

Dubuque County Zoning Commission Minutes of December 21, 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 and Ron Breitbach, Members present at the Dubuque County West Campus, 1225 Seippel Rd: Kevin Soppe, Jerry Sigwarth, Sam Boyes, Kathleen Scherrman and Ken Runde. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Tammy Henry and Angela Steffens.

2. APPROVAL OF MINUTES: A motion was made by Mr. Sigwarth, **seconded by Mr. Runde and passed unanimously to approve the minutes of the November 21, 2021 meeting. Vote: 7-0.**

3. PLAT APPROVAL:

a) Plat of Survey of Greenfield Place-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Greenfield Place comprised of Lot 2 and Lot 3 of Weinschenk Place Section 27, (T88N-R3E) Mosalem Township, Dubuque County, Iowa.

The property is owned by Timothy Greenfield and is located 4.90 miles east of the City of Dubuque along Ridgeview Drive with a total of 33.264 acres surveyed. The property is zoned R-1, Rural Residential. The purpose of the plat is to reduce the size of Lot 2, which will be purchased by Timothy Greenfield's son. The remainder will be added into Lot 1 where Timothy Greenfield is building a new home.

The survey creates 2 lots. Lot 1 has a total of 28.264 acres surveyed and is the site of the new home for Timothy Greenfield. Lot 2 has a total of 5 acres surveyed with an existing home and shed that will be sold to Timothy's son.

Lot 1 and Lot 2 will have access off of Ridgeview Drive.

Speaking to the Board was Timothy Greenfield, 6633 S. Cavendish, Dubuque. Mr. Greenfield said Ms. Henry covered everything on the plat.

Ms. Boyes asked if there were 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.**

b) Plat of Survey of Stone Quarry No. 5-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Stone Quarry No. 5 a division of Lot 1 of Stone Quarry No. 3 Section 8, (T88N-R3E) Mosalem Township, Dubuque County, Iowa.

The property is owned by Herrig Family Trust and is located 1.09 miles southeast of the City of Dubuque along Olde Massey Road with a total of 47.28 acres surveyed. The property is zoned A-1, Agricultural and A-2, Agricultural Residential on ZC#09-20-21. The purpose of the plat is to separate Lot 2 for sale purposes.

The survey creates 2 lots. Lot 1 is a total of 43.37 acres surveyed and will remain in current ownership and agricultural use. Lot 2 has a total of 3.91 acres surveyed with an existing home and building and will be sold.

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

Speaking to the Board was Mike Weber, Weber Surveying, 26789 46th Ave, Bernard. Mr. Weber said the rezoning was approved earlier and this is the plat following that.

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

Ms. Caitlin abstained from this case.

A motion was made by Ms. Scherrman, **seconded by Mr. Soppe to approve the plat. The motion was passed unanimously. Vote: 6-0. Ms. Caitlin abstained.**

c) Plat of Survey of Junnie's Place-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Junnie's Place comprised of Lot 1 of Lot 2 of Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 2, Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 2 and Lot 2 of Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 2, all in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and Lot 1 of Lot 2 of Lot 1 of Lot 1 of Lot 2 of Lot 1 of Lot 1 of Lot 2, Lot 2 of Lot 1 of Lot 1 of Lot 1 of Lot 2 of Lot 1 of Lot 1 of Lot 2 and Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 2 of Lot 1 of Lot 1 of Lot 2 all in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ all in Section 15, (T90N-R2E) Peru Township, Dubuque County, Iowa.

The property is owned by John & Letha Mihalakis Trust and is located 3.13 miles north of the City of Sageville along Kings Row with a total of 2.86 acres survey. The property is zoned R-3, Single Family Residential. The purpose of the plat is to separate the existing house and create a lot for a family member to build a new home on.

The survey creates 2 lots. Lot 1 has a total of 1.24 acres surveyed and it will be sold to family member to build a new home. Lot 2 has a total of 1.62 acres with an existing home and detached garage and it will be sold to a family member. Lot 1 and Lot 2 will share a 9,295 sq. ft. shared yard easement that includes a gazebo.

Lot 1 and Lot 2 will have access off of the private road Kings Row.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st N. Farley. Mr. Schneider said the property owners have passed away and there are family members that are purchasing it. He said this plat will consolidate a bunch of different lots into two lots for the family members.

Ms. Caitlin asked if the owners understood that it was a private road and would not be maintained by the county. Ms. Henry said yes they are aware of that.

Ms. Boyes asked if there were any questions. No one spoke.

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

d) Plat of Survey of Country View Estates Plat 2-Preliminary Plat (Tabled from the September 21, 2021 Meeting)

Preliminary Plat of Survey of Lot 9 thru Lot 33 of Country View Estates Plat 2 comprised of Lot 10 in Country View Estates Section 7, (T89N-R2E) Dubuque Township, Dubuque County, Iowa.

The property is owned by Ronald & Jessalynn Breiner and is located .19 miles northwest of the City of Dubuque along Hales Mill Road with a total of 83.708 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 Preliminary Survey creates 25 lots. Lots 9 thru Lot 33 are a minimum of 1 acre in size and each lot shall have its own individual septic system. There will be six (6) shared wells and 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 will be submitted for review by the Dubuque Water Department.

Lots 9 thru 33 have an approved residential entrance on permit #21-03 off of Hales Mill Road. The survey creates a 66' wide right of way private access easement that will be utilized as a public utility easement and storm water conveyance easement. The site grades and storm water management facilities are subject to change in size, shape, location and type based on the final design as dictated by the storm water calculations, cut/fill calculations and concerns generated during the preparation of construction documents and the review process.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St. N. Farley. Mr. Schneider said there were some concerns about the wells and storm water when this plat was originally brought before the Board. He said the owners were still figuring out how they were going to set up their LLC and who was going to be members of that. He said they have added some parcels and taken some parcels out. He said they met with Eric Schmechel from the Soil and Water department about the retention areas and have that figured out. He said they will meet the DNR requirement regarding the wells.

Ms. Caitlin asked if the final plat for this subdivision will come before the Zoning Board. Ms. Henry said this preliminary plat will go before the Board of Supervisors and then the final plat will come before both Boards for approval.

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

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

4. REZONING CASES:

ZC#12-28-21 Elizabeth Reuter and Mike Weber, Surveyor A-1 Agricultural to R-3 Single Family Residential

The applicants are requesting to rezone from A-1, Agricultural to R-3, Single Family Residential 1.18 acres to allow an existing home to be separated from the agricultural

ground. The property is located .09 miles west of the City of Dubuque along Key West Drive and is legally described as Lot 4 Key West (Original Town) and SE NE all in Section 11, (T88N-R2E) Table Mound Township, Dubuque County, Iowa.

The property is owned by Elizabeth Reuter Revocable Trust Agreement. Zoning in the area includes C-1, Conservancy to the north. A-1, Agricultural to the north, south and east. R-2, Single Family Residential to the southwest. R-3, Single Family Residential to the northeast, east, southeast and south. R-5, Multi-Family Residential to the southeast and south. B-1, Business to the east and southeast.

The R-3, Single Family Residential and R-5, Multi-Family Residential on ZC#9000-12-74 was to allow for 45 acres to be rezoned from B-1, Business for single family & multi-family development. The R-5, Multi-Family Residential to the south on ZC#9000-04-80 was to allow for a professional office for the Boy Scouts of America. The B-1, Business to the southeast on ZC#11-35-16 was to rezone .29 acres to allow the combination of adjacent lots for business use or sale.

There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Fifty-seven (57) rezoning notification letter was 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 Mike Weber, Weber Surveying 26789 46th Ave., Bernard. Mr. Weber said the owner would like to separate her home from the farm ground. He said they have several hundred acres and this is the first split of 40 acres. He said they asked for a Residential zoning because it is in Key West right next to other Residential zoning.

Ms. Henry said a small corner of this property is already zoned R-3, Single Family Residential.

Ms. Caitlin said she thinks this property should be rezoned to A-2 instead of R-3 because there is A-1 zoning east of this. She said she feels like they are losing the A-1 zoning rapidly and the Board should be more conservative.

Mr. Weber said this property is in the residential area of Key West with neighbors all around it. He said there are no farm buildings only the home and that is why they asked for the R-3 zoning.

Ms. Caitlin asked why they didn't ask for a rezoning to the A-2 district. Mr. Weber stated that because of where the house sits the R-3 setbacks worked for that lot.

Mr. Sigwarth said this property is in a town with neighbors all around and feels like the R-3 zoning makes sense.

