

# STORY COUNTY PLANNING AND ZONING

STORY COUNTY ADMINISTRATION  
900 6<sup>TH</sup> STREET  
NEVADA, IOWA 50201-2087



*"Commitment, Vision, Balance"*

515-382-7245  
515-382-7294 (FAX)

## MINUTES STORY COUNTY PLANNING AND ZONING COMMISSION

<b>DATE:</b> July 11, 2011	Daryle Vegge, Chair	2013
	Steven Gast	2013
<b>CALL TO ORDER:</b> 5:30 p.m.	Nick Merfeld	2012
<b>PLACE:</b> Public Meeting Room	David Struthers	2012
Administration Building	David Weigel	2015
	*Nancy Couser	2015
<b>ADJOURNMENT:</b> 7:59 p.m.	*Jean Sheets	2011
	*Absent	

**OTHER PEOPLE PRESENT:** Leanne Harter, Director; Charlie Dissell, County Planner; Sheena Danzer, Code Enforcement Officer; Ryan Newstrom, County Planner; Kristin Cook, Office Support Coordinator; Brent Port; Caleb Akin; Weston Wunder; Howard Hammond; Don Rimathe; Kenneth May; Eric Schmidt; Sandra Hunter; Darren Knoll; Bruce Janvrin; William Lorenz

**Chair Daryle Vegge called the meeting to order at 5:30 pm. Roll call: Present - Vegge, Gast, Merfeld, Struthers, Weigel.**

---

### APPROVAL OF AGENDA (MCU)

As amended, removing the May 2, 2011, from the Agenda.

Motion	Gast
Second	Merfeld

---

### APPROVAL OF MINUTES (MCU) - May 2, 2011

TABLED to the next meeting.

---

### PUBLIC COMMENTS: Opened 5:33 p.m. – Closed 5:33 p.m.

None.

---

### OLD BUSINESS:

None.

---

### NEW BUSINESS:

1) **CUP02-11: Wunder Conditional Use Permit**

**Nature of Request:** The request is for a Conditional Use Permit to establish a landscape/nursery.

**Parcel Number:** 13-19-200-430

**Staff Project Manager:** Sheena Danzer

---

**STAFF PRESENTATION:**

Ms. Sheena Danzer presented the vicinity map, proposed development as submitted, discussed the existing violation on the property and deadlines and necessary steps for conformance, and covered the dates of legal notification and publication requirements. Ms. Danzer also noted the existence of two single-family dwellings on the site, exceeding the requirements of the ordinance.

Ms. Danzer outlined the Conceptual and Interagency Reviews completed by the Interagency Review Team.

Ms. Danzer presented site shots of the property and reviewed the applicable standards for approval for the Commission to consider in reviewing the proposed conditional use permit.

Ms. Danzer outlined potential conditions of approval as suggested by staff:

- 1) Any future new structure used wholly or in part for the established nursery shall acquire a Conditional Use Permit modification prior to the issuance of a Zoning Permit. Such modification shall not be approved unless it is determined that the issuance of a Zoning Permit will be in accord with the intent, purpose and spirit of the *Story County Land Development Regulations*.
- 2) Any signage on the property must apply for a Sign Permit before being erected.
- 3) An Agricultural Exemption application be applied for by the property owner in order for the second dwelling to remain on the property. Or steps shall be taken by the existing property owner to bring the property into conformance in regards to the two single family dwellings within twelve (12) months of the issuance of the Conditional Use Permit.

Ms. Danzer concluded by presenting alternatives for the Commission to consider.

---

**APPLICANT COMMENTS:**

Mr. Howard Hammond, Slater, Iowa, noted he was representing the applicant. Mr. Hammond presented materials for the Planning and Zoning Commission, including site photos and aerial photography with detailed information. Mr. Hammond noted that staff presented the issues correctly. Mr. Hammond commented that the property owner would need to further proceed with the agricultural exemption for the two homes following approval of the conditional use permit and questioned what process would need to be followed for that process.

Mr. Vegge asked staff to clarify the process for the request for agricultural exemption process. Ms. Danzer responded that the Commission could recommend conditional approval.

Mr. Steven Gast questioned the occupancy of the two houses on the property. Mr. Hammond responded that the Wunders reside in one house and the other house is rented out. Mr. Gast questioned whether the resident was involved with the business on the property. Mr. Hammond responded he was not, except on occasion when asked to help out by Mr. Wunder.

---

**PUBLIC COMMENTS:**

Don Rimathe, Slater, Iowa

Mr. Rimathe noted that the property under consideration was the family farm that was sold to Mr. and Mrs. Wunder, further commenting that the current property owner has taken good care of the property, and they are an asset to the community of Slater.

