

**DES MOINES COUNTY, IOWA  
ZONING COMMISSION  
REGULAR MEETING MINUTES  
TUESDAY, JULY 12, 2022**

The Des Moines County Zoning Commission met in regular session on July 12, 2022 at 5:30 P.M. in the basement conference room at the SEIRPC office at 211 N. Gear Ave, West Burlington, Iowa.

**1. Call to Order**

Chairman Ryan Nagrocki was initially absent but arrived later. Vice Chairman Ron Breuer called the meeting to order at approximately 5:42 P.M.

**2. Roll Call**

Members attending remotely via Zoom indicated by a \*.

Commission members present:            Ron Breuer                            Russ Fry  
    Jesse Caston\*                        Dick Keith (*not in attendance for Agenda Item 4*)  
    Ryan Nagrocki (*not in attendance for Agenda Items 4 or 5A*)

Staff Present:                                        Zach James and Jarred Lassiter, SEIRPC

Public Present (all for Item 5A                Henry Bohlen, subdivision applicant  
Subdivision application MAS-22-24):        Leonard Kull, neighboring property owner, 11128 142nd Ave

**3. Changes to Tentative Agenda**

None

**4. Approval of the Minutes for May 3, 2022**

**Motion #1:**        To approve the Minutes of the May 3, 2022 meeting.  
**Motion by:**        Fry  
**Seconded by:**    Caston  
**Vote:**                Unanimous vote. Motion carried.

**5. New Business**

**A.        Public Hearing: Request for Final Plat approval, Ninth Addition to Wildlife Lakes Subdivision**

Vice Chairman Breuer opened the public hearing at approximately 5:45 P.M.

Mr. James read the staff report for this subdivision, noting that it represents the second half of a Preliminary Plat that was approved by the Board of Supervisors in November 2019, with the first half (5 lots) approved by the Board as the Final Plat for the Eighth Addition to Wildlife Lakes Subdivision in in July 2020. He noted that this subdivision is in the 2-mile review area of the City of West Burlington, and that the City Council had approved the plat at their meeting on July 6, 2022. He said that the Council had approved the plat with an added condition, following the recommendation of the Planning & Zoning Commission: "The remaining concrete for the hammerhead turnaround located adjacent to Lots 35, 36, and 37 shall be constructed as shown on the Preliminary Plat for the 8th Addition to Wildlife Lakes Subdivision, at the time lots are sold and the ground is developed".

Mr. James stated that he had inspected the site in June 2022, and several photos of the recently constructed hammerhead turnaround had been provided with the staff report. He said that the northernmost section of the hammerhead illustrated on the Preliminary Plat had not been completed, and the turnaround was also missing two areas of flaring that had also appeared on the Preliminary Plat, where the hammerhead intersects with the curved path of the existing street, Wood Duck Cove Drive. He stated that through communication with Burlington Fire Marshal Mark Crooks, he learned that the Fire Department was satisfied with the turnaround as initially installed, since it would allow

a fire truck sufficient room to turn around.

Mr. Bohlen mentioned that Fire Marshal Crooks had met with him on site to test out the turnaround. He said that Crooks had complemented the use of a paved surface for all of the road in Wildlife Lakes, and expressed a desire that all residential subdivisions in the County could be surfaced to that same standard.

Returning to the staff report, Mr. James read the staff recommendation for this subdivision: to approve the plat, but with several added conditions. Two of these had also been used for the Final Plat for the 8th Addition, which concern the narrow width of the previously constructed streets (Wildlife Lakes and Wood Duck Cove Drives) that would serve all of the lots in the 9th Addition. The third essentially restated the condition with which the City of West Burlington approved the plat: that the remaining portions of the hammerhead turnaround as depicted on the Preliminary Plat must be completed prior to the development of Lots 36 and 37 for homes.

Vice Chairman Breuer asked the one member of the general public in attendance (apart from the subdivider) if he had any comments about the proposed subdivision. He introduced himself as Leonard Kull, a neighboring property owner at 11128 142nd Avenue. However, he noted that he had no concerns to offer about Mr. Bohlen's subdivision and was instead attending in order to ask about a prospective subdivision on his own property. Mr. James said that staff could discuss this matter with him after the meeting, or after the two scheduled agenda items had concluded.

**Motion #2:** To close the public hearing.  
**Motion by:** Keith  
**Seconded by:** Fry  
**Vote:** Unanimous vote. Motion carried.

Vice Chairman Breuer closed the public hearing at approximately 5:54 P.M.

**Motion #3:** To recommend approval of the Final Plat for the Ninth Addition to Wildlife Lakes Subdivision, with the following conditions:

- Prior to the development of Lots 36 and 37 for residences, the existing 20-foot wide hammerhead turnaround shall be extended 15 feet to the north, and flared approaches shall be paved for traffic entering and exiting from Wood Duck Cove Drive, in accordance with the Preliminary Plat for the Eighth Addition to Wildlife Lakes Subdivision, approved on November 19, 2019.
- The minimum width requirement for a road right-of-way in the Subdivision Ordinance (Article VI, Section D(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 Ordinance (Article VI, Section D(4)) shall be waived to allow for an 18-foot paved concrete surface for Wildlife Lakes Drive and Wood Duck Cove Drive.

