

**Dubuque County Zoning Commission
Minutes of October 18, 2016**

Chairperson Kevin Soppe called the meeting to order at 6 p.m.

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

2. APPROVAL OF MINUTES: A motion was made by Mr. Sigwarth, **seconded by Ms. Catilin, and passed unanimously to approve the minutes of the September 20, 2016 meeting. Vote: 7-0.**

3. PLAT APPROVAL:

a) Plat of Survey Herum Farm Subdivision- Final Plat

Plat of Survey of Lots 1 and 2 of Herum Farm Subdivision comprised of the NW ¼ of the SW ¼ and all that part of Lot 1 of the NE ¼ of the SW ¼ lying Southwesterly of the county road, all in Section 15, (T88N R3E) Mosalem Township, Dubuque County, Iowa.

The property is owned by Gary & Barbara Herum and is located 3.35 miles east of the City of Dubuque along Olde Massey Road. The property is zoned R-2 Single Family Residential with a total of 57.71 acres surveyed. The purpose of the plat is to sell the farm ground in Lot 1 to the adjacent neighbor.

The survey creates 2 Lots. Lot 1 has a total of 39.97 acres surveyed and will be sold to the neighbor. Lot 2 has 17.74 acres surveyed with a home and it will remain in current ownership and use.

Lot 1 will use an existing field entrance off of Olde Massey Road. Lot 2 will use an existing residential access off of Olde Massey Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley. He stated that the Herum’s are going to sell about 40 acres to the neighbor, which the neighbor has been renting. The reconfiguration will allow both lots to have access off of Massey Road.

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

A motion was made by Ms. Klostermann, **seconded by Mr. Sigwarth to approve the plat. The motion passed unanimously. Vote 7-0.**

b) Plat of Survey Nauman Farm Subdivision Plat 2-Final Plat

Plat of Survey of Lots 1 through 4 of Nauman Farm Subdivision Plat 2 comprised of Lot 2 of Nauman Farm Subdivision, Lot 2, Lot 1 of Lot 2 of Lot 1 and Lot 2 of Lot 2 of Lot 1 all of the NE ¼ of the NW ¼ Section 34, (T89N R1E) Center Township, Dubuque County, Iowa.

The property is owned by Jerome & Lavone Spiegel and Donald & Helen Nauman and is

located 0.25 miles north of the City of Centralia along Sundown Road. The property is zoned R-1 Rural Residential with a total of 34.193 acres surveyed. The purpose of the plat is to clean up right of way property lines and fence lines and for sale purposes.

Lot 1 has a total of 0.239 acres surveyed and will remain in current ownership and use. Lot 2 has a total of 1.224 acres surveyed with a home on it and it will be sold. Lot 3 has a total of 10.297 acres surveyed and will remain in current ownership and use. Lot 4 has a total of 22.433 acres surveyed and will remain in current ownership and use.

Lot 1 and Lot 2 will use an existing residential entrances off of Sundown Road. Lot 3 will use an existing field entrance on a 30' easement off of Sundown Road. Lot 4 will use an existing field entrance off of Sundown Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley and Jerry Spiegel, 12979 Sundown Rd, Peosta. Mr. Schneider stated that Mr. Spiegel went to the Board of Adjustment to put a garage on his property when he was unable to meet setbacks and was denied. This addition of the property to Lot 2 will allow them to meet the required setbacks. This plat will also clean up some lot lines that were divided because of the relocation of the road.

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

Mr. Gansen asked if the plat should be done in multiple steps one for the fixing of lot lines and one for the added acres to Lot 2? Mr. Schneider said doing both at the same time is more cost effective to the client. He said when a boundary survey is done that is when they tend to find other issues and fix the lot lines in the process. Mr. Schneider stated they are creating the same number of lots that already existed. Ms. O'Shea said there are a lot of properties that have to be subdivided because of fence lines and road ways. Many of these are required by ordinance to follow the minor subdivision process.

Mr. Gansen asked if Lot 2 is the only lot with a home on it? Mr. Spiegel stated yes.

Mr. Gansen asked if there was going to be any conditions stating that can be the only home on these lots? Ms. O'Shea stated these lots are all zoned residential and could have additional homes.

