



Planning & Zoning Commission Meeting Agenda

Tuesday, May 16, 2023 - 5:00 PM

Newton City Hall - Council Chambers
101 W 4th St S
Newton, IA 50208

View this Meeting: Mediacom Channel 12/85/121.12 or www.newtongov.org/cablecast

- I. Call to Order / Roll Call
- II. Review of Minutes of Previous Meeting:
 - 1. May 2, 2023
- III. Public Hearing
 - 1. PP23-2: Bowen Acres preliminary plat, a 6-lot subdivision in unincorporated Jasper County at the southeast corner of the intersection of S. 52nd Ave. E. and Hwy S-74 S.
- IV. Old Business
- V. New Business
 - 1. Presentation by NHDC Director, Bruce Showalter
- VI. Adjourn

ADA Compliance: *The City of Newton is pleased to provide reasonable accommodations, in compliance with the Americans with Disabilities Act, for those individuals or groups who require assistance in being able to participate in the meeting. Please contact the Community Development Department at least 24 hours in advance of the meeting by calling 641-792-6622 to arrange for accommodations to be provided.*

Chair: Dana Woody; **Vice Chair:** Jane Johnson; **Members:** Dana VanGilder, Joshua Cantu, Don Poynter, Jeff Holschuh

Minutes of Meeting
Newton Planning and Zoning Commission
Regular Meeting
May 2, 2023

ROLL CALL: Board members present: Cantu, Holschuh, Johnson, Poynter, Van Gilder, Woody

Board members absent:

STAFF PRESENT: Brian Dunkelberger, City Planner

A quorum being present, Chair Woody called the meeting to order at 5:00 PM.

Minutes. Minutes of the previous meeting of February 21, 2023 were reviewed. **Motion** by Poynter, **seconded** by Van Gilder to approve the minutes from the previous meeting as written. **Voice vote**, approved 6-0.

Public Hearing.

1. SV23-1: Vacation of the west 6 feet of East 6th Street North in the 1000 block. Bernie Van Til, applicant.

Dunkelberger reviewed the prepared staff report and shared an aerial map and the submitted survey. The proposal is to vacate the west 6 feet of the East 6th Street North street right-of-way and assign that land to the two adjacent properties. The motivation behind the request is to increase the developable footprint at 1001 East 6th Street North (parcel #0827401004).

In addition to the right-of-way vacation request, the applicant also proposed a conveyance of the northwest corner of the subject parcel to the city due to the fact that the roadway currently encroaches across said corner. This acquisition would functionally consolidate the small corner piece into public right-of-way so that the road would not need to be reshaped in the future. While that is a separate process from this vacation request, both are being reviewed concurrently. Pending both processes and additional due diligence, the applicant then plans to explore development at the subject property.

Van Gilder asked about the proposal and the subject land to be vacated. Johnson asked about the history of the right-of-way and why there was an extra six feet. Dunkelberger explained how the area was originally platted with a large right-of-way width in this block. Van Gilder asked about the potential future development. Dunkelberger shared that no application had been submitted, but the applicant could share if he chose to do so. Holschuh asked about the property adjacent and to the east of the subject property. Discussion ensued about the history of that specific property and the subject area. Chair Woody opened the hearing up to public comment and questions. No response.

Hearing no further discussion, Chair Woody called for a motion to close the public hearing. **Motion** by Johnson, **seconded** by Poynter to close the public hearing. **Voice Vote**: approved 6-0.

Discussion by the commissioners regarding the street right-of-way vacation.

Motion by Holschuh to recommend approval of SV23-1: a vacation of the west 6 feet of the East 6th Street North street right-of-way in the 1000 block of East 6th Street North as presented, **seconded** by Van Gilder. Dunkelberger suggested that the chair open the floor to discussion before the vote. No further discussion. Roll Call Vote: approved 6-0.

2. PP23-1: Arbor Estates Second Addition preliminary plat, a 23-lot residential subdivision in northeast Newton.

Dunkelberger reviewed the prepared staff report and shared an aerial map of the subject property and the preliminary plat plan set. The proposal is to subdivide the approximate east half of Parcel #0826426008 into 23 residential lots, street extensions of E. 23rd St. N. (connected to N. 11th Ave. E.) and E. 26th St. N. (cul-de-sac), and 7 out lots reserved for wetland areas, future subdivision phases, and/or trail connections. Dunkelberger reviewed the platting process, shared the proposed address assignments for the future lots, and discussed design considerations that were addressed prior to the Commission review.