Kenneth May, Slater, Iowa

Mr. May noted he was a council-member and business owner within Slater. He noted that as the property is located within two miles of the community of Slater, the community is supportive of the applicant's business, commenting they have donated services on several occasions to the city after storm damage and other events. Mr. May stated the applicants bring individuals to Story County as a result of the improvements they've done to the property.

Mr. May questioned whether the County's practice is to hire someone to fly aerial photography when potential enforcement cases are identified. Mr. Gast commented the aerals are done on a regular basis by Story County on a county-wide basis primarily for assessment purposes.

Mr. Gast noted that while the conditional use permit application is straight-forward, the application is more complicated due to the existence of the second family. Ms. Leanne Harter explained the Board of Adjustment ultimately could not approve a conditional use permit for a property in violation, and the existence of the second house on the property is not in conformance with the regulations. Ms. Harter explained the agricultural exemption as outlined by the *Code of Iowa* and the process followed by staff to determine whether exemptions are granted.

Mr. Gast questioned whether Mr. Wunder understood the agricultural exemptions and any concern with the conditions being applied.

Mr. Wunder commented that his biggest concern would be was jumping through the hoops with no way of knowing how that will turn out.

Mr. May questioned whether a variance or an agricultural exemption would be more appropriate and what would transfer with property ownership changes. Ms. Harter noted the variance would run with the property, and commented that agricultural exemptions are recorded so they should be noted through title searches. Mr. May further questioned whether the variance could be decided upon concurrently by the Board of Adjustment. Ms. Harter responded there would be need to be a separate application and process for the Board's review of such a variance. Ms. Harter explained the agricultural exemption process and stated staff did have concerns that the exemption may not apply to the Wunder property. She further stated that other options would exist for the applicant to bring the property into conformance through the recommend twelve month timeframe for consideration by the Commission

Mr. Hammond commented that the agricultural exemption may not be appropriate for the applicant and would run a risk that staff would not approve an exemption request. Mr. Hammond further stated his feeling that the nursery use was related to agricultural uses, and that the other options such as a subdivision were of concern to him.

Mr. Vegge reiterated Mr. Hammond's comments that there are several options that were presented by staff in order to achieve compliance on the property regarding the existing two houses.

Mr. May commented the property was zoned A-1 Agricultural and the exemption seemed minor. He questioned whether Mr. Wunder could possibly add the house to the conditional use permit application or the Commission could provide direction to the staff to grant the agricultural exemption as one of the powers of the Commission.

Mr. Gast noted the Planning and Zoning Commission is a body appointed by the Board of Supervisors and are not elected, and solely makes a recommendation on to the Board of Supervisors or the Board of Adjustment. Mr. Gast outlined the powers of the Planning and Zoning Commission.

Mr. May questioned whether the Commission makes recommendations to the staff. Mr. Gast outlined the responsibilities of the zoning administrator and his or her ability to enforce the regulations.

---

#### **COMMISSION COMMENTS:**

Mr. Gast noted that the third condition may have been better written without the reference to the agricultural exemption possibility.

**MOTION:**        **The Story County Planning and Zoning Commission recommends approval of the Conditional Use Permit as put forth in case CUP02-11, with conditions listed below, to the Story County Board of Adjustment, and directs staff to place the case on the August 3, 2011, Board of Adjustment agenda.**

- 1) Any future new structure used wholly or in part for the established nursery shall acquire a Conditional Use Permit modification prior to the issuance of a Zoning

Permit. Such modification shall not be approved unless it is determined that the issuance of a Zoning Permit will be in accord with the intent, purpose and spirit of the *Story County Land Development Regulations*.

- 2) Any signage on the property must apply for a Sign Permit before being erected.
- 3) An Agricultural Exemption application be applied for by the property owner in order for the second dwelling to remain on the property or steps shall be taken by the existing property owner to bring the property into conformance in regards to the two single family dwellings within twelve (12) months of the issuance of the Conditional Use Permit.

Motion: Struthers  
Second: Gast  
Voting Aye: Struthers, Weigel, Vegge, Gast, Merfeld  
Voting Nay: None  
Not Voting: None  
Absent: Couser; Sheets

---

**NEW BUSINESS:**

2) **WVR01-11: Akin Waiver**

**Nature of Request:** The request is for a Waiver to Chapter 17, Section 17.10.

**Parcel Number:** 15-09-405-030

**Staff Project Manager:** Charlie Dissell

---

**STAFF PRESENTATION:**

Mr. Charlie Dissell reviewed the proposed application for requested waiver and outlined the applicable land use designation, ownership, current zoning and land use information. Mr. Dissell outlined the requirements applicable to waivers.

