

**DES MOINES COUNTY, IOWA  
ZONING COMMISSION  
REGULAR MEETING MINUTES  
TUESDAY, MAY 3, 2022**

The Des Moines County Zoning Commission met in regular session on May 3, 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 absent due to a personal matter. Vice Chairman Ron Breuer called the meeting to order at approximately 5:30 P.M.

**2. Roll Call**

An option for remote attendance (via Zoom) was offered, but all Commission members attended in person. Members of the public attending by Zoom indicated by a \*.

Commission members present:                 Ron Breuer                         Russ Fry  
  Jesse Caston                         Dick Keith

Commission members absent:                 Ryan Nagrocki

Staff Present:   Zach James and Jarred Lassiter, SEIRPC

Public Present (all for ZMA-22-16):             Eric Schilling, zoning amendment applicant

Neighboring Property Owners:  
Don and Donna Gerdner, 4724 Sullivan Slough Rd  
Scott and Sheila Goff, 4582 Sullivan Slough Rd  
Randy Lee, 4801 Sullivan Slough Rd  
Kenny Mattson, 4438 Sullivan Slough Rd\*  
Melinda Williams, 4586 Sullivan Slough Rd\*

\* One other person briefly attended the meeting by Zoom, but when offered the opportunity to speak during the public hearing, they did not speak or identify themselves.

**3. Changes to Tentative Agenda**

None

**4. Approval of the Minutes for October 27, 2021**

**Motion #1:** To approve the Minutes of the October 27, 2021 meeting.

**Motion by:** Fry

**Seconded by:** Keith

**Vote:** Unanimous vote. Motion carried.

**5. New Business**

**A. Public Hearing: Request for Zoning Map Amendment, 4715-4717 Sullivan Slough Road (Young House Family Services)**

Zach James welcomed the members of the public in attendance and informed them that they would all have an opportunity to speak at the public hearing, following his reading of the staff report, an introduction by the applicant, and any initial questions by the Commission members. He then read the staff report, indicating that the applicant's request is to rezone a 12-acre property owned by Young House Family Services from R-1 Single and Two-Family Residential to

C-1 General Commercial. He noted that a residential treatment facility for youth had operated at this facility ('The Woodlands') from 1979 through 2014, and because it was established prior to the creation of the County Zoning Ordinance in 1998, it initially operated as a legal non-conforming use within the R-1 District. However, this legal non-conforming status expired 1 year after the facility closed in 2014, in accordance with Zoning Ordinance requirements for the ceasing of operations for a legal non-conforming use.

Mr. James indicated that due to program restructuring at the State level (Department of Human Services, or DHS), Young House has a need to reopen the facility and resume operations as a residential care facility. He noted that such an operation was not allowed under any circumstances in the R-1 District, but would be allowed as a 'Special Use' in the R-2 Multi-Family Residential District, and a Permitted Use in the C-1 District. He stated that while the applicant was requesting a rezoning to C-1, two alternate options were available – rezone to R-2 instead (requiring another public hearing, this time with Board of Adjustment), or rezone to C-1 but add special conditions that place further restrictions on its use.

Eric Schilling provided some additional background on the plans for the property, as well as the overall mission of Young House, a non-profit founded in Burlington in 1971. He indicated that legislative priorities over the past decade have changed to place greater emphasis on keeping troubled youth in homes to the greatest extent possible, leaving group treatment housing as a last resort when no other options are available or appropriate under the circumstances. He noted that there are a limited number of options to care for these children, as the amount of resources has diminished in recent years. He indicated that their other facility in Mount Pleasant (Christamore Treatment Center) is currently at its maximum capacity of 7 occupied beds, and this facility also presented great logistical challenges for social distancing during the COVID-19 pandemic. In contrast, The Woodlands offers a 'campus' or 'home-like' setting that is better suited to the needs of the children they serve. He indicated that children residing at the facility would be comprised of both those referred through the Juvenile Court system (with various behavioral or substance abuse issues), and those in foster care that currently have no foster family available (often due to behavioral issues). He also stated that the facility would operate as an emergency shelter, where children could stay for up to 48 hours while case workers are in the process of securing placement in a foster home.