Ms. Scherrman asked why a little piece of this property was zoned R-3 and not the rest. Ms. Henry said they tried to find any information on this but could not find anything.

Mr. Breitbach said he thinks changing this parcel to the R-3 zoning makes sense.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the rezoning. The motion passed. Mr. Sigwarth, Mr. Soppe, Mr. Breitbach, Ms. Boyes, Mr. Runde and Ms. Scherrman voted in favor of the motion. Ms. Caitlin voted against the motion. Vote: 6-1.**

ZC#12-29-21 Russell & Danielle Schueller A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 1.763 acres to finance a new home on the farm. The property is located 1.05 miles northwest of the City of Rickardsville along Pfeiler Road and is legally described as SW NE Section 23, (T90N-R1W) Concord Township, Dubuque County, Iowa.

The property is owned by Russell & Danielle Schueller. Zoning in the area includes A-1, Agricultural to the north, south, east and west. R-1, Rural Residential to the east. The R-1, Rural Residential to the east on ZC9000-42-77 was to allow an existing home to be separated from the crop ground. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Nine (9) rezoning notification letter was sent to the property owners and the City of Rickardsville 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 Russell Schueller, 21179 Plum Creek Rd., Holy Cross.

Ms. Caitlin asked if there were any other homes on this 40-acre piece. Ms. Henry said no this would be the first home.

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

A motion was made by Ms. Caitlin, **seconded by Mr. Sigwarth to approve the rezoning with the conditions that 1.763 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.**

ZC#12-30-21 Paul & Cathy Koerperich A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 1.10 acres allow for the construction of a new home that will replace the existing farm house. The property is located .35 miles southwest of the City of Graf along Girl Scout Road and is legally described as Lot 3 S ½ SE Section 30, (T89N-R1E) Center Township, Dubuque County, Iowa.

The property is owned by Paul Koerperich. Zoning in the area includes A-1, Agricultural to the north, south, east and west. R-1, Rural Residential to the east. R-2, Single Family Residential to the east. The R-1, Rural Residential to the east on ZC#9000-12-79 was to allow for the construction of a single family home. The R-2, Single Family Residential to the east on ZC#08-18-13 was to rezone 1.4 acres to be rezoned to allow for an existing structure (a.k.a. Lattnerville Church) to be converted into one (1) single family home.

There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Nine (9) rezoning notification letter was sent to the property owners and the City of Graf 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.

Ms. Henry read the one comment they received in regards to this case:

To Whom it may concern:

We are aware of this request and we have no issues of concern. Please grant their request.

Thank You,

Gary Switzer and LuAnn Switzer, 20231 Girlscout Rd. Epworth

Speaking to the Board was Paul Koerperich, 20298 Girl Scout Rd. Epworth.

Ms. Caitlin asked what the access plan was to get to this rezoned piece of property. Mr. Koerperich said there is an existing field driveway on the ridge of the road that they can use. Ms. Henry said the applicants applied for a legal entrance off Girlscout Rd. from the County Engineer's Office to make sure that is a safe entrance.

Ms. Caitlin asked how they monitor making sure the old home gets torn down after they build the new one. Ms. Henry said they have 90 days from the time the new home is completed to demolish the old one. She said the zoning office will go out and make sure it is gone.

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

A motion was made by Ms. Caitlin, **seconded by Mr. Soppe to approve the rezoning with the conditions that 1.10 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.**

e) Plat of Survey of Koerperich Farm Subdivision-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Koerperich Farm Subdivision comprised of Lot 2 in the SE ¼ of the SW Fractional ¼ and Lot 3 in the S ½ of the SE ¼ all in Section 30, Center Township, Dubuque County, Iowa.

The property is owned by Paul Koerperich and is located .35 miles southwest of the City of Graf along Girl Scout Road with a total of 39.99 acres surveyed. The property is zoned A-1, Agricultural with a pending ZC#12-30-21 requesting to rezone 1.10 acres to A-2, Agricultural Residential. The purpose of the plat is to allow for the construction of a new home that will replace the existing farm house.

The survey creates 2 lots. Lot 1 has a total of 1.10 acres surveyed and will be the site of the new home on the farm and will remain in current ownership. Lot 2 has a total of 38.89 acres surveyed with an existing farm home that will be removed and farm buildings and it will stay in current ownership and agricultural use.

