

**Dubuque County Zoning Commission
Minutes of April 19, 2016**

Chairperson Mary Klostermann called the meeting to order at 6 p.m.

1. ROLL CALL: Members present: Janet Reiss, Mary Klostermann, John Goodmann, Kevin Soppe, Leo Gansen, and Jerry Sigwarth. Staff Present: Anna O’Shea & Tammy Henry.

2. APPROVAL OF MINUTES: A motion was made by Mr. Goodmann, **seconded by Mr. Soppe and passed unanimously to approve the minutes of the March 15, 2016 meeting and March 15, 2016 Work Session. Vote: 6-0.**

3. PLAT APPROVAL:

a. Plat of Survey of K & N Acres –Final Plat

Plat of Survey of Lot 1 and Lot 2 of K & N Acres comprised of Lot 2 of Spoerl Place in Section 18, (T90N R2E) Peru Township, Dubuque County, Iowa.

The property is owned by Dale & David Nauman and is located 0.21 miles north of the City of Sherrill along Spoerl Lane. The property is zoned A-1 Agricultural and A-2 Agricultural Residential with a total of 40.44 acres surveyed. The purpose of the plat is to sell the farm home to the daughter and her husband who currently live in the home and assist in the farming operation.

The survey creates 2 lots. Lot 1 has a total of 2.18 acres surveyed and it was rezoned to A-2 on ZC# 01-01-16. It contains an old farm home and will be sold to Nick & Kari Sisler. Lot 2 has a total of 38.26 acres surveyed and will remain in current ownership and use.

Lot 1 will use a 20’ residential access easement off of Spoerl Lane. Lot 2 will use an existing 20’ access easement off of Circle Ridge Road thru Wille Lane.

Speaking to the Board was Bill Burger, 510 3rd St West Court, Worthington. He stated he is the surveyor of the property and is representing the plat. He stated he had nothing else to add for this plat.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Ms. Reiss to approve the plat. The motion passed unanimously. Vote 6-0.**

b. Plat of Survey of Jackson’s Addition No. 2 – Final Plat

Plat of Survey of Lot 1 and Lot 2 of Jackson’s Addition No.2 comprised of Lot 2 and Lot 3 of Jackson’s Addition in Section 25, (T88N R3E) Mosalem Township, Dubuque County, Iowa.

The property is owned by Gary & Jennifer Krieg and Jeffrey Jackson Etal and is located 5.98 miles southeast of the City of Dubuque along Saint Catherine’s Road. The property is zoned R-2 Single Family Residential with a total of 8.46 acres surveyed. The purpose of the plat is to divide land between family members for estate purposes.

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The survey creates 2 lots. Lot 1 has a total of 2.48 acres surveyed and will remain in current use and belong to Jeffery Jackson. Lot 2 has a total of 5.98 acres surveyed with a home and will belong to Gary & Jennifer Krieg.

Lot 1 will have general ingress across the adjacent property to the west in the same ownership thru an existing residential access off of St Catherine's Road. Lot 2 will use an existing residential access off of St Catherine's Road.

Speaking to the Board was Bill Burger, 510 3rd St West Court, Worthington. He stated he is the surveyor of the property and is representing the plat.

Ms. Klostermann asked Ms. O'Shea if she had any concerns on the plat? Ms. O'Shea she did not have any concerns except that the plat does have an extra lot without direct access, which will have access from the lot to the west but will remain in the same ownership.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was by Ms. Reiss, **seconded by Mr. Sigwarth to approve the plat. The motion passed unanimously. Vote 6-0.**

c. Plat of Gassman Quarry Plat 2- Final Plat

Plat of Survey of Lot 1 and Lot 2 of Gassman Quarry Plat 2 a subdivision of Lot 2 of Stone Quarry Subdivision and Lot 1 of Gassman Quarry in Section 07, (T88N R3E) Mosalem Township, Dubuque County, Iowa.

The property is owned by Dubuque Hardwoods Inc. Etal. & Sitco Inc. and is located 0.80 miles southeast of the City of Dubuque along US Highway 52 South. A new 66' private road that will be added and named Forestry Way. The property is zoned M-1 Industrial with a total of 26.79 acres surveyed. The purpose of the plat is to split up the property for future estate purposes. The survey creates 2 lots. Lot 1 has a total of 18.06 acres surveyed and will be owned by Dubuque Hardwoods Inc. Lot 2 has a total of 8.73 acres surveyed and will be owned by Sitco Inc.

Lot 1 & Lot 2 will both access off of a 66' wide private road easement off of US Highway 52 South. Lot 1 will contain a 20' access easement off of Forestry Way. Lot 2 will contain a 30' access easement off of Forestry Way for access to lot 2 of Gassman Quarry.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley. He stated the property has been operating different business that coincide with each other. The intent of the plat is to separate the businesses to the correct owners for future estate purposes.

