furnas: Well as long as the towers can meet the setbacks from the property lines that you are considering, I mean, we don't care if they fall on each other.

Tom Harper: Yeah we don't care if they are that far from each other, we just don't want it falling on somebody's house.

Eric Furnas: We typically haven't seen two towers right next to each other, but I mean it's possible.

Carol Schlueter: But if this is approved at 1.1 times the tower height, to me if somebody goes to a farmer and says hey we'd like to put a tower on your property and the farmer says that he'd liked to have it close to his buildings so it's not that far away so they have to farm around it. If this goes into effect than that farmer can't do it, right? So I think you are taking away, maybe, some income for farmers.

Tom Harper: No, you are just giving them a bargaining chip to get more rent.

Carol Schlueter: But he still has it out in the middle of the field and he's got to farm around it.

Tom Harper: I guarantee you though, if you make that rent high enough and it's a benefit to me, I'll do it.

Virginia Cooper: Yeah for a tower, yeah they will.

Carol Schlueter: Well I don't know what they pay, I have no idea what they pay for rent on those towers.

Virginia Cooper: Well I can't imagine that you'd go less than 1.1.

Eric Furnas: That's what my thought was, that 1.1 gives you a little of a margin, for a 100 foot tower you have them back at 110 feet.

Tom Harper: Right and most of these towers are under 300 feet.

Eric Furnas: Yeah a lot of them are pushing that, they are certainly at 200 feet. I mean we have seen some at 190, but still...

Tom Harper: Well the chances of another broadcast tower going up like the one there north of Wilton, you know it's a 1,000 footer, are slim.

Eric Furnas: Yeah you only see those only in a form of public safety towers.

Virginia Cooper: Yeah and I would think that a tower builder would not want that liability, they don't want that responsibility of it being any closer to a building.

Eric Furnas: You'd be surprised, I mean, they just said that they would guarantee that it would never fall on anything because it is designed to just collapse. They wanted the cheapest and easiest place to put it.

Tom Harper: Yeah and they had done all of their engineering of not just mechanical of where the tower is going to sit and the simple part of it, but also the geo-technical and the soils.

Virginia Cooper: Yeah than you do really need to get something in place.

Tom Harper: Their biggest thing was that they were going to build across the road from an existing tower that they were already on and they wanted to move to the new tower because of the rent.

Eric Furnas: That's why I felt this is definitely pertinent now too, that may happen again as these towers become competitive... where a current tower owner tries to keep increasing his rent and then a company just eventually wants to go out on his own but they want it in that vicinity because of the customer needs. Most of the times the property owners have been smart enough to put in these lease agreements, and I think it's reasonable for us to put in there that it needs to be dismantled.

Virginia Cooper: Is there anything that we are missing that other areas do that you didn't add here? Is there anything that was left out? Or does this pretty much cover it?

Eric Furnas: This is 90% of what you see.

Virginia Cooper: And the other 10% is other quirky weird...

Eric Furnas: Yeah quirky weird... like you have to make it look like a pine tree.

Virginia Cooper: Oh yeah, no I remember having this conversation about the other tower thing.

Eric Furnas: That's actually in the Denver, Colorado area around Springs, you know. Generally we don't get those types of complaints, you know, like it's ugly.

Virginia Cooper: But other than aesthetics was there any other stuff that was left out that other communities do that we'd even want to consider?

Eric Furnas: One thing that I didn't put on the initial memo that I think would be worth adding is that all telecommunication towers be located on privately owned property and not in the county right-of-way. We had a cell service company ask for a utility permit to put the tower in the county ditches. Now I've talked to the county attorney and he feels that the County Engineer is fully within his authority to say no. Now that's not a utility like an underground gas line or a buried fiber line or something like that. But this

would help because it would be in black and white, in other words they have to be on private property so they can't even start that process.

Virginia Cooper: Well the next County Engineer might not see it like that, but a ditch is not going to work anyway, right?

Eric Furnas: Well that's a philosophical argument, does county zoning apply to the right-of-ways? Because if you look at our zoning maps we generally have A-1 Agricultural District on one side of the road and then another zoning on the other. I think this would just clarify that if you come to Muscatine County looking to put up a tower, these are where they need to be located and these are the stipulations.

Clyde Evans: What about the wind tunnels, wind turbines?

Eric Furnas: We have an extensive comprehensive ordinance for commercial wind turbines. We don't have anything specific for a private one, it would be considered an accessory structure if you wanted to put one up at your house you could do that but you would just have to use the same setbacks as a barn or a house. We tried not to make that overly burdensome for private use.

Tom Harper: But that would fall under the permitted height requirement in that zoning district.

Eric Furnas: Yes.

Tom Harper: Yes and a tower would fall under that category.

Eric Furnas: Yes, if it was over the height limit it would be a Variance.

Clyde Evans: I think 1.1 times the tower height seems like a good thing to have.

Virginia Cooper: So the only other thing you wanted to add is the part about not being on county property?

Eric Furnas: I don't know that we would have to, but think it would be a good idea.