A motion was made by Mr. Sigwarth, **seconded by Ms. Klostermann to approve the plat. The motion passed. Vote 6-1. Mr. Sigwarth, Ms. Klostermann, Mr. Soppe, Ms. Caitlin, Mr. Goodmann and Mr. Reiss voted in favor. Mr. Gansen voted against the motion.**

c) Plat of Survey H & L Addition- Final Plat

Plat of Survey of Lot 1 and Lot 2 of H & L Addition comprised of Lots 1-2 and 2-2 of the NE ¼ of the SE ¼ Section 31, (T88N R2W) Dodge Township, Dubuque County, Iowa.

The property is owned by Richard & Karen Lahr and Daniel & Jodi Helle and is located 0.20 miles south of the City of Worthington along Highway 136. The property is zoned A-1 Agricultural with a total of 30.39 acres surveyed. The purpose of the plat is to correct boundary lines.

Lot 1 has a total of 4.28 acres surveyed and will remain in current ownership and use. Lot 2 has a total of 26.11 acres surveyed and will remain in current ownership and use.

Lot 1 will use an existing residential access off of Highway 136. Lot 2 will use an existing field entrance off of Highway 136.

Speaking to the Board was Richard Lahr, 6337 Rt 136, Worthington. He stated this plat will fix the lot lines so each owner will own what they maintain. He said he is looking to sell his property and wanted the lot issues taken care of for both owners before the sale.

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

A motion was made by Ms. Caitlin, **seconded by Mr. Goodman to approve the plat. The motion passed unanimously. Vote 7-0.**

d) Plat of Survey Timber Ridge Estates – Final Plat

Plat of Survey of Lots 1 thru 17 of Timber Ridge Estates a division of the N ½ of the SE ¼ of the NE ¼ of Section 9, (T89N R2E) Dubuque County, Iowa except the east 10 feet thereof.

The property is owned by Timber Ridge Estates LLC and is located 0.36 miles north of the City of Dubuque along Kennedy Road. The property is zoned R-2 Single Family Residential with a total of 19.574 acres Surveyed. The purpose of the plat is to create a subdivision with 17 residential lots with a minimum of 1 acre in size.

The survey creates 17 residential building lots. Forest Glen Court, a private roadway, will be extended to accommodate Lots 1 thru 3, which will consist of a 66' wide right of way and a 22' road top with 4' wide shoulders. Timber Court, a private roadway, will be extended off of Forest Glen Court to accommodate Lots 4 thru 17, which will consist of a 50' right of way and a 22' road top with a minimum 2' wide shoulders. The road and cul-de-sac will be designed for storm water runoff and storage to meet the requirements of the Dubuque County Erosion & Sediment Control and Storm Water Ordinance. The property owner is requesting a variance to the 66' wide right of way requirement for Timber Court.

Lots 1 thru 3 will have access from a private road called Forest Glenn Court. Lots 4-17 will have access off of a private road called Timber Court. No additional access to Kennedy Road will be allowed for this subdivision.

Proposed utilities will be installed underground within a 20' wide public utility, drainage and Storm Water infiltration easement along Forest Glen Court and Timber Court, along the outer perimeter of the lots and between Lots 7 & 8, 12 & 13 and 14 & 15. The 17 residential lots will be served by 4 shared wells and they will each have individual Septic's. The covenants, engineered road plans, storm water calculations and erosion control plans will be available when the final plat is ready for the Board of Supervisors approval.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley and Matt Horsfield, 505 E Main St, Epworth. Mr. Schneider said he has had the preliminary plat approved by both the City of Dubuque Zoning Board and the City Council. They have been working with the County Engineer and Eric Schmechel on the

road plans and erosion control. The lot layouts and easements are configured by the county and city per their requirements. They are still working with the County Engineer in regards to the road plans. There is an amendment change that is going through the Board of Supervisors and County Engineer for the Low Volume Local Roads of which Timber Court would qualify.

Mr. Horsfield said he is aware of the differences of the 66' right of way and the 50' right of way he is proposing by eliminating the curb and gutter and trying to create infiltration. He understands there are concerns about water runoff. They are working on figuring out what the best material is to filter the water runoff on this property. The intention is to have the water be absorbed in the ground instead of being piped out into the street.

