

Minutes - Woodbury County Zoning Commission Meeting – June 28, 2021

The Zoning Commission (ZC) meeting convened on the 28th of June 2021 at 6:00 PM in the first-floor board room of the Woodbury County Courthouse. The meeting was also made available via teleconference.

ZC Members Present: Chris Zellmer Zant, Tom Bride, Barb Parker, Corey Meister, Jeffrey O'Tool
County Staff Present: David Gleiser, Dan Priestley
Public Present: Bill Holland

Call to Order

Chair Zellmer Zant formally called the meeting to order at 6:00 PM.

Public Comment on Matters Not on the Agenda

None.

Approval of Minutes

The 5/24/21 minutes were approved. