

**STORY COUNTY
PLANNING AND ZONING
STORY COUNTY ADMINISTRATION
900 6TH STREET
NEVADA, IOWA 50201-2087
515-382-7245**



"Commitment, Vision, Balance"

**MINUTES
STORY COUNTY
PLANNING AND ZONING COMMISSION**

AN AUDIO RECORDING OF THE FULL MEETING MAY BE FOUND IN THE PLANNING AND DEVELOPMENT DEPARTMENT, OR BY VISITING WWW.STORYCOUNTYIOWA.GOV

DATE: October 2, 2019	Marvin Smith, Chair	2023
	*Jerry Cable, Vice Chair	2019
CALL TO ORDER: 4:02 PM	*Kathy Mens	2022
PLACE: Public Meeting Room	PJ McBride	2021
Administration Building	Jonathan Sherwood	2020
	Doug Moore	2020
	Cheryl Moss	2020
	*Absent	

STAFF PRESENT: Amelia Schoeneman, Planner; Stephanie Jones, Recording Secretary

PUBLIC PRESENT: Paul Gryte, Chad Schneider, Scott Lawrence, Don Tebben, Richard Martin, Jenny Martin, Jane Mathison, Marty Carney, Bruce Janvrin

APPROVAL OF AGENDA (MCU)

APPROVAL OF MINUTES Motion by Moss, Second by McBride (MCU)

September 4, 2019

PUBLIC COMMENTS: None

PUBLIC HEARING ITEMS

SUB10-19 Eighth Addition to Country Estates Minor Subdivision Plat

Amelia Schoeneman presented the Staff Report and stated that the application is a request to consider the Eighth Addition to Country Estates Minor Subdivision Plat. The plat would create two lots from an existing parcel: proposed Lot 1, a one net-acre lot buildable for a proposed single-family dwelling at the northern portion of the property and proposed Lot 2, a 15.44 net-acre lot containing the existing single-family dwelling at 2166 Quail Ridge Road. The existing parcel consists of two adjoining lots in the Fourth Addition to Country Estates. The existing single-family dwelling was constructed on the lot line between the lots. The proposed dwelling is for a family member of the applicant/property owner. While the proposed lot meets minimum lot size requirement in the Story County Land Development Regulations of one acre, the lots in the

Country Estates Fourth Addition average 8.02 acres in size. Planning staff heard from a few neighbors regarding their concerns about the proposed dwelling being visible to neighboring properties and the request being incompatible with the subdivision's covenants that do not allow further subdivision of lots. The County does not administer or enforce private covenants. Planning staff recommended approval of the proposed Minor Subdivision Plat with a condition to increase the size of proposed Lot 1 to be more compatible with surrounding development.

Moore asked if there was response available from the homeowners association (HOA) to the applicant's plans. Schoeneman stated that the applicant's attorney did not provide that information. Schoeneman clarified that the County does not enforce covenants and they are not a standard the Commission must consider under the Land Development Regulations and that consent of the HOA was requested to be provided but not required. Smith asked what the reasoning is for discouraging flag lots. Schoeneman stated that they tend to create access issues to a dwelling, isn't an efficient design, and isn't desirable to have one lot's buildable area behind another's. Smith asked if it is more desirable to protect trees or to have design that isn't a flag lot. Schoeneman stated that due to topography there really is not a lot of choices for building locations but that would also likely result in a flag lot unless another access to the road was created. Smith asked about the standard setback in the subdivision. Schoeneman stated that the average is 300' from the front property line. Moore stated that he does not understand why this item is on the agenda and feels there will be future litigation and would like the County Attorney present.

Paul Gryte spoke and stated that the property was purchased as two lots and the house was built in the middle of both properties. Due to his wife's health issues, their daughter is going to help with caretaking and the proposed dwelling is for the daughter to live in. Mr. Gryte stated that the HOA had indicated that it should not be a problem since it was two lots originally. Mr. Gryte stated that he wants to keep a separate household from his daughter due to privacy.

Moore stated again that he does not feel this item should be on the agenda when the HOA states that no subdivisions are allowed.

Don Tebben stated that he is opposed to the subdivision, as it would undermine the integrity of the neighborhood. He stated he was involved with writing the covenants.

