

Dubuque County Zoning Commission Minutes of May 17, 2022

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

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

2. APPROVAL OF MINUTES: A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe, and passed unanimously to approve the minutes of the April 19, 2022 meeting. Vote: 6-0.**

3. PLAT APPROVAL:

a) Plat of Survey of Adams Acres-Final Plat (Tabled from the April 19, 2022 Meeting)

Plat of Survey of Lot 1, Lot 2 and Lot 3 of Adams Acres a consolidation and division of the following lots: Lot 1 of Lot 1 of Lot 2 of Lot 1 of the NE NE, Lot 1 of Lot 1 of Lot 1 of Lot 1 of Lot 1 of the NE NE, Lot 2 of Lot 1 of Lot 1 of Lot 1 of Lot 1 of the NE NE, Lot 1 of Lot 1 of the SE NE and Lot 2 of the SE NE all in Section 35, T88N, R2E, Table Mound Township, Dubuque County, Iowa.

The property is owned by Garry James & Illa Kay Adams Rev. Trust and Illa Kay Adams Farm Trust and is located .88 miles south of the City of Dubuque along Airview Drive with a total of 78.13 acres surveyed. The property is zoned R-2, Single Family Residential and A-1, Agricultural. The purpose of the plat is to increase the lot size around each house to get the lot sized into compliance for at least one acre. The remainder of the crop ground will be sold to a neighbor.

The survey creates 3 lots. Lot 1 has a total of 75.76 acres surveyed and will remain in current agricultural use and be sold to a neighbor. Lot 2 has a total of 1.21 acres surveyed with a home and will remain in current ownership and residential use. Lot 3 has a total of 1.16 acres surveyed with a home and will remain in current ownership and residential use.

Lot 1 will use an existing field entrance off of Airview Drive.

Lot 2 and Lot 3 will use existing residential entrances off of Airview Drive.

Ms. Boyes stated that this plat was being tabled because the lot has 2 homes and the original home needs to be torn down before the plat approval.

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

b) Plat of Survey of Kendrick Subdivision-Final Plat

Plat of Survey of Lot 1 and Lot 2 of Kendrick Subdivision in the S ½ of the NE ¼ of the NW ¼ and in the SE ¼ of the NW ¼ both in Section 6, T90N, R2W, Liberty Township, Dubuque County, Iowa.

The property is owned by the Timothy F. Kendrick Revocable Trust, Timothy F. Kendrick and Rhonda L. Kendrick, Trustees and is located 3.17 miles northwest of the City of Luxemburg Borne Lane with a total of 59.88 acres surveyed. The property is zoned A-1, Agricultural and PC Planned Complex. The purpose of the plat is to separate the 10 acres that are zoned PC Planned Complex on ZC#03-12-22.

The survey creates 2 lots. Lot 1 has a total of 49.88 acres surveyed and will remain in current ownership and agricultural use. Lot 2 has a total of 10 acres surveyed with two homes, a pavilion, a cabin, a kitchen shed and 6 cement pads and is zoned PC Planned Complex and will remain in current ownership and use.

Lot 1 and Lot 2 will use a 66' wide access easement off of Borne Lane.

There was no one to speak on behalf of the case. Ms. Boyes stated they are required to be present to speak on behalf of the case.

A motion was made by Mr. Breitbach, **seconded by Mr. George to table the plat. The motion passed unanimously. Vote: 6-0.**

c) Plat of Survey of Gansen Farm Subdivision Plat 4-Final Plat

Plat of Survey of Lot 1, Lot 2 and Lot 3 of Gansen Farm Subdivision Plat 4 comprised of the SW ¼ of the SW ¼ of Section 27, T88N, R1E and Lot 2 in Gansen Farm Subdivision Plat 2 all in Vernon Township, Dubuque County, Iowa.

The property is owned by Judy Callahan, Michael Gansen, Daniel Gansen, Larry Gansen, Dale Gansen and Thomas Gansen and is located 2 miles south of the City of Peosta along North Cascade Road with a total of 101.369 acres surveyed. The property is zoned A-1, Agricultural and A-2, Agricultural Residential on ZC#06-23-18 to separate the home and farm buildings to sell to a member of the Gansen family. The purpose of the plat is to disperse the family farm to family members.