Ms. Klostermann asked Ms. O'Shea if she had any concerns with the plat? Ms. O'Shea stated they meet the required 30' setback in the M-1 with the new road and they received building permits for the buildings that did not have permits previously. She feels they are in compliance at this point. Mr. Schneider stated the property is within 2 miles of the city of Dubuque and the plat went through the Dubuque Planning and Zoning and received approval.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Goodmann, **seconded by Mr. Sigwarth to approve the plat.**
The motion passed unanimously. Vote 6-0.

d. Plat of Lot 1 & Lot 2 of Hidden Meadows Subdivision No.2

Plat of Survey of Lot 1 & Lot 2 of Hidden Meadows Subdivision No.2 comprised of the re-plat of Lot 4 & Lot 5 of Hidden Meadows Subdivision in Section 23, (T89N R1E) Center Township, Dubuque County, Iowa.

The property is owned by Gary Miller Construction Inc. and is located adjacent to the City of Asbury along Hidden Meadows Drive. The property is zoned R-2 Single Family with a total of 3.216 acres surveyed. The purpose of the plat is to re-plat the two (2) lots into two (2) new lots.

The survey creates 2 lots. Lot 1 has a total of 1.956 acres surveyed and will remain in current ownership and use. Lot 2 has a total of 1.260 acres surveyed and will remain in current ownership and use.

Lot 1 and Lot 2 will both use residential accesses off of the private road Hidden Meadows Drive.

Speaking to the Board was Gary Miller, 2293 Helle Dr, Dubuque. He stated the intent is to give a portion of Lot 4 to Lot 5 because it would allow better access to the road for Lot 5.

Ms. Klostermann asked Ms. O’Shea if she had any concerns with the plat? Ms. O’Shea stated the lots meet frontage and lot size so there were no concerns.

Mr. Goodmann asked if these lots were developed yet? Mr. Miller stated neither lot has a home but could in the future. The restructure of the lots is to keep Lot 5 from having such a steep access to the road.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Goodmann, **seconded by Mr. Gansen to approve the plat.**
The motion passed unanimously. Vote 6-0.

4. REZONING CASES:

1. ZC#04-15-16 Nicholas & Marjorie Gindorff & Nancy Wahlert Declaration of Trust A-1 Agricultural to R-1 Rural Residential

The applicants are requesting to rezone from A-1 Agricultural to R-1 Rural Residential 24.35 acres more or less, to reconfigure 2 lots into 2 new lots. The property is located 3.73 miles south of the City of Peosta along Monastery Road and is legally described as Lot 1-1 Sub SE SW (Exc W 24’) and Lot 2-1 SE SW (Exc W 24’)- Section 36, (T88N R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by Nicholas & Marjorie Gindorff & Nancy Wahlert Declaration of Trust. Zoning in the area includes A-1 Agricultural to the north, south, east and west. R-1 Rural Residential to the east and north. The R-1 Rural Residential to the north on ZC#08-26-2000 was to allow for a single family home. There is a BA Case #03-06-08 attached to this property that was to

grant Special Use Permit to enlarge a lawful, non-conforming use and build a 24'x 28' detached garage. Thirteen (13) rezoning notification letters were sent to the property owners.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 objective 3.1 and Chapter 8 Housing page 122 objective 12.7 may apply to this case.

Speaking to the Board was Nick Gindorff, 15711 Monastery Rd, Peosta and Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley. Mr. Schneider said the Gindorff's have lived in a 1 acre parcel surrounded by the Wahlert's property for the last 42 years. They have an easement to their current property and are in the process of purchasing the surrounding property from the Wahlert's. The intent is to then divide the lot into two new lots that will leave the Gindorff's with more acreage and a maintainable lot to sell.

Ms. Klostermann asked if they were rezoning the entire property? Mr. Schneider stated they are required to because neither parcel meets the current A-1 zoning requirements.

Mr. Goodmann stated they could put a condition on the property that it could not be further subdivided. Ms. O'Shea stated the property is very steep, mostly wooded and the other issue is the access off of Monastery Road. She stated it would be difficult to get a 66' right of way to the north because the property is owned by Mr. Ertl and they would need some of his property to place additional homes on the property.

Mr. Schneider said that they would have to present a new plat to the Board if they plan to replat a third lot for this property. At that point, all owners would have to agree upon the access.

Ms. Klostermann asked if anyone wished to speak in favor or against this case?