Van Gilder asked about the current property owner. Dunkelberger answered. Holschuh asked about the large out lots and the purpose they serve. Dunkelberger provided details about the out lots being reserved for future phases of Arbor Estates and more lots. More discussion about the Newton Housing Development Corporation. Woody asked about street connections. Dunkelberger shared information about the design and discussion ensued. Van Gilder asked about process and the Commission's role in the review. Dunkelberger provided an overview of the review process and what the members should consider. Woody invited the audience to approach the podium if they had any comments. No response.

With no public input, Chair Woody called for a motion to close the public hearing. **Motion** by Poynter, **seconded** by Van Gilder to close the public hearing. Voice Vote: approved 6-0.

Holschuh asked about other future street connections. Dunkelberger explained how the master plan shows future phasing and what could be the potential future street extensions.

Motion by Van Gilder to recommend approval of PP23-1: Arbor Estates Second Addition preliminary plat, a 23-lot residential subdivision in northeast Newton, with the understanding that all feedback would be addressed prior to City Council review, **seconded** by Holschuh. Roll Call Vote: approved 6-0.

Old Business.

1. Election of Officers.

Motion by Poynter to retain the current leadership and nominate Van Gilder to serve as the Commission's secretary, **seconded** by Cantu. Roll call vote: approved 6-0.

New Business.

1. Vacant Commission seat.

Dunkelberger shared that filling the vacant seat on the Commission is still in the works. Discussion about eligibility and potential candidates.

2. 5/16 Meeting.

Dunkelberger inquired about another Commission meeting on May 16, 2023. Commissioners discussed their availability and confirmed a quorum would likely be achieved that evening. Dunkelberger shared that he would begin preparations for a meeting on that date.

Motion by Johnson to adjourn the meeting, **seconded** by Poynter. **Voice vote**, approved 6-0. Meeting was adjourned at 5:35 PM.

Planning & Zoning Commission Staff Report: PP23-2

Applicant: Jason Lowry
 Proposal: Proposed subdivision of land creating 6 lots
 Location: Parcel 1323102001
 Current Use: Agricultural
 Current Zoning: County Zoning – RR-1: Rural Residential District

- Bowen Acres Subdivision is a 6-lot subdivision located outside of the Newton corporate limits, but within the 2-mile extraterritorial jurisdiction reserved for city review. Iowa Code ch. 354.9 provides additional detail about this process:
 - “The standards and conditions applied by a city or county for review and approval of the subdivision shall be the same standards and conditions used for review and approval of subdivisions within the city limits... Either the city or county may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of subdivisions, and certify the resolution which shall be recorded with the plat.”*
- The subject property was recently rezoned from A: Agricultural District to RR-1: Rural Residential by Jasper County. The minimum county zoning requirements of the RR-1 District are as follows:

7.7 AREA, HEIGHT, AND YARD REQUIREMENTS

	Minimum Lot Area	Front Yard Along State and Federal Roads	Front Yard Along All Other Roads	Side Yard	Rear Yard	Maximum Side Wall Height
Principal Structure ¹	40,000 sq.ft.	60'	40'	2Q'	50' ₁	24'
Accessory Structures ²				5'	5'	14'

¹ One additional foot shall be added to every yard for each additional foot of height.

² One additional foot shall be added to the side and rear yard for each additional foot of height.

- Each lot appears to exceed the minimum bulk zoning requirements of the RR-1 zoning classification. Staff assumes this area would be zoned for residential uses if it was ever annexed into the city.



