

# STORY COUNTY PLANNING AND ZONING

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



*"Commitment, Vision, Balance"*

515-382-7245  
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## MINUTES STORY COUNTY PLANNING AND ZONING COMMISSION

<b>DATE:</b> September 12, 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> 6:34 p.m.	Jean Sheets	2011
	*Absent	

**OTHER PEOPLE PRESENT:** Charlie Dissell, County Planner; Kristin Cook, Office Support Coordinator; Jim Hendricks; Bruce Eller; Mary Eller; Kristin Baum; Mitch Baum; John Lang; Susan Lang; Rick Gammon; Eric Schmidt

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

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### APPROVAL OF AGENDA (MCU)

Motion Gast  
Second Sheets

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### APPROVAL OF MINUTES (MCU) -

July 11, 2011  
Motion Struthers  
Second Gast

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### PUBLIC COMMENTS: Opened 5:30 p.m. – Closed 5:30 p.m.

None.

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### OLD BUSINESS:

#### 1) 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

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### STAFF PRESENTATION:

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

Mr. Dissell presented an email from the Assistant Story County Attorney, Steve Owen, stating legal opinion explaining the covenants should transfer over, but it is Mr. Owen's legal opinion that this is a civil matter and the County does not get involved and another legal opinion could be contrary to his.

Mr. Dissell addressed the accessory structure thought to be non-compliant stating no permits were found pertaining to said structure from 1974. However, the building will come into conformance as soon as a single family dwelling is constructed on the parcel.

Mr. Dissell explained Quail Ridge Road, which travels on the south side of Outlots N, P, Q, R and S, was created with the platting of Country Estates 5th Addition, and labeled as Outlots M and N. In the plat notes of the recorded plat of the 5th Addition, it states the Outlots M and N are proposed streets and will be dedicated to the public. Those 2 outlots also do not currently show on the County tax role. It is staffs opinion that, even though the homeowners association is responsible for full maintenance of these roads, they are still dedicated to the "public" and as such, are not considered to be "private roads".

Mr. Dissell addressed the areas which the PZC saw as concerns during July 11, 2011 Commission meeting. Land-locked parcel outlots will be conveyed to adjacent lots legally described as two separate parcels. Also, a note has been made on the plat regarding how the outlots will transfer. The revised plat map has been updated to show the following: the current address has been shown on proposed Lot 1, Public Utility Easements have been shown around the entirety of proposed Lots 1 and 2, a plat note has been made which states "Lot 2 will be served by a private septic system and rural water, consistent with all of the adjoining developed lots", a plat note has been made which states "street frontage widths of Lots 1 and 2 are as they currently exist as a result from the aforementioned right-of-way vacation resolution. There is not enough frontage available to these two lots for conformance to design standards. This subdivision plat does not alter the frontage width in any way".

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

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. Vegge asked if the non-conformance accessory building is a separate issue. Mr. Dissell concurred and staff will review further.

Mr. Vegge also questioned if covenants would be a separate issue as well. Mr. Dissell agreed the matter would need to be a civil issue. Mr. Dissell directed the Commission to Mr. Owen's legal opinion.

Mr. Steven Gast questioned if the County ever has covenant requirements on plat and if the County has ever suggested a change in covenants. Mr. Dissell explained the County's only involvement is to make sure covenants are not in conflict with zoning ordinances.

Mr. Gast questioned staff recommendation regarding outlot M and easement of access and transfer of plat. Mr. Dissell explained outlot M would either need an easement provided or show how it would be conveyed. Staff's opinion is that requirement has been met.

Mr. Gast asked for clarification that staff is recommending the Board grant a waiver of 40' frontage requirement and right of way vacation. Mr. Dissell concurred.

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**APPLICANT COMMENTS:**

**Mr. Bruce Eller, Ames, Iowa**

Mr. Bruce Eller state he is the current owner of L shaped outlot. Mr. Eller explained the outlot was previously purchased due a tax sale. Mr. Eller bought lot L from such seller at a later date. Now Mr. Eller and wife are interested in selling said lot to surrounding property owners.

Mr. Gast stated last July 11, 2011 Commission meeting surrounding property owners expressed concern to what would happen to covenants and proposed lots. Mr. Eller stated he had a surrounding property owner approach him, in Mr. Eller's opinion quite rudely, and they discussed the issue. Mr. Eller stated many property owners of surrounding area are not in compliance with current covenants at this point. (ex: tall grass and accessory buildings) Mr. Eller stated he is not interested in being part of the covenants. Plans are to take care of lots and keep in good condition as they have done thus far.