Jane Mathison stated that she is opposed to the proposal because of a precedent it could create for the neighborhood.

Jennifer Martin read from the covenant that subdivisions are not allowed and feels a precedent would be set if allowed. Martin was concerned that drainage issues would be created by disturbance of land.

Chad Schneider was present on behalf of the HOA. Schneider stated that when the proposal was first brought to the HOA board it was not an issue because there were two lots, so in principal it was agreed to entertain the offer of the minor subdivision. However, when the plat was received it was not quite what was previously expected. Schneider stated that a proposal has been sent to Mr. Gryte's attorney, which would create a lot size of approximately 5 acres in size. Schneider stated that he feels a majority of concerns from the neighbors would be eliminated with the new proposal, with a reasonable alternative to mitigate trees and replace as required. Schneider stated that the HOA is not opposed, but what has been presented has not been accepted.

Bruce Janvrin stated that if the original two lots were not combined for tax purposes there would

not be an issue. Janvrin stated that when it was originally proposed to the HOA that the lot line would only need to be adjusted, which was reasonable. Smith asked if the assumption from the HOA was that there are two lots that could be divided. Janvrin stated that his original assumption that taking a few feet of property from one lot to another would need to be done to create two lots and meet setbacks. Janvrin asked what the reason for the two lots being combined was. Schoeneman stated that it was because the house was built over the property line and did not meet set back requirements without adjoining the lots.

Richard Martin stated that the concern is mostly due to a precedent being set since it states in the covenant that creating new smaller lots is not allowed.

Scott Lawrence is a member of the HOA and stated discussion had taken place and that the idea would be entertained, but nothing had been approved and felt the process was being rushed to meet the County deadline for this meeting and indicated the possibility of something trying to be done under the radar.

Marty Carney stated that she is not opposed because there has been two lots and lot fees have been paid for two lots for years to the HOA.

Gryte stated that he is not trying to get something passed under the radar and stated that he had a hand drawn plan that showed where the proposed dwelling would be located to the HOA.

Smith stated that the Planning and Zoning Commission is a recommending board and the item would go before the Board of Supervisors for the final decision. Smith reminded the commission that the HOA covenant is an agreement between the residents and the proposal should be looked at using County Zoning requirements.

Moore stated to Mr. Schneider that if this is a timing issue that possibly there could be an agreement between Gryte and the HOA. Moore made a suggestion for a break for Schneider and Gryte to communicate. Smith stated that the better option would be to make a motion to remand the item for a future meeting. Moore stated that he feels Gryte would be better served with his attorney present. Moss asked for drainage information. Schoeneman stated that there would not be storm water management requirements, but there would be easement requirements over the drainage ways on the property. Moss asked what the 2-acre suggestion is based on. Schoeneman stated that the minimum lot sizes were looked at, and based on the character of the area of larger lot sizes the condition was recommended to increase the lot size.

Schoeneman explained the Commission's alternatives. Schoeneman clarified that the County does not enforce the subdivision's covenants. Not having approval from the HOA does not prevent an applicant from submitting a subdivision plat request for consideration. Schoeneman stated that the house's location on the future lot would be reviewed administratively through the applicant's submittal of a zoning permit application.

1. **MOTION:** The Story County Planning and Zoning Commission remands the Minor Subdivision Plat – Eighth Addition to Country Estates as put forth in case SUB10-19, and directs the applicant to resolve issues with the Home Owners Association and come back to the next meeting, on November 6, 2019, with legal counsel present.

Motion: Moore

Second: McBride

Voting Aye: Moore, McBride, Moss

Voting Nay: Smith, Sherwood

Not Voting:
Absent: Mens, Cable
Vote: (3-2)

Moore asked Schneider to share the meeting information with the other attorney involved.

COMMENTS

STAFF: Schoeneman provided information about the IDOT tower, which is still being used for back up at this time.

COMMISSION: Moore stated that when there is a case with issues that the county attorney should be present. Smith stated that if this comes back next month that he would like to see the county attorney present.

ADJOURNMENT: 5:17 PM



Approval of Minutes

Chairman, 4 Dec 2019
Title and Date