The survey creates 3 lots. Lot 1 has a total of 23.975 acres surveyed with a home and farm buildings and will remain in current ownership and agricultural use. Lot 2 has a total of 23.161 acres surveyed and will be sold to a family member who lives adjacent from the farm ground and it will remain in agricultural use. Lot 3 has a total of 54.233 acres surveyed and will be sold.

Lot 1 will use an existing residential entrance off of North Cascade Road. Lot 2 will use an existing field entrance north of the farm off of North Cascade Road. Lot 3 will use an existing field entrance off of North Cascade Road.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st North Farley. Mr. Schneider stated the family is trying to transfer the property out of the fathers estate. He stated two of the sons would be keeping Lots 1 & 2 and Lot 3 would be sold.

Ms. Boyes asked if anyone had questions and no one spoke.

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

d) Plat of Survey of Country View Estates Plat 3-Final Plat

Plat of Survey of Lot A of Country View Estates Plat 3 comprised of Lot 1, Lot 2, Lot 3 and Lot 4 in Country View Estates and Lot 9 and Lot 10 in Country View Estates Plat 2 all in Section 7, T89N, R2E, Dubuque Township, Dubuque County, Iowa.

The property is owned by Cedar Ridge Construction JJS, LLC, CK Development Group, LLC and Hales Mill Development, LLC and is located .19 miles northwest of the City of Dubuque along Hales Mill Road with a total of 9.834 acres surveyed. The property is zoned R-2, Single Family Residential. The purpose of the plat is to modify the lots to provide a 1-acre taxable area south of an existing right of way fence because the neighbor's potential claim to the area north and west of the existing right of way fence.

The survey creates 1 lot. Lot A is an unbuildable lot and has a total of .422 acres surveyed and will be owned either by the Home Owners Association or the neighbor to the north.

Lot A will use an existing residential entrance off of Keegan Court.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st North Farley. Mr. Schneider said this plat was being done due to a dispute over fenced off road right of way back in the 1870's. So to fix the dispute they created the Lot A and they made sure that all existing lots met the county ordinance of being at least 1 acre lots. Mr. Schneider said that the road was used up to the 1930's but then between the 1930's-1950's it had gotten moved to a ridge to the north and was abandoned.

Mr. Schneider said there is an agreement that the property owners will obtain what's is attached to each lot however it will not be buildable.

Mr. Sigwarth asked if it was listed as a right of way. Mr. Schneider said yes and it was marked as abandoned and removed from the tax rolls.

Ms. Henry said this was the resolution for the subdivision to proceed with the sale of the lots. Mr. Schneider stated this would clear up the title issues.

Ms. Henry stated if the owners of the property to the north would want to purchase and make the Lot A buildable then they would need to do a plat and absorb the Lot A into their land.

Ms. Boyes asked if there were any additional questions and no one spoke.

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

4. REZONING CASES:

ZC#05-17-22 Ronald Joseph Steger A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 7.28 acres to allow them to sell the crop ground. The property is located .89 miles north of the City of Bankston along Bankston Road and is legally described as the NW SW and the NE SW both in Section 9, T89N, R1W, Iowa Township, Dubuque County, Iowa.

The property is owned by Ronald Joseph Steger. Zoning in the area includes A-1, Agricultural to the north, south, east and west. A-2, Agricultural Residential to the north. R-1, Rural Residential to the northeast. The A-2, Agricultural to the north on ZC#08-20-15 was to allow for the construction of a new farm home. The R-1, Rural Residential to the northeast on ZC#02-06-95 was to allow for the construction of a single family home on the family farm.

There are no previous zoning cases attached to this property. There are no special use permits attached to this property. Six (6) letters were sent to the property owners and the City of Bankston 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 North, Farley. Mr. Schneider was contacted by a realtor regarding a buyer that wanted to retain the single family home and sell off the remaining crop ground.

Mr. Sigwarth questioned why such a large area was being rezoned and Mr. Schneider said the house sets further back on the property and the house was in bad shape. Mr. Schneider said if someone new came along and wanted to purchase the lot and build they would most likely build closer to the road and retain the buildings in the back. Ms. Boyes asked where the access easement for the field was located and Mr. Schneider said there was another field access in the far northwest corner of the farm.