Ms. Nancy Couser asked for clarification as to which area is covered by covenants and which are not. Mr. Eller explained and used current map to show depicted areas. Mr. Gast explained the concerns that were brought to Commission's attention at July 11, 2011 meeting by surrounding property owners.

Mr. Weigel questioned if Mr. Eller owns all lots. Mr. Eller concurred he bought all property with intent to keep property in a good and desirable condition.

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**PUBLIC COMMENTS:**

**Eric Schmidt, Homeowner Association Secretary; Ames, Iowa**

Mr. Eric Schmidt explained history of property ownership in greater detail. Mr. Schmidt reiterated the Homeowners Association is only interested in seeing the property kept in good condition. Mr. Schmidt extended an apology to Mr. Eller if any of the association members came across as rude.

Mr. David Struthers asked Mr. Schmidt if in his opinion the outlots have been taken care of to the association's satisfaction. Mr. Schmidt stated the outlots have been taken care of and positive improvements have been made with very few issues, but would still like to see covenants stay intact.

Mr. Gast inquired what homeowner requirements would be most importantly related to those lots. Mr. Schmidt stated most requirements wouldn't apply due to lots being non-buildable. Mr. Schmidt listed the most important issues to be related to allowable animal ownership, water drainage, and maintaining property with minimal trash. Mr. Schmidt clarified by stating it is not so much an issue to current maintenance, but more for future ownership of lots and homeowners should any of these lots be sold.

Mr. Vegge questioned which property owners were having water issues/damage. Mr. Schmidt indicated on the map where such homeowners live.

**Jim Hendricks, Ames, Iowa**

Mr. Jim Hendricks stated he is a surrounding property owner. Mr. Hendricks asked for clarification as to whether or not covenants are not enforceable. Mr. Gast reiterated Mr. Owen's legal opinion from an earlier e-mail statement. Mr. Hendricks questioned if a property owner wanted to put up an accessory building, would it be buildable and would there be setback requirements. Mr. Dissell explained that lots are described as outlots and staff does not issue permits for outlots for any type of structure.

**Bruce Eller, Ames, Iowa**

Mr. Eller addressed watershed issue stating area was not originally tiled, which caused much of previous water issues. Mr. Eller stated tiling has been done since and believes any current water issue would be more of tiling issues on property owner's own property.

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**COMMISSION COMMENTS:**

Ms. Couser asked for clarification as to what would happen if owners of addition 1 go to sell property. asking does the outlot mandatorily go with it lot. Mr. Dissell stated notes on plat state will be conveyed as follows and be conveyed to owner of lot 1 and may need a legal opinion to clarify if such situation arises. Mr. Dissell stated Commission could recommend better language for clarification.

Mr. Gast further explained he would like to see the covenant issue to be decided amongst the neighbors.

Mr. Vegge stated he has driven past the properties and his personal opinion is the area is well maintained.

**MOTION:**

The Story County Planning and Zoning Commission recommends conditional approval of the Subdivision Plat, as put forth in case SUB06-11, to the Story County Board of Supervisors, and directs staff to request the Subdivision Plat be placed on the September 27, 2011, Board of Supervisors' agenda.

- 1) Board of Supervisors grant a waiver of 40' frontage requirement due to unique circumstances of earlier vacation of right of way.

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

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**NEW BUSINESS:**

None.

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**OTHER BUSINESS:**

- 1. **Long Range Planning**  
Mr. Dissell stated all past cases have moved forward. Board of Supervisors took action to deny Lincoln Highway Corridor Study. Local Foods is being carried forward by Ryan Newstrom. Ames Urban Infringement has been implemented.
  
  - 2. **Follow-up on items recommended to the Board of Supervisors and Board of Adjustment**  
None.
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**COMMISSION COMMENTS:**

Mr. Gast noted Planning and Zoning webpage and meeting materials are not very user friendly and could staff email all meeting materials as one large .pdf file. Mr. Dissell and Ms. Kristin Cook stated staff does have such ability and will try this method for upcoming meetings. Mr. Gast would also like an aerial photo of properties included in .pdf with staff reports. Mr. Dissell also stated Story County is in the process of updating our website and asked commission members for feedback.

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**STAFF COMMENTS:**

None.

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**ADJOURNMENT: 6:34 p.m.**

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**Approval of Minutes**

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**Title and Date**