Speaking to the Board was Phil Mausser, 9001 Lone Pine Rd, Epworth. He made the comment that anybody can put a road anywhere. Mr. Schneider said there is a driveway that could be improved but they would be in front of the Board with the plat before that would happen.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

Mr. Gansen asked Ms. O'Shea why the R-1 zoning for this property? Ms. O'Shea replied that R-1 allows the larger lot subdivisions, there is R-1 zoning to the east & north and it would be difficult to put an additional home on the property because of access. She said R-1 is Rural Residential and allows agricultural and residential uses and that is all this property can be used for. If you are going to put in a subdivision with multiple lots, then R-2 would be recommended. The lots that will be created are 15 acres on one and 7 acres on the other.

Mr. Schneider stated if the intent was to make an additional lot they would have configured them now instead of later when there would be an additional property owner involved.

A motion was made by Mr. Goodmann, **seconded by Mr. Soppe to approve the rezoning. The motion passed unanimously. Vote 6-0.**

1e. Plat of Survey of Gindorff Subdivision-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Gindorff Subdivision comprised of Lot 1 of Lot 1 and Lot 2 of Lot 1 of the Southeast ¼ of the Southwest ¼ except the west 24 feet all in Section 36,(T88N R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by Nicholas & Marjorie Gindorff & Nancy Wahlert Declaration of Trust and is located 3.73 miles south of the City of Peosta along Monastery Road. The property is zoned A-1 Agricultural with a total of 24.35 acres surveyed. The purpose of the plat is to reconfigure 2 lots into 2 new lots.

The survey creates 2 lots. Lot 1 has a total of 15.60 acres surveyed with a home that will remain in current ownership and use. Lot 2 has a total of 8.75 acres surveyed with a home that will also remain in current use and will be sold off.

Lot 1 & Lot 2 will both share an existing 40’ access combined with a 20’ roadway easement off of Monastery Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley. He said they are submitting the rezoning and plat at the same time and the Gindorff’s have an agreement to purchase the property.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Goodmann, **seconded by Mr. Gansen to approve the plat. The motion passed unanimously. Vote 6-0.**

2. ZC#04-16-16 Dale & Charlene Rolwes A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1 Agricultural to A-2 Agricultural Residential 1.69 acres more less, to allow the existing farm home and out buildings to be separated from the rest of the farm property to allow for the son to move into the home and assist with the farming operation. The property is located 1.64 miles south of the City of Farley along Farley Road and is legally described as Lot 1-1NE NW Section 25, (T88N R2W) Dodge Township, Dubuque County, Iowa.

The property is owned by Dale & Charlene Rolwes. Zoning in the area includes A-1 Agricultural to the north, south, east and west. There are no Special Use Permits attached to this property. Four (4) rezoning notification letters were sent to the property owners and the City of Farley was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 objective 3.1 and Chapter 8 Housing page 122 objective 12.7 may apply to this case.

Speaking to the Board was Dale Rowles, 7815 Farley Rd, Farley. He stated he had no other comments to add.

Ms. Klostermann asked Ms. O’Shea if she had any concerns with the rezoning? Ms. O’Shea recommended that conditions that were placed on previous A-2 rezoning’s be applied.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Ms. Reiss to approve the rezoning with the conditions for one home only and the balance is to stay A-1 with no additional homes unless the property is rezoned. The motion passed unanimously. Vote 6-0.**

3. ZC#04-17-16 Wayne Demmer Revocable Trust Etal & Joan Demmer Revocable Trust A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1 Agricultural to A-2 Agricultural Residential 2.26 acres more or less, to remove the cropland from the farm home. The property is located 1.38 miles southeast of the City of Epworth along Lone Pine Road and is legally described as Lot 1 Demmer Farm Sub Section 18, (T88N R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by Wayne Demmer Revocable Trust Etal & Joan Demmer Revocable Trust. Zoning in the area includes A-1 Agricultural to the north, south, east and west. There are no special use permits attached to this property. Four (4) rezoning notification letters were sent to the property owners and the City of Epworth was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 objective 3.1 and Chapter 8 Housing page 122 objective 12.7 may apply to this case.

Speaking to the Board was Wayne Demmer, 9018 Lone Pine Rd, Epworth and Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley. Mr. Demmer stated they are wanting to keep the farm ground with the farm and separate the home for estate purposes. Mr. Schneider said the property was divided when the 5 acre farm was in effect.

Ms. Klostermann asked Ms. O’Shea if she had any concerns with the rezoning? Ms. O’Shea recommended that conditions that were placed on previous A-2 rezoning be applied.

Ms. Klostermann asked if anyone wished to speak in favor or against this case? No one spoke.