Mr. Dissell outlined the alternatives for the Commission to consider.

Mr. Gast questioned staff regarding the comments provided by Story County Environmental Health and as to whether their comments reflected as-built plans or proposed plans and the system was not placed in accordance with the plans. Mr. Dissell commented he did not know whether the comments were based on proposed or as-built plans. Mr. Gast commented that the applicant's comments that the septic was not placed within the confines of the lot may be accurate and Health Department comments inaccurate.

Mr. Gast noted that the lot could possibly be used to provide access to the lot to the back.

Mr. Vegge questioned the effect of the waiver request. Mr. Dissell noted applications are reviewed on a case-by-case basis and the only concern would be whether any precedence would be set.

Mr. Struthers noted that he was of the opinion that the case would not set precedence as it was not creating a buildable lot.

---

**APPLICANT COMMENTS:**

Mr. Brent Port, Marshalltown, Iowa

Mr. Port representing the applicant commented on the placement of the septic system and the driveway. He discussed the process of other counties to allow "lot line adjustment" or a "statement of non-severability" which would be much simpler than the waiver and ultimate plat of survey process required by Story County.

---

**PUBLIC COMMENTS:**

None.

---

**COMMISSION COMMENTS:**

**MOTION:** The Story County Planning and Zoning Commission recommends approval of the Waiver Request, as put forth in case WVR01-11, to the Story County Board of Supervisors, and directs staff to request the Waiver Request be placed on the July 19, 2011, Board of Supervisors' agenda.

Motion: Gast  
Second: Merfeld  
Voting Aye: Vegge, Gast, Merfeld, Struthers, Weigel  
Voting Nay: None  
Not Voting: None  
Absent: Couser, Sheets

---

**NEW BUSINESS:**

3) **REZ01-11: Knoll Rezoning**

**Nature of Request:** The request is to rezone the property from C-Commercial to A-R Agricultural-Residential

**Parcel Number:** 15-28-100-440

**Staff Project Manager:** Ryan Newstrom

---

**STAFF PRESENTATION:**

Mr. Ryan Newstrom reviewed the proposed application for requested rezoning and outlined the applicable land use designation, ownership, current zoning and land use information. Mr. Newstrom outlined the requirements applicable to rezoning requests and the application's conformance to the standards for approval.

Mr. Newstrom outlined the alternatives for the Commission to consider.

Mr. Gast questioned whether the violation of the Story County Environmental Health department was enforceable through the rezoning or was that the responsibility solely of that department. Mr. Newstrom noted that was enforceable by the Health Department solely.

---

**APPLICANT COMMENTS:**

Mr. Darren Knoll, property owner outlined the nature of his request for the Commission.

Mr. Gast questioned whether the property owner knew the Commercial zoning history of the property. Mr. Knoll responded that he'd been told by neighbors that there was a hog-buying facility on the site.

---

**PUBLIC COMMENTS:**

None.

---

**COMMISSION COMMENTS:**

**MOTION:** The Story County Planning and Zoning Commission recommends conditional approval of the Official Zoning Map Amendment, as put forth in case REZ01-11, to the Story County Board of Supervisors, directs staff to follow Story County Ordinance Number 1 when scheduling first, second, and third considerations by the Board of Supervisors, with the following condition of approval:

1. No further divisions of the resulting two lots.

Motion: Gast  
Second: Merfeld  
Voting Aye: Vegge, Gast, Merfeld, Struthers, Weigel  
Voting Nay: None  
Not Voting: None  
Absent: Couser, Sheets

---

**NEW BUSINESS:**

4) **SUB05-11: O'Rourke Subdivision**

**Nature of Request:** The request is for a minor subdivision plat creating two lots.

**Parcel Number:** 05-19-250-255, 05-19-250-258

**Staff Project Manager:** Ryan Newstrom

---

**STAFF PRESENTATION:**

Mr. Newstrom reviewed the proposed application for requested minor subdivision plat and outlined the applicable land use designation, ownership, current zoning and land use information. Mr. Newstrom outlined the requirements applicable to subdivision requests and the application's conformance to the regulations.

Mr. Newstrom outlined the alternatives for the Commission to consider.

Mr. Gast questioned whether staff had any concerns that the covenants on which the City of Ames commented were not submitted for review by Story County. Mr. Newstrom noted they would need to be included with the final plat at the time of recordation so there were no concerns.