- Bowen Acres will split the subject property into 6 new lots, all at least 2 acres in size and all with frontages along S. 52nd Ave. E. The total area of the property is 13.14 acres, and is currently used as agricultural land (with no existing structures). The project area drains (generally) westerly on the west half and southeasterly on the east half.
- Notice of the public meeting was sent to all property owners within 200 feet of the property upon which the proposed subdivision is to be located on Monday, May 8, 2023. Notice of the meeting was also published in the *Newton Daily News* on Tuesday, May 9, 2023.
- *Envision Newton 2042*, the adopted comprehensive plan, does not recognize the subject area on the future land use map. However, the area south of the corporate boundaries along Highway S-74 S is either “Single-Family Residential” or “Neighborhood Commercial.” As a reminder, future land use maps are intended to serve as broad guides for future development but do not always translate to actual outcomes.
- All local utilities and city departments have received a copy of the plat and were able to provide comments. If any feedback is submitted, it will be shared during the meeting and shall be addressed prior to the City Council review and any final approval.
- Review of the Preliminary Plat Process: (step by step)
 - 1.) Pre-application Conference with Staff (Completed)
 - 2.) Submittal of Application (Completed)
 - 3.) Notice to property owners within 200' for subject area and to *Newton Daily News*. (Completed)
 - 4.) Planning and Zoning Review
 - a. Consider conformity with the Adopted Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance
 - b. Consider recommendations of the City Planner or other reviewing agencies
 - 5.) Planning and Zoning Action
 - a. Expressed recommendation of approval or disapproval to the City Council. Any recommendation of approval shall include conditions of such approval
 - 6.) City Council Action
 - 7.) Begin construction of the subdivision public improvements
 - 8.) Final Plat process after the completion of the public improvements.

Recommendation: Staff finds that the proposed subdivision is supported by the comprehensive plan and would appropriately accommodate development of 6 new, large lots in Jasper County. This division of rural land does not include public improvements, so staff supports the waiver request and would recognize this submission as functionally serving as both a preliminary and final plat. Staff recommends approval of the subdivision noting that all neighborhood comments and questions are addressed during the public hearing and all feedback is resolved/addressed prior to City Council review.

INDEX LEGEND

COUNTY: JASPER
SECTION: 23, T-79N, R-19W, NW 1/4 of the NW 1/4

SURVEY FOR & OWNERS/SUB DIVIDERS:
Firm Foundations, Inc., Prairie City, IA

SURVEYOR & SURVEY COMPANY:
Jason S. Lowry, P.L.S.
Lowry Land Services, L.L.C.
752 Diamond Trail Rd., Searsboro, Iowa 50242

PREPARED BY AND RETURN TO:
Jason S. Lowry, P.L.S.
752 Diamond Trail Rd., Searsboro, Iowa 50242
(641) 521-1160, lowrylandservices@gmail.com

BOWEN ACRES SUBDIVISION
LOT 1 in the NW 1/4 of the NW 1/4,
SEC. 23, T-79N, R-19W, JASPER COUNTY, IOWA
(SEE PAGE 2 FOR GRAPHICAL REPRESENTATION OF THIS PLAT OF SURVEY)

Certificate of Planning and Zoning Commission

This final plat of _____ was recommended for acceptance and approval by the Planning and Zoning Commission this _____ day of _____ 20_____.

Dana Woody, Chair

Dana Van Gilder, Secretary

Certificate of City Council

This final plat of _____ was accepted and approved by the city of Newton City Council in resolution form, said resolution being _____. The City Clerk further certifies that the same final plat hereto attached has been accepted, approved, and filed in accordance with the city ordinance of Newton, Iowa and the code of Iowa.

Passed: _____
(Date)

Approved: _____
(Date)

Attest:

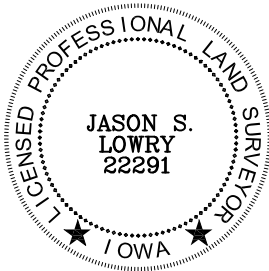
Michael L. Hansen, Mayor

Katrina Davis, City Clerk

MEASURED DISTANCE/BEARING – (M)
RECORDED DISTANCE/BEARING – (R)

MONUMENTS

- ▲ – found sec. cor. (pipe, stone, etc.)
- set – 5/8” x 18” rebar with pink plastic cap P.L.S. 22291
- – no monument found or set
- – found lot cor.



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Iowa.

My license renewal date is 12/31/2023

Pages covered by this seal: 1 – 3

Jason S. Lowry

Jason S. Lowry

Iowa Lic. No. 22291

05/08/2023

Date

LOWRY LAND SERVICES, L.L.C.