Mr. Sigwarth asked how much of the A-1 land would be remaining after the rezoning. Mr. Schneider said about 190 acres total.

Ms. Boyes asked if there were additional questions and no one spoke.

A motion was made by Mr. George, **seconded by Mr. Sigwarth to approve the rezoning with the conditions that 7.28 acres more or less be rezoned around the existing home and buildings 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: 6-0.**

5. OLD BUSINESS:

Ms. Henry said ZC#04-13-22 Faber Family Rev. Trust and Al & Maureen Faber A-1 Agricultural to A-2 Agricultural Residential, ZC#04-14-22 Clarence & Florence Kennicker Trust A-1 Agricultural to A-2 Agricultural Residential, ZC#04-15-22 John P Taylor Declaration of Trust Dated 08/23/2013 Etal and Barbara A Taylor Declaration of Trust Dated 08/23/2013 A-1 Agricultural to A-2 Agricultural Residential, ZC#04-16-22 Spring Valley Investments & Michael Friederick PC Planned Complex to Amended PC Planned Complex were all approved by the Board of Supervisors.

Ms. Henry said that County Attorney CJ May was in attendance to discuss the Financial Resource Chapter-Family Farm Credit that talked about splitting up the 40 acre A-1, Agricultural into 10 acre, A-1, Agricultural lots.

Mr. May said Ms. Henry asked him to do research on the chapter and see if this was possible and wanted to know if the state code would take precedence over the county ordinance. Mr. May said this Chapter deals with the Family Farm Tax Credit and its part of the Department of Treasury. He said they take the first \$10 million dollars and transfer that annually to the Land Credit Fund then to the Family Farm Tax Credit Fund.

Mr. May said the chapter covers agricultural land only. The main components being farming, crops, livestock, agricultural or cultural, 10 acres or more not including buildings or structures. All contiguous tracts must be under identical legal ownership in the same county and ½ of contiguous land must be in Agricultural Production Land. If these criteria's are met and show in good faith that its Agricultural purposes and apply to the County Assessor. The information then gets passed to the Board of Supervisors.

Mr. Sigwarth asked Mr. May if a surveyor could start with a 40 acre piece of Agricultural land and plat it into 10 acre sections if they were being farmed. Mr. May said no. Mr. May said you could only claim one tax credit for a 10 acre parcel. He said the chapter is for a tax credit and is not a platting issue. Ms. Boyes asked if there could be buildings on the property and Mr. May said you can have a building on the property as long as it was more than 10 acres because you have to have at least 10 acres of crop ground to qualify for the tax credit.

Ms. Henry stated to the board that the original question was could you take a 40 acre piece and split it into 10 acre pieces and build houses in the 10 acre pieces. She said it seems the answer is no.

Mr. Schneider stated said the assessor's office gives the ability of claiming the agriculture tax credit if you have 10 acres of crop ground associated with your home.

Mr. Breitbach asked if you could rent out that property and still file for the tax credit or does the owner have to farm it themselves? Mr. May said if you leased the land out to an immediate family member than you could qualify.

Ms. Henry stated that our County Auditor controls our platting ordinances. She said Kevin Dragatto our County Auditor is aware of the platting ordinance problems and she knows it is under his radar. Mr. Sigwarth asked why we are doing the work if we do not have any control over the platting ordinances. Ms. Henry said we do have input in the platting ordinances. She said they are set up in Dubuque County that it goes to the Zoning Board first. Mr. Schneider stated most county's do not take the plats to the Zoning Board first they take it to their Auditors Office for review first and then if it needs to go before the Zoning Board it will.

6. NEW BUSINESS: PC-Planned Complex work session.

Ms. Henry presented the board the current PC-Planned Complex application. She wanted to discuss the application process.

Ms. Breitbach asked why the complex had to be a minimum of 10 acres. Mr. Schneider said he assumed that the Dubuque County was working with the COZO Planning Group (Chief Opportunity Zone Officer Group) and this was probably a standard rule that was passed on years ago to all counties.

Ms. Henry said she reached out for more information on how other counties operate the PC-Planned Complex. She said other counties call them a PUD-Planned Unit Development.

Ms. Henry and the board discussed the minimum acres. Mr. Breitbach expressed he didn't like placing too many limitations on the PC-Planned Complex and thinks it should be based on a case by case basis. He said they would have to follow all other state rules and regulations anyways.