---

**APPLICANT COMMENTS:**

None.

---

**PUBLIC COMMENTS:**

None.

---

**COMMISSION COMMENTS:**

**MOTION:** The Story County Planning and Zoning Commission recommends approval of the Subdivision Plat, as put forth in case SUB05-11, to the Story County Board of Supervisors.

Motion: Gast  
Second: Struthers  
Voting Aye: Vegge, Gast, Merfeld, Struthers, Weigel  
Voting Nay: None  
Not Voting: None  
Absent: Couser, Sheets

---

**NEW BUSINESS:**

5) **SUB06-11: Country Estates 7<sup>th</sup> Addition**

**Nature of Request:** The request is for a minor subdivision plat creating two lots and six outlots.

**Parcel Number:** 05-13-240-115, 05-13-240-001, 05-13-240-123, 05-13-220-150

**Staff Project Manager:** Charlie Dissell

---

**STAFF PRESENTATION:**

Mr. Dissell reviewed the proposed application for requested minor subdivision plat and outlined the applicable land use designation, ownership, current zoning and land use information. Mr. Dissell outlined the requirements applicable to subdivision requests and the application's conformance to the regulations.

Mr. Dissell reviewed the nature of the proposed request and the limitations of the outlots as non-buildable lots as defined in the *Land Development Regulations*. Mr. Dissell reviewed the zoning and subdivision history of the County Estates additions.

Mr. Dissell discussed the lot frontage requirements of the regulations, noting neither of the proposed "lots" are in conformance with this requirement. Mr. Dissell reviewed the options available in order to satisfy the requirement and how the right-of-way vacation completed by the Board of Supervisors in 2009 resulted in the decrease in the frontage widths of the lots along the cul-de-sac. Mr. Dissell presented three options for the Commission to consider in their recommendation regarding this matter: alternative compliance is achieved to the Board of Supervisors, waiver request to the lot front requirement be approved by the Board of Supervisors, subdivision plat be denied because the requirements of the ordinance are not satisfied.

Mr. Dissell provided site shots of the property to the Commission.

Mr. Dissell outlined the alternatives for the Commission to consider.

Mr. Gast questioned the timing of the right-of-way vacation. Mr. Dissell responded that it was 2009.

Mr. Gast asked whether Parcel A was created in 2008. Mr. Dissell agreed.

Mr. Gast questioned whether right-of-way vacations were normal. Mr. Dissell reviewed the steps followed through the Baum variance request and the right-of-way vacation that occurred as a solution.

Mr. Gast commented the case for the waiver would be strong because of the unique situation and such a situation a direct result of the action of Story County. Mr. Dissell affirmed.

Mr. Gast stated that any of the outlots used in conjunction or purchased by a contiguous parcel, there would be continuous ownership through to two streets, asking whether staff would review these as double-frontage lots as defined by the ordinance. Mr. Dissell noted they would be two separate lots defined separate.

Mr. Gast why lots "N" and "M" are being created. Mr. Dissell commented that reason forms part of the justification as to why staff is requesting the method of transferred be clarified on the plat or via other means.

Mr. Gast questioned whether the owner of the parcel created as non-conforming in regards to lot size requirements was notified of such with the division. Mr. Dissell outlined the plat of survey process followed by Story County.

---

**APPLICANT COMMENTS:**

None.

---

**PUBLIC COMMENTS:**

Eric Schmidt, Ames, Iowa

Mr. Schmidt noted he was secretary of the homeowner's association and was representing the association. Mr. Schmidt provided history of the outlot, believed to have been the property of the association originally, and the association was notified that Outlot L was not owned by the association when notified that it was purchased at a tax sale. Mr. Schmidt noted the association chose not to purchase the Outlot L.

Mr. Schmidt outlined the association's concerns as to what could occur on the property:

- Tax sale - the property was allowed to go on as a tax sale property without notification to the association.
- Water damage - the water drains to the west and storm water run-off has negatively impacted houses within the subdivision, commenting the concern that improvements not be completed on the property that exacerbates the water damage.
- Land use in the same manner as it was originally intended for open space associated with the Country Estates 5<sup>th</sup> addition - maintain the same covenants and bylaws, for examples, no fences.
- The association would have to grant access from the Quail Ridge Road as it is a private road.

Mr. Vegge asked for clarification as to the comment regarding access from Quail Ridge Road. Mr. Schmitz outlined his understanding of the private nature of the roadway.