Ms. O'Shea stated she spoke to Eric Schmechel that afternoon. Mr. Schmechel informed her that he is going to be working with the developer and County Engineer so that the property meets all the requirements of the ordinance. Ms. O'Shea also stated the Low Volume Road Amendment has not been adopted yet. It will be going to the Board of Supervisors for a work session on October 24, 2016. She recommends the plat approval be subject to the Amendment being approved.

Mr. Schneider said the Low Volume Road Amendment is not just for this property. It will be for properties all over the county. This will help determine subdivision sizes and traffic density will help determine what should be classified as low volume.

Ms. Caitlin asked with the Low Volume Road would it have to be paved? Ms. O'Shea said what is currently required is a 66' wide right of way and 22' wide road top with 4' shoulders. What Mr. Horsfield's proposal is 22' road top with 2' wide shoulders and a 50' right of way. Mr. Schneider said they are going to follow the current county standards with one change with the 50' wide right of way.

Mr. Goodmann asked if the Low Volume Road would have to be a special request? Ms. O'Shea said no, but this would also work for those who want to add a 4th home to a road and do not want to have the added cost to put in a paved road. It would allow them to use gravel instead of having to pave the road. It would allow up to 10 lots for a rural subdivision and 20 lots for an urban road.

Mr. Gansen said he appreciates the design that Mr. Horsfield has presented but thinks we should approve this with the current rules in the ordinance.

Mr. Goodmann said he thinks what Ms. O'Shea has suggested makes sense because if the Board of Supervisors are considering a Low Volume Road, and the Low Volume Road is denied this plat would not go through.

Mr. Schneider said the conversation on the Low Volume Road was started because of a subdivision going in on the south side of the county and has evolved into trying to get the ordinance changed. He stated the City of Dubuque has gone to a 50' wide right of way and have not had a problem with the change. Ms. O'Shea stated this makes sense for this subdivision. They are trying to have city water & sewer for the property.

Mr. Horsfield said he is on the committee for the Low Volume Road. He said the main reason the issue was brought up was that it is an outdated rule. He said you are unable to

meet the county standards if you put in a curb and gutter system because the water is going to runoff. He said with a 66' wide right of way they would not be able to do the infiltration the correct way. He feels this is a good thing for the county to look at. He thinks the variance should be subject to this project only because otherwise he could be delayed for months. Mr. Goodmann said the Zoning Board has no way to grant a variance for the road. Ms. O'Shea said the Board of Supervisors could grant a variance.

Ms. Caitlin asked how the water infiltration will be maintained? Mr. Horsfield said there is an easement around the area. According to the covenant with the subdivision, if the property owner does not maintain it, the homeowner's association has the right to go in fix the problem and charge the homeowner.

Mr. Schneider said the final plat is consistent with the preliminary plat that was presented to the Zoning Board.

Mr. Goodmann asked how many lots will use the 50' wide right of way? Mr. Horsfield said it go to the end of the cul de sac on Timber Court, which would be 14 lots. On Forest Glen Court will be the 66' right of way and will have a 20' wide easement that cannot be built in.

Mr. Soppe 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 subject to meeting all county stormwater ordinance standards approved and recommend approval of 50' wide right of way. The motion passed. Vote 6-1. Mr. Goodmann, Mr. Sigwarth, Mr. Soppe, Ms. Klostermann, Ms. Reiss and Ms. Caitlin voted in favor. Mr. Gansen voted against the motion.**

4. REZONING CASES:

1) ZC#10-33-16 Ronald & Jessalynn Breiner R-1 Rural Residential to R-2 Single Family Residential

The applicants are requesting to rezone from R-1 Rural Residential to R-2 Single Family Residential 9.12 acres more or less, to allow for a residential subdivision consisting of (4) four lots. The property located 2.275 miles NW of the City of Asbury along Five Points Road, is legally described as Lot 2 Five Points Estates Section 8, (T89N R1E) Center Township, Dubuque County, Iowa.