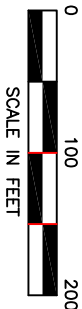
752 DIAMOND TRAIL RD., SEARSBORO, IOWA 50242, 641-521-1160

PROJ. NO. 0523

DATE OF SURVEY: 04/26/23

PAGE 1

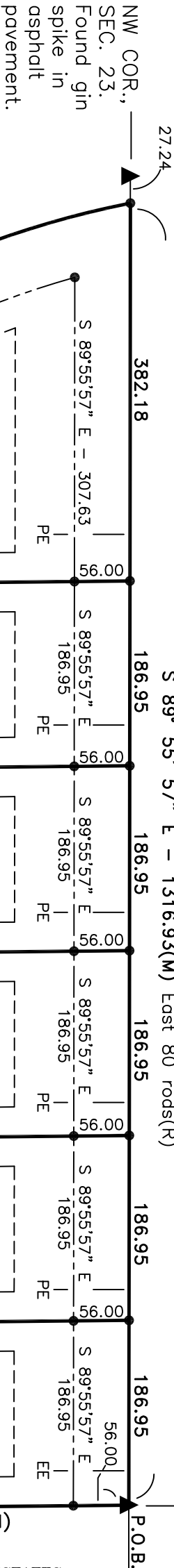
BOWEN ACRES SUBDIVISION
LOT 1 in the NW 1/4 of the NW 1/4,
SEC. 23, T-79N, R-19W, JASPER COUNTY, IOWA



SEC. COR. TO SEC. COR. = N 89° 55' 57" W - 1344.17(M)
N 89° 31' 40" W - 1344.21(R)

S. 52ND AVE. E.

NE COR.
of the NW 1/4
of the NW 1/4,
SEC. 23.
Found 6"x8"
brown granite
stone.



OWNER / SUB DIVIDER
Firm Foundations, Inc.
6995 W. 84th St. S.
Prairie City, Iowa 50228

LAND SURVEYOR
Jason S. Lowry, P.L.S.
Lowry Land Services, L.L.C.
752 Diamond Trail Rd.
Searsboro, Iowa 50242

LEGEND

- Subdivision Boundary
- Jasper County Hwy. Easement
- Building Setback
Front - 60' from R.O.W.
Side - 30'
Rear - 50'
- EE - Existing Entrance
- PE - Proposed Entrance
- Measured Distance/Bearing - (M)
- Recorded Distance/Bearing - (R)
- Zoned: Rural Residential (RR1)

MONUMENTS

- ▲ - found sec. cor. (pipe, stone, etc.)
- - set - 5/8" x 18" rebar with pink plastic cap P.L.S. 22291 or Mag nail in pavement
- - no monument found or set
- - found lot cor.

SE COR.
of the NW 1/4
of the NW 1/4,
SEC. 23.
Found 5/8"
yellow plastic
capped rebar,
P.L.S. 9763.

Curve C-1

Curve C-2

Radius = 955.00(M&R)
D.O.C. = 6°00'00"(M&R)
Arc Length = 393.05
Delta Angle = 23°34'55"
Tangent Length = 199.35
Chord Length = 390.28
Chord Bearing = N 23°00'24" W

Radius = 895.00(M&R)
D.O.C. = 06°24'06"
Arc Length = 298.28
Delta Angle = 19°05'42"
Tangent Length = 150.54
Chord Length = 296.90
Chord Bearing = N 25°13'28" W

TIMBER RIDGE ESTATES
BK. A, P. 156

SEC. COR. TO SEC. COR. = S 00° 34' 32" E - 2655.31(M) N 00° 10' 15" W - 2655.32(R)

BOWEN ACRES SUBDIVISION
LOT 1 in the NW 1/4 of the NW 1/4,
SEC. 23, T-79N, R-19W, JASPER COUNTY, IOWA

DESCRIPTION – BOWEN ACRES SUBDIVISION

That part of Lot 1 in the Northwest Quarter of the Northwest Quarter of Section 23, Township 79 North, Range 19 West of the Fifth Principal Meridian, Jasper County, Iowa, as recorded in a Warranty Deed in Book 2023, Page 0661, in the Jasper County, Iowa, Recorder's Office and described as follows:

