

Dubuque County Zoning Commission Minutes of July 20, 2021

Chairperson Sam Boyes called the meeting to order at 6 p.m.

1. ROLL CALL: Members present via a Zoom teleconferencing meeting: Cathy Caitlin, Ron Breitbach and Kathleen Scherrman. Staff present via a Zoom teleconferencing meeting: Tammy Henry. Members present at the Dubuque County West Campus, 1225 Seippel Rd.: Jerry Sigwarth, Kevin Soppe, Sam Boyes and Ken Runde. Staff present at the Dubuque County West Campus, 1225 Seippel Road: Angela Steffens and Amy Schmerbach.

2. APPROVAL OF MINUTES: A motion was made by Mr. Runde, **seconded by Mr. Sigwarth, and passed unanimously to approve the minutes of the June 15, 2021 meeting. Vote: 7-0.**

3. PLAT APPROVAL:

a) Plat of Survey of Ridge View Acres-Final Plat

Plat of Survey of Lot 1 thru Lot 12 of Ridge View Acres comprised of Lot 1 in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and Lot 3 of Lot 1 in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ all Section 7, (T89N-R2E) Dubuque Township, Dubuque County, Iowa.

The property is owned by Mark McClain and is located .25 miles west of the City of Dubuque along Hales Mill Road with a total of 23.786 acres surveyed. The property is zoned R-2, Single Family Residential and C-1, Conservancy. The purpose of the plat is to create a residential subdivision.

The survey creates 12 lots. Lots 1 thru Lot 12 all are a minimum of 1 acre in size and will be sold for residential homes. Each lot shall have its own individual septic system. There will be two (2) shared wells. Well #1 will serve Lots 1, 8, 9, 10, 11 and 12. Well # 2 will serve Lots 2, 3, 4, 5, 6 and 7. The Dubuque Water Department would recommend service lines from water main to building structures to be copper with a control valve (curb stop and box) near the right of way line. A copy of the water utility plan showing the water distribution piping from water wells and individual water services lines has been submitted for review and was approved by the Dubuque Water Department.

The property has provided a Declaration of Covenants, Conditions and Restrictions that will be handled by the Ridge View Acres Homeowners Association Inc. Lots 1 thru 12 have an approved residential entrance permit #21-02 off of Hales Mill Road.

The survey creates a 66' wide right way private access easement that will be utilized as a public utility easement and storm water conveyance easement. Lots 1 thru Lot 3 have an Overhead Electric Transmission Line Easement (Book of Lands No. 56 Page 476). Lots 1 thru 5 and Lots 8 thru Lot 10 have a Storm Water Drainage, Detention and Infiltration Basins. The final plat has provided an engineered road plans including a site improvement plan, storm water calculation with plans showing infiltration of a 1 $\frac{1}{4}$ ' rainfall for the entire subdivision, grading plans and erosion control measures and covenants addressing well and septic maintenance, road & storm water Best Management Practices (BMP'S) maintenance by the Association.

Storm Water Infiltration Basins will be constructed on Lots 3, 4, 5, 8, 9, and 10 in relation to the primary structures as a requirement of the Dubuque County Storm Water Ordinances. The total square footage of each basin is identified on the drainage summary report and the improvement plans for this development. The final placement and installation of the storm water infiltration basins will be the responsibility of the developer. Any modifications to the size and/or location of the basins constructed by the developer must be approved by the developer and the Dubuque County Watershed Department. The maintenance of the storm water infiltration basins will be specified in the covenants associated with this development. Storm Water Management Basins, Storm Water Management and Infiltration Basins being used on this development must be completed by the Developer and maintained by the Home Owner's Association in conformance with the Dubuque County Storm Water Ordinance.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St. N., Farley. Mr. Schneider said it's basically the same as the preliminary plat that was presented earlier with some finalizing of the development of roads, wells and all the storm water requirements. He said they added some easements at the request of Eric Schmechel from the Soil and Water office.