Tom Harper: Well it should say county right-of-way not county property. Because if they wanted to build one out at Discovery Park then...

Eric Furnas: Right and what I was envisioning... and after you folks give me your feedback what I'll probably do is to put it into ordinance form and make sure that this is what you were envisioning. I'm thinking this would be amending Chapter II, Article III, Section 3.9, Article IV, Section 3.7, Article X, Section 3.4 and Article XI, Section 3.19 by adding the following language:  
Telecommunications Towers in Muscatine County must meet the setback of 1.1 times the tower height from any property line, have perimeter fence excluding the guided wires, must be decommissioned within 90 days of non-use, and must be located outside of public road right-of-way. Something like that. But I will put it together and email it to you and make sure that that's what you agreed to. I don't think that we have to hold another meeting concerning this.

Carol Schlueter: And than you would take it to the Board of Supervisors for their approval?

Virginia Cooper: Yeah I think that covers everything that you wanted to cover.

Tom Harper: Okay, do we need a motion to proceed with this?

Eric Furnas: Yeah you would. You probably should close the public hearing then if you are ready for a motion.

Tom Harper: Does anybody else have any questions?

Carl Kleppe Jr.: We're not going to open ourselves up to like REC and them guys having them big ... I know they have a utility easement... you know like the big power companies having those big A frames right next to the road?

Eric Furnas: The high voltage transmission lines?

Carl Kleppe Jr.: Yeah.

Eric Furnas: No, those are not telecommunication towers.

Carl Kleppe Jr.: I know they are not telecommunications but I just wanted to make sure.

Tom Harper: Those fall under state utility rules.

Eric Furnas: And those types of things they do allow in the county right-of-way's, the transmission lines are considered utilities.

Virginia Cooper: But we can't control that anyway.

Eric Furnas: No, we are only addressing telecommunication towers.

Tom Harper: The only thing that we can do on that is that there is a provision in there for substations.

Eric Furnas: Yeah, substations, gas regulators, we recently dealt with some of those, electric substations, switching stations and similar public utilities are already special use permits that must come in front of the Board of Adjustment. Telecommunication towers are something that emits a signal.

Tom Harper: If there are no more questions, comments or discussion, I will go ahead and close this public hearing. All those in favor signify by saying Aye (5) Opposed (0). Motion carried. Okay, I would like a motion to direct the Zoning Administrator to proceed with drafting the amendment to the Zoning Ordinance regulating telecommunication towers.

Carol Schlueter: So moved.

Virginia Cooper: Second.

Tom Harper: A motion has been made and seconded to direct the Zoning Administrator to draft an amendment to the Zoning Ordinance to add telecommunication towers. Is there any further discussion? Hearing none, all those in favor of the motion please signify by saying Aye (5) and Opposed (0). The motion carried.

Eric Furnas: I will go ahead and put it in an official document and send it to you all so that you can look at it before I take it to the Board of Supervisors.

Tom Harper: Okay. We are adjourned.

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

To: Muscatine County Zoning Commission  
From: Planning & Zoning Director Eric Furnas  
Date: September 5, 2018  
RE: Proposed Zoning Ordinance Amendment-Telecommunication Towers

In Muscatine County, telecommunication towers are listed as a Special Permitted Use in the A-1, R-1, I-1 and I-2 Zoning Districts. As you are aware, this requires that the Board of Adjustment hear proposals for this type of use in any of these districts and approve the Special Use Permit.

Recently the Muscatine County Board of Adjustment approved a Special Use Permit for a new telecommunication tower in Muscatine County. During the meeting, much conversation centered on what the setback requirements should be for these types of structures. Currently, telecommunication towers only have to meet the standard setbacks for the districts in which they are permitted as a special use, no different than a house or other building. In some districts, this can be as little as 50', even if the tower is 200' tall.

While the Board of Adjustment may make reasonable conditions when approving a Special Use Permit, they felt strongly that Muscatine should have uniform and clearly stated setbacks specific to these types of structures. The Board of Adjustment directed me to propose the idea of developing specific standards to the Board of Supervisors, which I have done. The Board of Supervisors then directed me to have the Zoning Commission study the issue and develop some recommendations for a possible ordinance amendment.

The main issue that the Board of Adjustment has wrestled with is what the proper setbacks should be. I have researched what is common in other counties and am recommending that all telecommunication towers observe a setback of 1.1 times the tower height from all property lines or other structures on the same property. In the event of a tower collapse, this would provide for adequate separation from property lines and structures. Although tower collapse is rare, requiring a setback that exceeds the height of the tower, would essentially guarantee the protection of life and property in the event of a catastrophic failure. Additionally, increased separation distances will improve neighborhood aesthetics and have a positive impact on surrounding property values.

I am also recommending that it be required that the base of the tower and any ground equipment (excluding guy wires) be completely fenced in. Additionally, the ordinance should require that the tower be dismantled and removed from the site within 90 days of decommissioning or non-use.

Please consider these recommendations and let me know if you have any others. I look forward to discussing this issue with all of you on Friday.