Vice Chairman Breuer asked what the desired timeline is for the reopening of the facility. Mr. Schilling indicated that they would like to be operational by August 2022.

Mr. Keith asked who is in charge of education for children at the facility. Mr. Schilling indicated that this is primarily the responsibility of the Burlington School District, which provides teachers that travel to The Woodlands for on-site lessons.

Mr. Fry asked what the contingency plan is in case the proposed reuse of The Woodlands is not approved. Mr. Schilling indicated that their only other facility is Christamore in Mount Pleasant, which is already at capacity.

**Motion #2:** To open the Public Hearing.  
**Motion by:** Keith  
**Seconded by:** Fry  
**Vote:** Unanimous vote. Motion carried.

Vice Chairman Breuer opened the public hearing at approximately 5:54 PM.

Don Gerdner, 4724 Sullivan Slough Road expressed concerns about the lack of staff available to supervise the children at the facility, referencing instances prior to 2014 where his dog was let loose and bikes were stolen. He recalled that there was insufficient supervision on weekends, and the Sheriff's Department was frequently called to the site by himself or other neighbors.

Randy Lee, 4801 Sullivan Slough Road, recalled instances where he found children inside his woodworking shop, or they knocked on his door in the middle of the night. He was concerned about the potential for poor supervision of the children as had previously been the case. Mr. Mattson, attending by phone, reiterated these concerns and referenced his own prior experiences with children trespassing on his property.

Scott Goff, 4582 Sullivan Slough Road noted that he and his wife just moved to this location recently, but he had prior experience with The Woodlands due to a prior job with the Burlington Fire Department, where they were called there due to fights and small fires being started. His wife Sheila noted that it's common knowledge that drugs are more readily available inside the treatment facility than out on the street. She said she was concerned about the safety and security of her grandchildren and pets.

Mr. Lee asked what the ratio of supervisors to children would be. Mr. Schilling indicated that it would be mandated to be a 1:4 ratio. He also noted that a full camera system would be present on-site (as before), including external camera to catch escaping children. He acknowledged that security is always going to be a challenge for children with these types of behavioral issues but noted that a Major with the Burlington Police Department is a member of the Board of Directors at Young House, so there is a direct connection with law enforcement expertise. He noted that he could not attest to the situation in the early 2010s, as he only assumed his position as director of Young House in 2021. However, given his knowledge of the situation at the time, he said it was likely there was a lot of apathy among staff at the time, as the program was declining due to lack of resources and legislative support.

Mr. Schilling also addressed the matter of staff recruiting challenges, indicating that finding staff for their Mount Pleasant facility is particularly challenging as it is a smaller town, and people are less likely to accept long commutes today, sometimes due to high gas prices. He indicated that a therapist would be present on site with staff, but Mr. Lee was disappointed to learn that this was only for during the workday. He reiterated his concerns about lack of supervision and security on nights and weekends. Mr. Goff asked what would happen if there were ever a situation where staff was suddenly reduced below the 1:4 ratio (i.e. due to one or more people suddenly quitting). Mr. Schilling indicated that they would be legally required to reduce the number of beds immediately, and transfer excess residents elsewhere.

Mr. Fry asked if it would be possible to restructure the clientele so that only foster care children would be served on this property, rather than those from the Juvenile Court system, due to the higher likelihood of criminal activity among the latter group. Mr. Schilling said that through the structure of their contract with DHS, the two groups are seen as indistinguishable, so it would not be possible for them to limit their services to one but not the other.