Ms. Caitlin said lots 7, 8 & 9 are two acres and asked if they would be sub-divided at some point in the future. Mr. Schneider said no these lots are larger because some of it is in conservancy and some of it is rocky and you can not develop it.

Ms. Boyes asked if anyone had any questions. No one spoke.

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

4. REZONING CASES:

ZC#05-10-21 Dennis & Carol Schmitt A-1 Agricultural to R-3 Single Family Residential (Table from the May 18, 2021 meeting)

The applicants are requesting to rezone from A-1, Agricultural to R-3, Single Family Residential 2.5 acres to allow the construction for two (2) new homes for family members. The property, located .11 miles west of the City of Dubuque along Robin Hood Drive and Kennedy Road and is legally described as Lot 1-1-1 SE NE Section 10, (T89N-R2E) Dubuque Township, Dubuque County, Iowa.

The property is owned by Dennis & Carol Schmitt. Zoning in the area includes A-1, Agricultural to the north, south and east. R-1, Rural Residential to the north, east and west. R-2, Single Family Residential to the north, northeast and northwest. R-3, Single Family Residential south, west and northwest.

The R-1, Rural Residential to the north on ZC#9000-10-79 was to allow 1 acre to be rezoned for a residential home. The R-1, Rural Residential to the north on ZC#06-17-01 was to allow 1 acre to be rezoned for a future residential home. The R-1, Rural Residential to the east on ZC#12-31-17 was to allow 1.95 acres to be rezoned for a future residential home. The R-1, Rural Residential to the west on ZC#9000-08-73 was to allow 5.195 acres to allow for residential homes.

The R-2, Single Family Residential to the north on ZC#06-11-89 was to allow 10 acres to be rezoned for a residential subdivision. The R-2, Single Family Residential to the north on ZC#01-03-06 was to rezone 1 acre for a residential home. The R-2, Single Family Residential to the north on ZC#08-18-20 was to allow 1.5 acres to be rezoned for a single family home. The R-2, Single Family Residential to the northeast on ZC#02-08-02 was to allow 35 acres to be rezoned from A-1, Agricultural for a residential homes. The R-2, Single Family Residential to the northwest on ZC#07-17-00 was to rezone 20.56 acres from A-1, Agricultural to allow for a residential subdivision.

The R-3, Single Family Residential on to the south on ZC#9000-15-74 was to rezone 25.30 acres for a residential subdivision. The R-3, Single Family Residential to the west on ZC#04-21-95 was to rezone 31 acres for a residential subdivision. The R-3, Single Family Residential to the northwest on ZC#9000-14-73 was to rezone 10.275 acres to allow for a residential subdivision.

There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Thirty-three (33) rezoning notification letters were sent to the property owners and the City of Dubuque 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 Dave Schneider, Schneider Land Surveying, 906 1st St. N., Farley. Mr. Schneider said this case was tabled a couple months ago because of an access issue and ownership of Robin Hood Drive.

Ms. Steffens said the County Engineer is discussing this now. She said Anthony Bardgett said they will likely adopt the part of Robin Hood Drive that was missed earlier into the county they just have to finalize it.

Mr. Schneider said the owners want to create two lots, one for each of their kids to build a home.

Ms. Caitlin said the minutes from the previous meeting that this case was presented say that we were tabling this until a decision was made as to the ownership of Robin Hood Drive and asked if that has been determined.

Ms. Steffens said the County Engineer wanted this case to be heard so they could find out if there were any concerns from the neighbors and then he would finalize the adoption of the road. He told her that they need this part of the road to turn their plow trucks around so this would be the most logical decision.

Ms. Henry said there doesn't seem to be any reason that the adoption will not go through and if they were to approve this they could say on the condition that it is adopted by the county and the entrance is approved by the county. She said the County Engineer is recommending it be adopted because they have been taking care of it for over fifteen years.