The property is owned by Ronald & Jessalynn Breiner. Zoning in the area includes A-1 Agricultural to the north, south, and west. R-1 Rural Residential to the north, south, east and west. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Six (6) rezoning notification letters were sent to the property owners.

Comprehensive Plan Policy Chapter 12 Land Use page 179 Objective 3.5 and page 180, Objective 6.4 may apply to this case.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley. He stated he has been working with the Breiner's on surveying the property to make buildable lots. The Breiner's have installed a pond on the property and cleaned up

the property. They are looking to have 4 lots on the property. The accesses have all been approved.

Mr. Soppe asked if you have to have a 1 acre lot for R-1 zoning? Ms. O’Shea said you have to an acre lot in the county if you do not have central water & sewer.

Mr. Soppe said the lots are over 1 acre why do they have to be R-2? Ms. O’Shea said because of the setback of 80’ from the street.

Mr. Goodmann said they have rezoned properties in the past for better usage of the land . The driveways are shortened up, and you can bring the home further up on the lot.

There was one comment submitted regarding this case. Mary Jane & Henry Gansemer, 16196 Five Points Road, Durango. They feel two houses should be enough for this acreage. The also feel this is a rural area and would be against this plan.

Mr. Soppe 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 rezoning. The motion passed unanimously. Vote 7-0.**

1e) Plat of Survey Five Points Estates Plat 2-Final Plat

Plat of Survey of Lots 1-4 of Five Points Estates Plat 2 a division of Lot 2 of Five Points Estates Section 8, (T89N R1E) Center Township, Dubuque County, Iowa.

The property is owned by Ronald & Jessalynn Breiner and is located 2.275 miles NW of the City of Asbury along Five Points Road. The property is zoned R-1 Rural Residential with a total of 9.984 acres surveyed. The purpose of the plat is to create a 4 lot residential subdivision.

The survey creates 4 Lots. Lot 1 has a total of 1.787 acres surveyed. Lot 2 has a total of 4.004 acres surveyed. Lot 3 has a total of 2.002 acres surveyed. Lot 4 has a total of 2.191 acres surveyed. The Breiner’s are planning to build their home on one lot and eventually sell the rest. The new private road, Clay Ann Lane, will be a 66’ Right of Way but will not be required to be built to county standard. When the fourth lot is added to that road, the road will need to be upgraded. There is a 20’ public utility and well easement along the back of Lot 2 and Lot 3 and between Lots 3 and 4. There will be a shared pond and common area for all of the lots to use. There is a 10’ public utility easement along the south side and front of Lot 4, along the private road Clay Ann Lane and along the front of Lot 2 and Lot 1. The plat will be required to drain all of the lots into the pond to address stormwater regulations. A 20’ wide drainage easement is located across Lot 2 and Lot 3 along the NE property line on Lot 2 and between Lots 3 & 4. A major Erosion & Sediment Control (ESC) Permit was issued for the pond and excavation around the pond and for the private road. Only minor ESC Permits will be required when the new homes are built.

Lot 1 will have access off of Five Points Road. Lots 2 thru 4 will use a shared 66’ right of way for road access off of Five Points Road. The entrance permit to upgrade this residential driveway to a private subdivision road needed a variance from the Board of Supervisors and it was approved.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St N, Farley.

Ms. Caitlin asked what it means that the road not be required to be built to county standard? Ms. O’Shea said the road could stay as a driveway. There is a 66’ wide right of way if they ever expand the road. If they increase the number of lots they will have to build the road to county standards.

Mr. Gansen asked what size road top do they need to install? Ms. O’Shea said they can just put in a driveway for traffic. Once you add a fourth address to the road it will have to be built with a 22’ road top.

Mr. Goodmann asked if they are creating a subdivision? Mr. Schneider said yes.

Mr. Soppe 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. Caitlin to approve the plat. The motion passed. Vote 6-1. Mr. Sigwarth, Ms. Caitlin, Ms. Reiss, Mr. Soppe, Mr. Goodmann and Ms. Klostermann voted in favor of the motion. Mr. Gansen voted against the motion.**

5. OLD BUSINESS:

1) Update on Previous Zoning Cases

Ms. O’Shea stated the Richard, Dan & Jill Reuter case A-1 to A-2 was approved. The McAllister Real Estate LLC from A-1 to B-1 was also approved. The Kenneth & Darla Hosch case was tabled. The Board of Supervisors would still like the area reduced that is being rezoned. She had to get some information from the City of Peosta regarding their future land use and whether the city has any concerns. The case will go back in front of the Board of Supervisors on Monday, October 24, 2016.