A lengthy discussion of the security of the facility followed, with several members of the public bringing up the option of fences or gates around it. Mr. Schilling indicated that The Woodlands is not licensed as a detention center, and as such, it is not and legally cannot be a locked facility. Furthermore, he noted that the appearance of fences and walls would be a negative influence on the children, as their intent is to make it seem less like a jail and more like a nurturing home environment. Mr. Lee asked if they could simply put up a fence around the perimeter of the property, which is behind a wooded area around the buildings. Mr. Schilling indicated that as a non-profit agency, Young House is not financially equipped to handle such major expenses.

Other security measures were discussed, such as the option of bracelets for monitoring the location of children, which Mr. Schilling said was a possibility that would need to be fully evaluated. He also noted that alarms would be placed on exit doors and windows throughout the building, and the alarm would sound if someone tried to leave when unsupervised. He further indicated that they are working with the State Fire Marshall's office on the possibility of using a new technology called 'proximity badging' at open exits to the building. He emphasized this as an example of how much security technology has advanced since The Woodlands was previously operational.

Ms. Goff asked whether this development was essentially a 'done deal' and what the overall purpose of this meeting was, noting that she'd observed recent activity on the property which suggested redevelopment in-progress. Mr. Schilling said he wasn't sure what kind of activity she was referring to, but noted that the reopening of the facility requires numerous preparatory steps and activities, including multiple permits at different levels of government. Mr. James noted that the request for application was just received in early April, this was the first meeting with the Zoning Commission members to discuss the matter and make a recommendation to the Board of Supervisors, and the Board of Supervisors ultimately had the ability to approve or deny the rezoning request and prevent the reuse of the facility. He further stated that the intent of the meeting was to give neighboring property owners a chance to voice their opinions on the matter in a public forum, and Mr. Lassiter added that any such comments that relate to relevant topics and regulations in the Zoning Ordinance are matters that should be actively considered when evaluating a rezoning request.

Both Mr. Lee and Mr. Mattson expressed concerns about a rezoning to C-1 enabling a wide range of additional uses that they would prefer not to see in their neighborhood. Mr. Lassiter went through a list of uses that are allowed as a Permitted Use in the C-1 district, noted that certain types of establishments that would typically be considered

'commercial' are only allowed in the I-1 Industrial District, such as junk yards and contractor storage yards. He also indicated that certain uses such as 'adult oriented businesses' are allowed in C-1, but only through a Special Use Permit (with a required public hearing).

Mr. Lee asked if it were possible to rezone to allow this particular proposed use, but not other commercial uses allowed in the C-1 District. Mr. Keith said that would certainly be possible, by approving a 'conditional rezoning'. He noted that such an option had not been previously utilized by the County, but it is still an option that the ordinance allows. The neighboring property owners indicated that they would be comfortable with rezoning to C-1 if it only allowed that specific type of use (a residential treatment facility for youth), and any other type of commercial use was prohibited. Staff was initially unclear as to the precedent for only allowing one specific use in a zoning district, rather than adding a condition that prohibits a handful of specific uses (leaving a dozen or so others as a future option). Mr. James indicated that the Commission could make a general recommendation to the Board of Supervisors, but it might be worthwhile for staff to do further research and consult the County Attorney's office for further guidance on the option of a highly restrictive 'conditional rezoning' option.

Mr. Lassiter referred back to the other alternative to rezone to R-2, as this type of use would be allowed through a Special Use Permit in that district. Mr. Lee asked why Young House desired a C-1 rezoning if R-2 or a conditional C-1 rezoning were alternate options. Mr. Schilling stated that he felt it would be beneficial to keep their options open, particularly if their main office on the west side of Burlington were to be consolidated with the office on Sullivan Slough Road (north of the residential building). Mr. Lassiter clarified that this same use would be allowed through a Special Use Permit in either the R-1 or R-2 District, as it meets the Ordinance's definition of a 'social service provider'. There was also a discussion of the potential sale of the existing buildings to another light commercial or civic use in the future (such as a medical office or church), if Young House's current operations were ever to cease as they did in 2014. Neighboring residents generally felt uncomfortable with the broad range of uses that this might involve. Mr. Lassiter indicated that any current action by the Commission would not restrict the ability to request another rezoning in the future, in the event that there was a buyer with a specific commercial use planned for the property.