Ms. Steffens said the neighbors signed a petition saying they do want the County to take ownership of Robin Hood Drive.

Mr. Sigwarth said he thinks they should approve it with a condition so the owners can move forward with their plans.

Ms. Caitlin said she thinks it's premature to present this case without having the road issue finalized.

Ms. Henry said the County Engineer was hoping to have the road adopted and finalized by this meeting so that is why they put it on the agenda. She said the Engineer just had a meeting yesterday and that's why the Board Members do not have a copy of the new signed petition from the neighbors saying they are in favor of Robin Hood Drive being a county road.

Speaking to the Board was Chris Demaio, 11272 Robin Hood Drive, Dubuque. Mr. Demaio the reason they signed the original petition saying they were against this was to stop any road or easement from Robin Hood Dr. up to Kennedy Road for fear of a future subdivision.

Mr. Breitbach asked if the same neighbors were notified of this meeting that were notified the last time this case was present. Ms. Steffens said yes. Mr. Breitbach asked if they had received any comments from anyone that was notified. Ms. Steffens said no.

Ms. Henry said the notification from the Engineer was also sent to all the neighbors that were within 500' of the property, which is the same as the zoning notifications.

Mr. Breitbach said he did not think this case should have been presented until the road issue was finalized.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the rezoning with the condition that the county has to approve the adoption of Robin Hood Drive and extending the access and the owners can not build until this is finalized. The motion passed unanimously. Vote 7-0.**

b) Plat of Survey of Schmitt Estates-Final Plat

Plat of Survey of Lot 1 thru Lot 4 of Schmitt Estates comprised of Lot 1 of Lot 1 of Lot 1 and Lot 2 of Lot 1 of Lot 1 in the SE ¼ of the NE ¼ Section 10, (T89N-R2E) Dubuque Township, Dubuque County, Iowa.

The property is owned by Dennis & Carol Schmitt and is located .11 miles west of the City of Dubuque along Robin Hood Drive and Kennedy Road with a total of 21.29 acres surveyed. The property is zoned A-1, Agricultural with a pending ZC#05-10-21 requesting to rezone 2.5 acres to R-3, Single Family Residential. The purpose of the plat is to separate 2.5 acres to allow the construction for two (2) new homes for family members and to allow an existing home lot to conform to the current county guidelines.

The survey creates 4 lots. Lot 1 has a total of 2.66 acres surveyed with a home & building that will remain in current ownership and residential use. Lot 2 has a total of 16.12 acres surveyed and it will remain in current ownership and agricultural use. Lot 3 has a total of 1.25 acres surveyed and it will be sold to a family member for a future home site. Lot 4 has a total of 1.26 acres surveyed and it will be sold to a family member for a future home site.

Lot 1 will use an existing 20' wide access easement of Kennedy Road. Lot 2 thru Lot 4 will use a 66' wide private access and public utility easement off Robin Hood Drive.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St. N., Farley. Mr. Schneider said he understands that this would be contingent to the approval of the adoption of Robin Hood Drive.

Ms. Caitlin said a plat is different than a rezoning and feels this case should be tabled until the road adoption is finalized.

Ms. Steffens said the Board could approve the plat with the condition that it can not move forward to the Supervisors until the road is finalized and the access is approved.

Ms. Boyes asked if the County Engineer knew when this would be done. Ms. Steffens said he was waiting for this meeting to see if there were any concerns from the neighbors and then take it to the Supervisors.

Ms. Boyes said that it would save the owners from bringing the case to the Board again, by approving the rezoning case and the plat with the conditions they want to put on them.

Ms. Caitlin said she does not think the Zoning Board should be seeing this plat and making a decision until the road issue is final.

Mr. Schneider said he wanted it back on the agenda because his understanding was that the road issue was going to be resolved by then. He is not concerned with the applicants building before the plat is approved because they can not do anything until it is approved by the Board of Supervisors.