6. NEW BUSINESS:

1) Discussion on Home Industry Zoning Amendment

Ms. O’Shea stated that the Board was given a packet outlining the Home Industry amendment. She provided information from other counties on how they handle issues with a Home Industry. She went over what other counties allow for employees. Ms. O’Shea is recommending no more than four non-resident employees (full or part-time) may work on the site. Ms. Caitlin wondered if you could have more part-time employees to offset a full-time equivalent. Maybe you could allow up to 120 hours and not the number of employees.

Ms. O’Shea stated the Home Industry will be allowed in the A-1 and A-2 zoning districts. Mr. Gansen said there are other people not zoned A-1 or A-2 who could benefit from a supplemental income. Mr. Goodmann stated that there is a lot of property zoned R-1 that is strictly farm ground and consider the R-1.

Mr. Goodmann asked what the Czipars apple orchard was zoned? Ms. O’Shea said R-2.

Mr. Gansen said some of the businesses would include assembly, processing, fabrication, sale & repair of cars and light trucks and agricultural equipment. Where would it stop? Ms. Caitlin said she would expand on the services such as hair, exercise, phone sales, natural therapy, business

services and there could be others. Ms. O’Shea said that is something the Board needs to discuss. Do they want to allow retail in the county?

Mr. Gansen asked if anyone has lived or owned a small business in the county? He said this is going harm small town businesses. He feels you should keep agriculture in and town business separate. Mr. Soppe said look at how many farmers started out on the farm with a hobby and it has turned into a business. Ms. Caitlin said when you are trying to farm you do not have the time or resources to rent a place in town and still be close to the farm operation. Mr. Gansen said there is a difference when you are selling your agricultural related materials vs. running a car repair business. Mr. Sigwarth said we should be helping the farmers so they can supplement the farm and afford to continue to farm.

Ms. Henry said the businesses are allowed to be inside a home or building only with minimal outside storage. It should blend in with the surroundings.

Ms. O’Shea said a property would have to have a home on it to qualify.

Ms. Klostermann asked what is the purpose of not being able to wash or maintain vehicles on agriculture ground without a home? Ms. O’Shea said it is a policy. Because people build buildings in the county and then a business forms in it. If there is not a home associated with the building, no one is there to monitor and take care of complaints. Ms. Klostermann does not see any problem with it.

Ms. O’Shea said she thinks the business should be secondary to the primary use of the property. If a home owner could meet the requirements it would be allowed.

Mr. Sigwarth exited the meeting at 7:30 p.m.

Ms. O’Shea said there has to be some way to not regulate everything. Ms. Klostermann asked shouldn’t some of these businesses be able to get a Special Use Permit in the R-2 zoning district? Ms. O’Shea that would possibly work.

Ms. Caitlin referred to the last paragraph on handout 6.1 where it states “If an established permitted home industry changes in intensity to such an extent that it no longer meets the requirements stated above or as outlined in the Special Use Permit, or if it generates complaints from the neighbor, the landowner shall apply for a new Special Use Permit asking for the changes or must reduce the intensity of the use to what was originally approved”. Could the part where it says “or if it generates complaints from the neighbor” be removed? Ms. O’Shea said yes, we could handle the complaints as we currently do and inspect the property before they would have to apply for a new Special Use Permit.

Ms. O’Shea said the Board would keep working on the ordinance and if the Board comes up with any suggestions please bring them in.

2) Discussion on Zoning Code Update -Zoning Districts

There was no discussion on the Zoning Code update.

7. PUBLIC COMMENTS: None

8. ADJOURNMENT: A motion was made by Ms. Caitlin, **seconded by Ms. Klostermann to adjourn the meeting. The motion passed unanimously. Vote: 6-0. The meeting ended at 7:56 p.m.**