"A tract described as Commence 4 rods South of the Northwest corner of Section 23, run thence North 4 rods, thence East 80 rods, thence South 28 rods and 4 feet, thence West to the public highway, thence Northwesterly to the place of beginning, being 12 acres off of the North side of that part of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of said Section 23 lying North and East of the road; all in Township 79 North, Range 19 West of the 5th P.M., Jasper County, Iowa, EXCEPT a parcel of land located in the NW1/4 NW1/4 Sec. 23, T. 79 N., R. 19 W. of the 5th P.M., said parcel described as follows: Beginning at the NW corner of said Sec. 23, thence South 123.3 ft., thence North 89°29' East 13.1 ft., thence South 34°58' East 428.4 ft., thence North 89°29' East 73.2 ft., thence North 34°58' West 174.2 ft., thence northerly 360.9 ft. along a 895.0 ft. radius curve concave northeasterly and tangent to the preceding course, thence South 89°29' West 88.5 ft. to the point of beginning, containing 0.25 acres more or less exclusive of the present established roads. Note: the W. line of the SW1/4 Sec. 14-79-19 is assumed to bear due north."

Said tract contains 13.14 acres and is subject to a Jasper County Highway easement over the north and westerly 2.33 acres thereof.

SURVEYOR'S NOTE

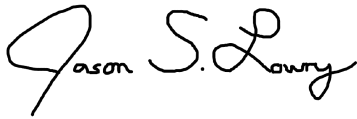
The latter portion of the above description "excepts" that portion of Jasper County Highway along Highway S-74 S. from the described tract. Research found in the Jasper County Engineer's Office, Project No. SN-730, indicates that said portion of Jasper County Highway along Highway S-74 S. was acquired by easement and was therefore shown as easement for the purposes of this survey.

May 1, 2023

To whom it may concern:

The proposed Bowen Acres Subdivision is a minor rural subdivision that does not propose any public improvements and therefore, I ask that the secondary review process by the City of Newton be waived.

Sincerely,

A handwritten signature in black ink that reads "Jason S. Lowry". The signature is written in a cursive style with a large, stylized "J" and "L".

Jason Lowry, P.L.S.
Lowry Land Services, L.L.C.
752 Diamond Trail Road
Searsboro, IA 50242
641-521-1160

354.9 Review of plats within two miles of a city.

1. If a city, which has adopted ordinances regulating the division of land, desires to review subdivision plats or plats of survey for divisions or subdivisions outside the city's boundaries, then the city shall establish by ordinance specifically referring to the authority of [this section](#), the area subject to the city's review and approval. The area of review may be identified by individual tracts, by describing the boundaries of the area, or by including all land within a certain distance of the city's boundaries, which shall not extend more than two miles distance from the city's boundaries. The ordinance establishing the area of review or modifying the area of review by a city, shall be recorded in the office of the recorder and filed with the county auditor.

2. If a subdivision lies in a county, which has adopted ordinances regulating the division of land, and also lies within the area of review established by a city pursuant to [this section](#), then the subdivision plat or plat of survey for the division or subdivision shall be submitted to both the city and county for approval. The standards and conditions applied by a city or county for review and approval of the subdivision shall be the same standards and conditions used for review and approval of subdivisions within the city limits or shall be the standards and conditions for review and approval established by agreement of the city and county pursuant to [chapter 28E](#). Either the city or county may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of subdivisions, and certify the resolution which shall be recorded with the plat.

3. If cities establish overlapping areas of review outside their boundaries, then the cities shall establish by agreement pursuant to [chapter 28E](#) reasonable standards and conditions for review of subdivisions within the overlapping area. If no agreement is recorded pursuant to [chapter 28E](#), then the city which is closest to the boundary of the subdivision shall have authority to review the subdivision.

4. For purposes of [this section](#), "subdivision" also includes a declaration for the establishment of a horizontal property regime under [chapter 499B](#). A declaration of a horizontal property regime that is proposed to be located within the area of review established by a city pursuant to this section shall be subject to review and approval in the same manner as a subdivision.

[90 Acts, ch 1236, §23](#)

[C91, §409A.9](#)

[C93, §354.9](#)

[2002 Acts, ch 1132, §3, 11; 2010 Acts, ch 1051, §1; 2013 Acts, ch 30, §79](#)

Referred to in [§354.8, 499B.3](#)