Mr. Sigwarth said he thinks they should approve the plat with the condition that the road has to be adopted by the county and the access approved by the county.

Ms. Henry said about fifteen years ago the people who lived on Robin Hood Drive paid to have the road paved and since then the county has been maintaining it. She said about five years ago the county was taking care of some drainage issues on Robin Hood Drive and decided to make this a county road. Somehow this little stretch of the road was missed and now they want to add it so the entire road is county owned and maintained.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Breitbach, **seconded by Ms. Caitlin to table the plat. The motion passed. Vote 4-3. Ms. Caitlin, Ms. Scherrman, Mr. Breitbach and Mr. Runde voted in favor of the tabling the plat. Mr. Soppe, Mr. Sigwarth and Ms. Boyes voted against tabling the plat.**

ZC#07-15-21 Larry & Sharon Spoerl and Tami LeClere A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 1.432 acres to be allowed to replace the existing farm home that their daughter and son-in-law currently live in with a new home for platting and financing purposes. The

property, located .88 miles southwest of the City of Sherrill along Circle Ridge Road is legally described as Lot 1 Circle Ridge Sub Plat 2 Section 7, (T90N-R2E) Peru Township, Dubuque County, Iowa.

The property is owned by Larry & Sharon Spoerl. Zoning in the area includes A-1, Agricultural to the north, south, east and west. A-2, Agricultural Residential to the east, west and southwest. R-1, Rural Residential to the southwest. R-2, Single Family Residential to the southwest.

The A-2, Agricultural Residential to the east on ZC#11-32-15 was to allow an existing farm home to be separated from the farm ground for sale purposes. The A-2, Agricultural Residential to the west on ZC#03-08-20 was to finance a new home on the farm. The A-2, Agricultural Residential to the southwest on ZC#01-01-16 was to allow an existing farm home to be separated from the farm ground and to be sold to a family member.

The R-1, Rural Residential to the southwest on ZC#9000-11-76 was to allow for a single family home. The R-1, Rural Residential to the southwest on ZC#9000-18-80 was to allow for a single family home. The R-1, Rural Residential to the southwest on ZC#01-02-16 was to allow a non-conforming agricultural property into compliance. The R-2, Single Family Residential to the southwest on ZC#02-02-15 was to allow for a single family home.

There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Seven (7) rezoning notification letters were sent to the property owners and the City of Sherrill 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 Dave Schneider, Schneider Land Surveying, 906 1st St. N., Farley. Mr. Schneider said there is an existing house that was built in the 1890's that the applicants would like to remove and replace with a new one. He said they will share the road access so there will not be any additional access needed.

Ms. Caitlin asked if there were two houses on the same parcel. Mr. Schneider said yes and the applicants would like to rezone and plat off a little more than an acre so they will be able to meet their setbacks. Ms. Caitlin asked how long the homes have been there. Ms. Steffens said the one they are tearing down has been there since 1890 and the other home was replaced in 1993 because of a structure fire.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the rezoning with the conditions that 1.432 acres more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. That the balance of the parcel is not allowed to have another dwelling unless the property is rezoned for that use. The motion passed unanimously. Vote: 7-0.**

c) Plat of Survey of Circle Ridge Subdivision Plat 4-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Circle Ridge Subdivision Plat 4 comprised of Lot 1 in Circle Ridge Subdivision Plat 2 Section 7, (T90N-R2E) Peru Township, Dubuque County, Iowa.

The property is owned by Larry & Sharon Spoerl and is located .88 miles southwest of the City of Sherrill along Circle Ridge Road with a total of 43.563 acres surveyed. The property is zoned A-1, Agricultural with a pending ZC#07-15-20 requesting to rezone 1.432 acres to A-2, Agricultural Residential. The purpose of the plat is to replace the existing farm home that their daughter and son-in-law currently live in with a new home for platting and financing purposes.

