

**DES MOINES COUNTY, IOWA
ZONING COMMISSION
REGULAR MEETING MINUTES
THURSDAY, JUNE 18, 2020**

The Des Moines County Zoning Commission met in regular session on June 18, 2020 at 5:30 P.M. The public health emergency regarding COVID-19 (Coronavirus) made it impractical to hold this meeting entirely in person. Des Moines County Land Use staff and several other individuals attended in-person in the large basement conference room at the SEIRPC office at 211 N. Gear Ave, West Burlington, while the remainder attended through a conference call.

1. Call to Order

Land Use Administrator Zach James called the meeting to order at approximately 5:34 P.M.

2. Roll Call

Individuals attending remotely are indicated by an asterisk (*). All others attended the meeting in person.

Commission members present: Ron Breuer
Jesse Caston *
Russ Fry *
Ryan Nagrocki
Ron Wunderlich *

Commission members absent: none (two positions presently vacant)

Staff Present: Zach James and Jarred Lassiter, SEIRPC

Public Present: Dick Keith, former Commission Chair
Sandra Schneider, neighboring property owner (FS-20-21) *
Henry Bohlen, subdivision applicant (FS-20-21)

3. Appointment of new Chairperson and Vice Chairperson

Mr. James stated that as a result of an amendment to the Iowa Code chapter on County Zoning (H.F. 2212/S.F. 2264), approved by the legislature and signed by Governor Reynolds on June 1, 2020, two of the Zoning Commission's seven members are no longer eligible to serve. The Code had previously required that a majority of a County Zoning Commission's members reside within the portion of the county that is zoned, while the amendment requires that all of the members reside in that area. Chairman Dick Keith resides in the unincorporated county, but outside of the two-mile area around Burlington that is zoned. Sally Parrott resides within the City of Burlington. Mr. James further stated that after Vice Chairman Larry Werner resigned from the Commission in June 2019, the Commission neglected to appoint a new Vice Chairman to replace him. As a result, motions would need to be made for appointing a new person to each of those positions.

Motion #1: To appoint Ryan Nagrocki as the Chairman of the Des Moines County Zoning Commission
Motion by: Wunderlich
Seconded by: Breuer
Vote: Unanimous vote. Motion carried.

Mr. James noted to Mr. Nagrocki that since this was his first meeting as a member of the Commission, having been appointed in February 2020, he was welcome to decline the position if desired. Mr. Nagrocki indicated that, while he was surprised by the decision, he was willing to accept the appointment.

Motion #2: To appoint Ron Breuer as the Vice Chairman of the Des Moines County Zoning Commission
Motion by: Wunderlich
Seconded by: Fry
Vote: Unanimous vote. Motion carried.

4. Changes to Tentative Agenda

None

5. Approval of the Minutes for November 14, 2019

Motion #1: To approve the Minutes of the November 14, 2019 meeting.
Motion by: Breuer
Seconded by: Wunderlich
Vote: Unanimous vote. Motion carried.

6. New Business

A. Public Hearing: Request for Final Plat approval for Eighth Addition to Wildlife Lakes Subdivision

Mr. Nagrocki opened the public hearing at approximately 5:40 P.M. Mr. James reviewed the staff report, noting that this Final Plat involves half of the 10 lots that were included on the Preliminary Plat that the Board of Supervisors approved in November 2019. He noted that the subdivider, Henry Bohlen, will be required to submit a Final Plat for the remaining 5 lots by November 2021, in order to avoid needing to have the Preliminary Plat reviewed again and re-approved.

Mr. James read the list of comments submitted during the departmental review. One of these was from the County Engineer, noting that Lot 29 would not be permitted to have an entrance from the County Road right-of-way to the north (113th Street). Mr. James noted that this same comment had been offered during the Preliminary Plat review in 2019. He recommended that this be attached as a condition of approval for this Final Plat, along with two waivers of Subdivision Ordinance provisions pertaining to road surface and right-of-way widths.

He stated that a neighboring property owner, Sandra Schneider (13871 Elk Run Drive) had submitted a document to staff in May, which outlined several concerns she had about the proposed subdivision and the infrastructure to serve it. He said that staff had met with her the previous week to discuss her individual concerns in detail, and then met with her on-site the following Monday, to view a series of photos and inspect the drainage infrastructure up close. Previously that morning, staff had met with Mr. Bohlen to inspect the road and utility infrastructure serving the 5 lots on this Final Plat.

Mr. James noted that many of the photographs supplied were from May 27, 2019, and subsequent research confirmed that this was during a period of exceptionally heavy rainfall in the Burlington area, where a normal month's worth of rain had fallen in just over a week.

Mr. Bohlen stated that one of Ms. Schneider's neighbors had experienced a serious drain clog during that time last year, and he had subsequently worked with them to fix the problem. Mr. Lassiter noted that this same person, Robert Brill (11000 Wildlife Lakes Drive) had contacted him two weeks earlier. Mr. Brill had told him that he is confident that the issue was resolved after the obstruction in the pipe had been cleared.

Ms. Schneider asked where the sanitary effluent from Lots 29 and 31 would be transported to. Mr. James said that following a further discussion with Mr. Bohlen, he confirmed that it would go through a drain pipe on the west side of Wildlife Lakes Drive, which then crosses the street to enter a sanitary easement between Lots 20 and 22 of the 4rd and 5th Additions (leading toward the lake). He showed Ms. Schneider a drawing staff had prepared to illustrate the path of the drain pipe on top of the Final Plat. He said that, through documentation supplied by Mr. Bohlen, staff confirmed that this pipe was installed on May 24, 2019 to bypass her property, after she had raised objections to having it pass through an easement on her own property, which enters a separate ravine that also drains to the lake.