Bruce Janvrin, Ames, Iowa

Mr. Janvrin noted he was served by Central Iowa Rural Water Association and commented it was his hope that the covenants in effect for County Estates Subdivision 2<sup>nd</sup> - 5<sup>th</sup> Additions would remain in effect for Outlot L. Mr. Janvrin further requested that no vehicular access be granted from Quail Ridge Road to the outlots.

Mr. Vegge confirmed with Mr. Janvrin it was his desire that the covenants carry over to the outlot. Mr. Janvrin affirmed and requested the uses remain consistent with the uses similar to open space.

Mr. Gast clarified that the covenants dealt with size requirement. Mr. Janvrin commented that one of the limiting covenants prohibits the placement of fences along with perimeter of the properties, which, if not applied to the new lots, could then potentially problematic for the ongoing maintenance of Quail Ridge Road.

Mr. Gast asked whether restrictive covenants were submitted with the subdivision plat. Mr. Dissell noted they were not submitted.

Mr. Gast questioned whether the County would allow an individual to pasture a horse on a property smaller than that required by the covenants. Mr. Dissell affirmed and discussed how covenants cannot be enforced by Story County.

Mr. Janvrin questioned whether access could be granted via Quail Ridge Road. Mr. Dissell referenced plat notes associated with Country Estates 5<sup>th</sup> Addition which set-up Outlots M and N for the roads, and detailed for the Commission the manner in which roads are platted as public roads however are maintained by homeowner's associations within subdivisions.

Mr. Gast commented that assurances are not in place to dictate that the lot to the north will end up with the lot to the south. Mr. Dissell affirmed and reminded the Commission of the alternative to remand the application.

William Lorenz, Ames, Iowa

Mr. Lorenz commented his house was built on bedrock, and they have been experiencing problems with storm water at an increasing rate. Mr. Lorenz noted that the improvements to lawns further up the hill are a contributing factor and they realized substantial damage in 2010. He outlined his understanding of the history of Outlot L as dedicated for common open space with the prior platting of the residential development and the transfer history of the parcel. Mr. Lorenz suggested it would be beneficial to review the history of Outlot L in greater detail to determine if there is a legal argument that supports the carry-over of the restrictive covenants defined in Country Estates 2<sup>nd</sup> - 5<sup>th</sup> on the proposed lots created through Country Estates 7<sup>th</sup>.

---

#### **COMMISSION COMMENTS:**

Mr. Gast commented that there are a number of areas where questions have been raised, including whether the covenants are extinguished or continue with the land; issues regarding permitted access to



all parcels and whether landlocked parcels are being created, ownership of all parcels and how they will be transferred, and other problems as identified with the staff report. Mr. Gast also noted there is a building at the rear of one of the lots that does not appear to meet setbacks and the proposed subdivision may work to resolve that issue. Mr. Dissell commented staff would review that to determine what requirements of the ordinance would apply.

**MOTION:**        **The Story County Planning and Zoning Commission table the application as put forth in case SUB06-11 as the application was deemed incomplete in the areas discussed in the staff report and at the Planning and Zoning Commission meeting and direct the applicant to address these issues for completing the review and modification and place on the agenda as Old Business for the September 2011 Planning and Zoning Commission meeting.**

Motion:            Gast  
Second:           Merfeld  
Voting Aye:        Vegge, Gast, Merfeld, Struthers, Weigel  
Voting Nay:        None  
Not Voting:        None  
Absent:            Couser, Sheets

---

**OTHER BUSINESS:**

**1. Long Range Planning**

Ms. Harter commented she was providing an update to the Board of Supervisors on the Lincoln Highway Corridor Special Study on Tuesday, July 12, 2011, at which time direction as to how to proceed would be sought and follow-up provided to the Planning and Zoning Commission members.

Ms. Harter noted that the 28E Agreement to implement the Ames Urban Fringe Plan was approved by the Board of Supervisors on Tuesday, July 7, 2011.

**2. Follow-up on items recommended to the Board of Supervisors and Board of Adjustment**

Ms. Harter reviewed the following two cases:

- CUP01-11: Lee Conditional Use Permit has been approved by the Board of Adjustment.
  - SUB02-11: Knutson 2<sup>nd</sup> Subdivision has been approved by the Board of Supervisors.
- 

**COMMISSION COMMENTS:**

Mr. Struthers noted his appreciation to the members of the public for being present to bring their concerns forward.

Mr. Vegge commented that this was the first case deferred back to the applicant in his tenure.

---

**STAFF COMMENTS:**

Ms. Harter welcomed Kristin Cook as the new office support coordinator for the Planning and Zoning Department.

---

**ADJOURNMENT: 7:59 p.m.**

---

**Approval of Minutes**

---

**Title and Date**