Mr. Mattson asked whether Young House could ever expand beyond the 20-bed capacity that it currently has at The Woodlands. Mr. Schilling noted that this is the amount they are contractually allowed to serve by the DHS, and any future expansion would have to undergo an intensive evaluation and restructuring to ensure that they had the staffing and resources to adequately serve additional children. He also emphasized that 20 is the absolute maximum allowed, and that in practice the number would usually be considerably lower than that. Mr. Lassiter noted that an additional zoning permit would only be allowed if the facility were to be physically expanded beyond its present footprint (as opposed to augmenting the existing buildings within that existing footprint). He also noted that this action would be a Permitted Use in the C-1 District, but any future expansion of a residential care facility in the R-2 District would require an additional Special Use Permit and public hearing with the Board of Adjustment.

Mr. Lassiter asked whether it would be possible to rezone the property to R-2, but approve it with the condition that the requirement for a public hearing for Special Use Permit be waived in this specific instance, since this current meeting had already presented an opportunity for neighboring residents to provide feedback on the proposed development. Mr. James said it would probably be best if the process be followed as outlined in the Ordinance, since a different review body (Board of Adjustment) is involved.

Among the neighboring residents, there was a general consensus that the option of a conditional C-1 rezoning would be a significant improvement, since it would address one of their primary concerns, regarding the future use of the property for other types of commercial uses. Mr. Lee thanked everyone in attendance for the opportunity to discuss this matter in advance of the efforts to reopen the facility. He also reiterated that he is not opposed to the development in general principle, so long as the children remain where they're supposed to be on the Young House property.

**Motion #3:** To close the public hearing.  
**Motion by:** Keith  
**Seconded by:** Caston  
**Vote:** Unanimous vote. Motion carried.

Vice Chairman Breuer closed the public hearing at approximately 6:48 P.M.

There was considerable debate between the Commission members, as to the precise wording of the condition to be attached to the rezoning to C-1 General Commercial. Staff advised that the condition should reflect the two categories of uses that apply to the full Young House property, as defined by the Zoning Ordinance: "Social Service Providers" and "Nursing Homes or Similar Care Facilities". Mr. Keith argued that the type of use allowed should be highly specific to Young House and its current operations, and that a typical nursing home wouldn't be compatible with the building currently housing residential space.

Mr. Keith also suggested that the condition identify a limit of 20 beds for the facility in question, as a means of preventing any further expansion of the facility. Mr. Caston said he would prefer not to put this additional restriction in place, given how unlikely a future enlargement is, and how restrictive the condition would be even without it.

**Motion #4:** To recommend approval of the proposed zoning amendment, to rezone the subject property from R-1 Single and Two-Family Residential to C-1 General Commercial, with the following condition:

- That the only Permitted Use to be allowed on the property (apart from those that are also Permitted Uses in the R-1 or R-2 Districts) shall be: "a residential treatment facility with behavioral and mental health services for children and their families"

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

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

Mr. James recommended tabling this matter to a future meeting, due to the meeting already approaching 90 minutes in length, and the fact that this matter was not of any serious urgency. The Commission members concurred.

#### **6. Old Business**

None

#### **7. Public Input**

None

#### **8. Future Agenda Items**

Mr. James referred back to the tabled item about the Subdivision Ordinance and setback requirements. Mr. Lassiter noted that several larger subdivisions were likely to proceed to either Preliminary or Final Plat sometime in 2022, at which time this topic could be brought back for discussion.

#### **9. Adjournment**

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

The meeting adjourned at approximately 7:00 P.M.

**APPROVED:** Ronald F. Brewer  
Ryan Nagrocki, Chairman  
Vice Chair Ronald Brewer

**ATTEST:** Zach James  
Zach James, Land Use Administrator