Ms. Schneider asked where the water which enters the pipes on her property comes from. Mr. Bohlen stated that this is all surface drainage, with one pipe coming from lots to the north, and the other coming from lots to the west. Mr. Fry asked to confirm whether the sanitary drain had been removed from Ms. Schneider's property. Mr. Lassiter said that when the bypass line was constructed in 2019, the existing pipe on her property was disconnected from the sanitary drain, and as a result, only surface drainage will pass through it after the lots across the street are developed for

homes.

Mr. Nagrocki asked why many of the easements being discussed were not shown on the Final Plat for the 8th Addition. Mr. Lassiter stated that this was due to the fact that several of the easements depicted on the Preliminary Plat had already been depicted on Final Plats for earlier additions to Wildlife Lakes, and as such, there was no requirement for them to be depicted a second time, particularly if they do not pass through any of the 5 lots involved. He noted that the easement on Ms. Schneider's property was only shown on the plat because it had been recorded 3 years after the 5th Addition plat was recorded. Thus, it had not been physically depicted on any plats previously.

Mr. Nagrocki said he felt this subdivision offered a good opportunity for growth in the local housing market, and a source of new tax revenue. With no further comment offered by members of the public or the Commission, he closed the public hearing at approximately 6:07 PM.

Motion #3: To approve the Final Plat for Eighth Addition to Wildlife Lakes, with the following conditions (as recommended by staff):

- The minimum width requirement for a road right-of-way in the Subdivision Regulation Ordinance (Article V, Section 2.2) shall be waived to allow for a 50-foot right-of-way for Wood Duck Cove Drive.
- The minimum width requirement for a road surface in the Subdivision Regulation Ordinance (Article V, Section 2.7) shall be waived to allow for an 18-foot paved concrete surface for Wildlife Lakes Drive and Wood Duck Cove Drive.
- Lot 29 shall use Elk Run Drive/Wildlife Lakes Drive for driveway access, as the Des Moines County Secondary Roads Department will not permit access from 113th Street.

Motion by: Wunderlich

Seconded by: Breuer

Vote: Unanimous vote. Motion carried.

B. Discuss impact of State Legislation concerning County Zoning Commission membership and residence location; possible future changes for Des Moines County Subdivision review.

Mr. James read the specific language of H.F. 2212/S.F. 2264 that impacted the residential location of County Zoning Commission members in Iowa. Mr. Lassiter noted that this legislation was prepared in response to actions taken by a specific Iowa municipality regarding land use outside its corporate boundary. He stated that the intent was clearly to prohibit people who live inside cities from serving on County Zoning Commissions/Boards of Adjustment. However, due to poor wording, the amendment would uniquely impact the handful of Iowa counties that only have partial zoning, including Des Moines County.

Mr. James stated that due to concerns about equitable geographic representation, staff were considering the establishment of a separate commission to specifically review subdivisions countywide, while the Zoning Commission would solely be concerned with zoning matters within the two-mile area.

Mr. Fry asked what the Des Moines County Board of Supervisors felt about this legislation, as well as the proposal for a second commission. Mr. James noted that they were definitely upset by the legislation, particularly Chairman Tom Broeker. He noted that Chairman Broeker had coordinated with staff in reaching out to State legislators to pursue a further amendment to the language of that State Code passage, which would allow residents of all unincorporated areas to serve. However, due to the short legislative session caused by COVID-19, it appeared that this could not be achieved at this time. Mr. James said that staff intends to hold an upcoming work session with the Board of Supervisors to discuss the proposed subdivision commission in further detail. Mr. Fry said he felt it would make sense to defer to the Board on how this matter is addressed, and the other members agreed.

Mr. Lassiter noted that if there were two separate commissions, it is expected that the Zoning Commission would meet much less frequently than usual, since subdivision review tended to comprise the vast majority of agenda items in recent years. He attributed this to how comparatively small the geographic area and population of the zoning jurisdiction is.

Mr. Fry asked if the Floodplain Advisory Board would be affected by any of this. Mr. Lassiter said that this would not be the case, as that board is concerned with areas throughout the county that FEMA has identified as Special Flood Hazard Areas. He noted that the aforementioned state legislation only pertains to Zoning Commissions and Boards of Adjustment, and unrelated committees that address subdivisions and floodplain development are not impacted. He also noted that the Floodplain Advisory Board typically meets even less frequently than the Zoning Commission would

be expected to if subdivisions were removed from their list of responsibilities.

7. Old Business

A. Des Moines County Land Use Ordinances update – status

Mr. James noted how at the previous meeting in November 2019, staff had said that a draft of the revised Zoning and Subdivision Ordinances would be provided to members at the next meeting. He indicated that due to a number of other project commitments at SEIRPC, staff had not had as much time as anticipated to complete the ordinance revision process. Mr. Lassiter further noted that due to the especially poor formatting of the existing ordinances, and related difficulties in working with the Microsoft Word software (such as numbering, line spacing and indents), the process itself had been taking a lot longer than expected. However, he stated that since they have been able to acquire a significant amount of knowledge through research and outreach with other communities (including Burlington and West Burlington), the process is expected to speed up and move smoothly once staff has more time to devote to this project. He also noted that, due to the timing of the discussion about establishing a separate subdivision commission, this prospective change can be handled as part of the overall Subdivision and Zoning Ordinance updates.

8. Public Input

None

9. Future Agenda Items


None

10. Adjournment

Motion #4 To adjourn
Motion by: Wunderlich
Seconded by: Fry
Vote: Unanimous vote. Motion carried.

The meeting adjourned at approximately 6:28 P.M.

APPROVED: 
Ryan Nagrocki, Chairman

ATTEST: 
Zach James, Land Use Administrator