The survey creates 2 lots. Lot 1 has a total of 1.432 acres surveyed with an existing farm home that their daughter and son-in-law currently live in that will be replaced with a new home. Lot 2 has a total of 42.131 acres surveyed with an existing home and farm buildings that will remain in current ownership and agricultural use.

Lot 1 will use an existing shared residential entrance off of Circle Ridge Road. Lot 2 will use a 30' wide utility & access easement across Lot 1.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St. N., Farley. Mr. Schneider said the purpose of this plat is to get each home on their own parcel with making sure they meet the requirements to put their septic system.

Ms. Boyes asked if anyone had any questions. No one spoke.

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

ZC#07-16-21 Thomas & Molly Brehm and John Hogan A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 1.17 acres to allow for the construction of a new home on the corner of the farm for their daughter and son-in-law to continue to assist in the livestock and farming operation. The property, located .51 miles west of the City of Epworth along Kidder Road is legally described as NW SW Section 15, (T88N-R1W) Taylor Township, Dubuque County, Iowa.

The property is owned by Thomas & Molly Brehm. Zoning in the area includes A-1, Agricultural to the north, south, east and west. A-2, Agricultural to the north. M-2, Heavy Industrial to the north. The A-2, Agricultural Residential to the north on ZC#11-23-20 was to allow the separation of a new home from the remaining agricultural ground for financing purposes. The M-2, Heavy Industrial to the north on ZC#07-24-16 was to allow any use allowed in the M-1, Industrial district. It included a construction office and yard that has outdoor recycling, processing, crushing, sales and storage of cement, aggregate, wood, etc; commercial storage buildings with outdoor storage and the composting of yard waste and organic materials, not including meat or meat products after February 28, 2017. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Three (3) 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 Dave Schneider, Schneider Land Surveying, 906 1st St. N., Farley. Mr. Schneider said the applicants want to move an existing home onto the property and add a garage. He said the Brehm's run a dairy farm and their daughter and son in law would like to be closer to help with the farm operations. He said the intent of the Brehm's is to keep this farm in the family.

Ms. Caitlin asked they want to put a second house on the same parcel. Mr. Schneider said yes they are moving a home onto the lot and will be sharing the existing well. Ms. Caitlin said this is contrary to the language of the A-2 zoning district. Mr. Schneider said the applicants would not have a problem with putting a condition on other property that they own. He said it doesn't make sense to put the home on a different parcel because that would take up more crop ground.

Mr. Sigwarth said the purpose of the A-2 zoning is to allow family members to move onto the farm to help with farming operations. He said it only makes sense to build by the existing home and share a well.

Speaking to the Board was John Hogan, 2285 Woodlawn St, Dubuque. Mr. Hogan said they picked this spot to build their home because they didn't want to take any tillable ground away from the farm and this site is right along the road. He said this is the site the Brehm's wanted them to build.

Ms. Steffens said they have an approved entrance from the County Engineer's Office.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the rezoning with the conditions that 1.17 acres more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. That the balance of the NW SW and the SW SW parcels are not allowed to have another dwelling unless the property is rezoned for that use. The motion passed. Vote: 6-1. Mr. Sigwarth, Mr. Soppe, Mr. Runde, Ms. Boyes, Ms. Scherrman and Mr. Breitbach voted in favor of the rezoning. Ms. Caitlin voted against the rezoning.**

5. OLD BUSINESS:

Ms. Steffens said there was an issue with the courthouse publishing the next zoning cases so they won't be heard until July 26, 2021 and will give an update after that.

6. NEW BUSINESS:

Ms. Steffens said they are still working on the zoning code update with the mobile homes and will bring information to them as they get it.

7. PUBLIC COMMENTS:

8. ADJOURNMENT: A motion was made by Mr. Soppe, seconded by Ms. Caitlin to adjourn the meeting. The motion passed unanimously. Vote: 7-0. The meeting ended at 7:00 p.m.