Lot 1 has a pending residential entrance permit with the County Engineer's office. Lot 2 will use an existing entrance off of Girl Scout Road.

Speaking to the Board was Paul Koerperich, 20298 Girlscout Rd., Epworth and Dave Schneider, Schneider Land Surveying 906 1st N. Farley. Mr. Schneider said they are taking two lots and reconfiguring them into two lots. He said one lot will be used to build a home and the rest will stay in farm ground.

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.**

5. OLD BUSINESS:

Ms. Henry said ZC#11-24-21 Knuth Farms Inc and Amanda Schlemme A-1 Agricultural to A-2 Agricultural Residential, ZC#11-25-21 Philip & Colleen McCarthy A-1 Agricultural to A-2 Agricultural Residential, ZC#11-26-21 Nathan Kutsch A-1 Agricultural to A-2 Agricultural Residential and ZC#11-27-21 Steven & Dawn Wilwert and Eric Lahey A-1 Agricultural to A-2 Agricultural Residential were all approved by the Board of Supervisors.

6. NEW BUSINESS:

Ms. Henry said the Board of Supervisors approved all of the Ordinances except the Solar Ordinance. She said they will be bringing the Solar Ordinance to the Zoning Board to go over a few things because there were some comments made by one of the solar companies and they had just a few things that they want the Zoning Board to look at.

Mr. Raber said the company wants the Zoning Board to look at two different things. The first one is regarding the electric lines that run inside the perimeter of the solar farm. The second thing is regarding the size of the solar farm. He said in Iowa it has generally been based on what the use for the solar farm will be. He said that the Zoning Board can decide what they want and don't want to regulate.

Mr. Breitbach asked if other solar ordinances regulate other things that they have not addressed in this ordinance. Mr. Raber said he is not aware of any other county in Iowa doing anything that this Zoning Board has proposed.

Mr. Runde asked how their Solar Ordinance read.

Ms. Boyes said she thought size of the Solar Farm should be dictated by the company that is installing it based of the footprint.

Ms. Henry said these changes are just the companies view of the ordinance and may not be something they need to address or worry about.

Ms. Boyes asked what other regulations did this company suggest. Ms. Henry said he did not suggest that they changed the rules on it. Ms. Boyes said she doesn't know how they would define those regulatory points.

Mr. Breitbach said he doesn't think the Zoning Board has enough knowledge about these Solar Farms to put any regulations in place within an Ordinance. He said he thinks they should leave that flexibility to the Board of Supervisors or whatever department of government that should be regulating it.

Mr. Raber said the City has building codes that are regulated by them but the County does not. Ms. Henry said the electrical is controlled between the utility companies and the State.

Mr. Runde said the utility companies have regulations that they have to follow. He said he doesn't think they should regulate that.

Ms. Caitlin said she feels like they should not discourage business's or home owners that want to build a solar array and plan to sell electricity back to the utility company. She said the solar arrays are regulated by the utility companies and thinks the owners should not have to come before the Zoning Board and ask to do this.

Mr. Sigwarth said if someone builds a Solar Farm just for the purpose of selling the energy to the utility company they will never come out ahead.

Mr. Runde said the state does not regulate how much electricity you can sell back to the utility company. He said he doesn't think the Zoning Board should be putting any regulations in the Ordinance because he feels it will not benefit the public by doing this.

Ms. Caitlin said the Ordinance that the Zoning Board has proposed is directed to those companies or individuals who intend on sell the electricity back. She said if, for example, a farmer wanted to make a bunch of money and build a huge array the Ordinance covers that. Ms. Caitlin asked if a school wanted to build an array to supply them with electricity the proposed ordinance says we are not going to regulate that. Ms. Henry said yes that is correct.

Mr. Raber said an ordinance usually regulates the intended use of the property not so much the size of things.

Mr. Raber said he talked to a representative from Alliant Energy and they said we don't know what the solar arrays will look like ten years from now and there might be different uses for them.

Ms. Caitlin suggested that they wait to decide anything until they have the Ordinance in front of them then they can vote on it.

Ms. Henry said this is Mr. Runde's last night and thanked him for his service. She introduced Dave George who will take Mr. Runde's place on the Zoning Board. She said he will start next month.

7. PUBLIC COMMENTS:

8. ADJOURNMENT: A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to adjourn the meeting. The motion passed unanimously. Vote: 7-0. The meeting ended at 7:16 p.m.**