**Motion by:** Fry  
**Seconded by:** Keith  
**Vote:** Unanimous vote. Motion carried.

## **B. Discussion of Subdivision Ordinance requirements for Setbacks**

Mr. Lassiter read a brief report that staff had prepared for this topic, noting that it concerns a requirement in the Des Moines County Subdivision Ordinance, which was modified slightly in the revised version of the Ordinance approved by the Board of Supervisors in February 2022. He stated that the previous version of the Ordinance (approved in 1996) listed minimum front and side setbacks for subdivisions, which was functionally unenforceable since most of the unincorporated county is not under the jurisdiction of a Zoning Ordinance (which would require permits for new building construction). He then stated that the revised Ordinance no longer lists the setbacks as mandatory for all subdivision lots, but instead requires that all subdivision plats include a statement indicating that the minimum front setback is 30 feet, and the minimum side setback is 15 feet. He noted that the inclusion of such a statement on plats had been a standard practice for many years, likely originating as a means of satisfying the Ordinance requirement.

Mr. Lassiter concluded by mentioning that a surveyor recently shared concerns with him about this requirement, suggesting that property owners could run into trouble with appraisers and insurance agents if they discovered that a building on the property did not comply with these requirements.

Mr. James reiterated that this matter was being brought before the Commission in order to gain insight on the history of that setback requirement and determine whether there was broad support for having it removed, modified, or left alone.

Mr. Keith stated that, in his experience, it is simply good practice to list a requirement like that even if it is technically unenforceable, since it could steer developers away from building too close to the lot line. He noted that the reason for initially including the requirement was that road construction and expansion projects often require the acquisition of additional right-of-way or establishment of easements on the adjoining private property. Thus, buildings close to the property line could complicate things for the Secondary Roads Department. He also indicated that while most utilities are always placed in the County right-of-way, the lines for Rathbun Rural Water are sometimes situated on the adjoining properties themselves.

Mr. Fry expressed concern that having an unenforceable provision in the Ordinance could create a liability for the County if someone were to legally challenge it.

Mr. Keith suggested that staff present this matter to the County Attorney and ask for guidance on how to proceed. Mr. James concurred that this was a good idea and said they plan to follow up accordingly.

Mr. Lassiter noted that a potential solution would be to amend the Ordinance so that this requirement only applies to Standard or Major Subdivisions, as many Minor Subdivisions don't involve new building construction, and often include existing structures which may or may not comply with the requirement. He said that the requirement seems oriented to larger subdivisions meant for building multiple homes, often involving construction that does not proceed until years after the subdivision has been recorded.

After Mr. Lassiter referenced the fact that no building permits are required outside the Two-Mile Zoning area around Burlington, Mr. Bohlen asked why this doesn't cover the area around his property. Mr. Lassiter said that the Zoning Ordinance only applies to the unincorporated area within 2 miles of the City of Burlington, and not the corresponding area around the City of West Burlington. He noted that the County only adopted a Zoning Ordinance following pressure from the City of Burlington, since Iowa Code allows cities to enforce zoning within 2 miles of their corporate limits.

Mr. Bohlen expressed concern about the possibility for people to start junkyards and other similar uses in rural areas where there is no zoning. He mentioned a specific example of such a use that recently opened near his property. Mr. Lassiter stated that since the County does not have a nuisance ordinance, there is no way to regulate these matters in the absence of zoning, unless the activity in question is substantial enough to fall under State jurisdiction (i.e. the Dept. of Natural Resources and the storage of large quantities of old tires).

## **6. Old Business**

None

## **7. Public Input**

Mr. Kull noted that he owns a 5-acre property that includes his house plus a sizable area of farmland. He said he is interested in potentially subdividing the land to sell 1 to 3 lots for new home development, but is not sure whether this would be feasible, or how the process would work. Staff and the Commission members reviewed a map which showed this property and the surrounding area and provided some general guidance about how the subdivision process would work. There was a brief discussion about the roadway width requirement in the Subdivision Ordinance, as the homes currently along 142nd Street were developed decades ago, before a Subdivision Ordinance existed, and the road itself does not comply with the minimum width requirement in the Ordinance, as it is only one lane wide. Staff suggested that, depending on the size and scope of the proposed subdivision, it could potentially be possible for this subdivision to be approved with a waiver of the width requirement, possibly with other accommodations required to address the issue, but would need to go through a full review and approval process.

**8. Future Agenda Items**

None

**9. Adjournment**


**Motion #5:** To adjourn  
**Motion by:** Fry  
**Seconded by:** Keith  
**Vote:** Unanimous vote. Motion carried.

The meeting adjourned at approximately 6:21 P.M.

**APPROVED:**

  
\_\_\_\_\_  
Ryan Nagrocki, Chairman

**ATTEST:**

  
\_\_\_\_\_  
Zach James, Land Use Administrator