Ms. Boyes purposed that the board needs to try to understand where the 10 acres is coming from and if it needs to be changed or adjusted based on the history it can be done at that time. She said that the public has the opportunity at the public hearing to voice their opinion but it is the board's obligation to uphold the ordinance and as long as the applicant is following the procedure and provides the required documents and meets the ordinance's expectations there should be no reason or favors done in the process.

Ms. Henry said this conversation will help her to do more research on the 10 acre rule. She said she also requested them to look into the written statement and sight plan explaining how the PC-Planned Complex would meet the purpose and intent of the ordinance and how it benefits the public. Ms. Henry stated that some of the verbiage is repeated and it could be written differently.

Ms. Scherrman suggested making a change regarding the land use map so the public knows where to look for this information.

Mr. Breitbach asked what the point or goal is having a PC-planned complex benefit the general public. Ms. Henry said she didn't have the answer for that and that was needed to be discussed. The board then discussed if the PC-Planned Complex needed to benefit the general public. Ms. Boyes said she thought the application should read my PC-Planned complex in no way interferes with the general public, the aesthetic of the property is maintained and that is my service to the public.

Ms. Henry said from the conversation that we want to look into changing or even removing the 10-acre minimum and maybe change or remove the general public's benefit. Ms. Henry said she has a COZO meeting and she is hoping to have questions to ask other counties and see how their ordinances read. She would then bring that information back to further discussion with the Zoning Board at the next meeting.

Ms. Henry said the current application requires the current topography of the land and requires 6 copies but really only need one original copy and also a digital copy. Dave Schneider, Schneider Land Surveying said he thought it was very important to keep this information for the application.

Ms. Henry stated she talked to Dubuque County Engineer Anthony Bardgett and she asked what the difference was between showing the direction of traffic indicated and streets showing the direction of flow. He said there was no difference and it was repetitive. Ms. Henry said we could fix that information.

Mr. Schneider suggested using plot plan to meet the county site plan requirements.

Ms. Henry stated that the plan for the privately operated sanitary sewer facility would fall under the site plan requirements and they would need the permit to operate.

Ms. Henry said the proposed plat and the PC-Planned Complex application will be presented together. Mr. Schneider suggested there needs to be a Pre-Planned Complex meeting because he constructs the planned complex drawing that meets the site plan requirements for the county and it gets denied it could be a costly expense to the owner.

Mr. Schneider stated that the storm water is the most difficult part of creating these plans.

Ms. Henry asked Mr. Schneider if the following was necessary in the current PC-Planned Complex application. Once the final plat is approved in conjunction with the PC-Planned Complex, existing lots and blocks that are deemed unsuitable shall be vacated. Mr. Schneider said it is like platting over an existing development and you are platting away all the underlying lots that are unnecessary.

The board discussed the meaning of the proposed uses are in accord with the future land use plan. Mr. Schneider said when projecting a development it is just a plan that is not necessarily set in stone and is always subject to change.

Ms. Boyes stated its in the best interest of the general public the proposed development is more beneficial than the development that could be accomplished under the provisions of any other district is a decision that should be made before the platting begins and not necessarily on the Planned Complex application.

Mr. Schneider suggested a checklist for the PC-Planned Complex to make the process easier.

The board discussed that the written statement that the general public will benefit by the proposal because of increased accommodations and aesthetic qualities should be removed from the application. Mr. George stated that he didn't believe the PC-Planned Complex should not have to benefit the public however he don't want to see it create a nuisance. Ms. Boyes suggested adding the nuisance clause as long as the board could define what the nuisance is. Ms. Henry said she would check to see what the County Sheriff considers a nuisance.

The board decided to change or remove the review process of the application.

The board decided to keep the Permit section will stay the same however change it to read The Zoning Office shall issue permits only for buildings, structures or uses shown on the plan.

Ms. Henry said she does not think when an amendment is made, the entire PC-Planned process has to start over. Ms. Henry suggested having an application for a PC-Planned Complex Amendment.

7. PUBLIC COMMENTS:

8. ADJOURNMENT: A motion was made by Mr. Sigwarth, seconded by Mr. Breitbach to adjourn the meeting. The motion passed unanimously. Vote:6-0 . The meeting ended at 8:24 p.m.