A motion was made by Mr. Soppe, **seconded by Ms. Reiss to approve the rezoning with the conditions for one home only and the balance is to stay A-1 with no additional homes unless the property is rezoned. The motion passed unanimously. Vote 6-0.**

5. OLD BUSINESS:

Update on Previous Zoning Cases

Ms. O’Shea stated the previous month’s cases were very controversial. The Three Rivers FS Co/Jeff & Wanda Pape case was tabled for more discussion and will have three public hearings before a decision is made. The Dewayne Beecher rezoning from A-1 to R-1 was denied because there was no other residential zoning in the area. He was advised to try to meet the farm exemption. The Lelia Valentine & Greg Valentine case from A-1 to A-2 was approved with the A-

2 recommended conditions by the Board of Supervisors. The Jerald & Richard Reiter A-1 to M-1 for a vintage car sales and repair was denied by the Board of Supervisors because they felt it was spot zoning. The Board felt possibly annexing into the city of Cascade would be an option for them. The Doris Rubel Declaration of Trust & Crystal Lake Cave Mining LLC & Pablo & Julie Ramirez case from R-2 to B-2 was approved by the Board of Supervisors with the conditions recommended by the Zoning Board and also added the condition for no additional lighting for the miniature golf course.

6. NEW BUSINESS:

Discussion on Zoning Code Update-Definitions and Zoning Districts

Ms. O’Shea said she reviewed the definition for Farm as requested by the Zoning Board. She said the amended definition would keep the section that reads Farming does not include the raising of plants and /or animals primarily for the purpose of personal use and enjoyment of the owners or occupants of the subject property and remove “and not for the purpose of selling such animals, plants or products for profit in the marketplace”. She thinks that would clarify the definition.

A motion was made by Ms. Reiss, seconded by Mr. Soppe to approve the change to the Farm definition. The motion passed unanimously. Vote 6-0.

The Summer Cottage, Telecommunication Tower, Telecommunication Tower Height, Telecommunication Tower Structure Site, Temporary Building and Temporary Mobile Home were kept as defined.

The Board approved the new definition for Townhouse.

The Board approved the change from “Trailer” to “RV” and recommended keeping the RV and Tent Camps definition but change the word “transient” to “temporary”.

The Board approved the new definition for Use.

The Board approved the removal of the definition for Use, Accessory.

The Board approved the new definitions for Use Special with the change of “Conditional” to “Special”, Use Nonconforming, Use Permitted, Use Principal, Use Prohibited and Variance.

The Wireless Telecommunications was kept as defined.

The Board approved the new definitions for Yard, Yard Front and Yard Required and also decided to keep the definition of Yard Rear as defined.

The Board approved the new definition Yard Side.

The Board agreed not to use Yard, Special as recommended by Ms. O’Shea.

Ms. O’Shea said the Board asked to review the definition of Dwelling with the whole Board present. The Board approved the new definition for Dwelling adding not including commercial uses such as hotels, motels, motor lodges, tourist homes/houses, tents

(camping, which is allowed in B-2 Highway Business), trailers (camping, which is allowed in B-2 Highway Business) and RV's (camping, which is allowed in B-2 Highway Business).

A motion was made by Mr. Goodmann, **seconded by Mr. Sigwarth to approve as amended Page 12 through Page 14 and the new definition for Dwelling. Vote: 6-0. Motion passed unanimously.**

The following definitions are the ones that were agreed upon by the Board to use:

New Definitions

Townhouse
Use
Use, Special
Use, Nonconforming
Use, Permitted
Use, Principal
Use, Prohibited
Variance
Yard
Yard, Front
Yard, Required
Yard, Side
Dwelling

Old Definitions

Summer Cottage
Telecommunication Tower
Telecommunication Tower Height
Telecommunication Tower Structure Site
Temporary Building
Temporary Mobile Home
RV and Tent Camps
Wireless Telecommunications
Yard, Rear

Ms. O'Shea said there was one comment received from Matt Horsfield. He stated he sees nothing in the definitions from his end that need modifying. He stated one overall zoning item that has come up on his end before involves Special Use Permits for temporary batch plants. Under current zoning, they can only exist under a Special Use Permit in A-1 zoned areas. He asked if this could be modified to allow them to exist in any zoning class, since there needs to be a Special Use Permit anyway? The Board can then determine if the locations makes sense. Sometimes, sitting in a commercial park has proved successful. In other areas where they have worked, because of good water supply, a different location would be better. Ms. O'Shea said she would bring this comment back when the Board started reviewing the zoning districts.

7. PUBLIC COMMENTS:

Mr. Demmer thanked the Board for their time and service. He asked if they could be consistent with prior cases in their recommendations that are made to the Board of Supervisors? He highlighted the Beecher case as an example. Mr. Schneider asked if some of the cases involving rezoning part of a farm to help subsidize the farm operation could possibly be a Special Use Permit instead of rezoning? Ms. O'Shea stated maybe adding a home business to the ordinance with a maximum allotted square footage could be looked at. Mr. Schneider stated when you start spot zoning you set a precedent.

8. ADJOURNMENT: A motion was made by Ms. Reiss, **seconded by Mr. Gansen to adjourn the meeting. The motion passed unanimously. Vote: 6-0. The meeting ended at 7:35 p.m.**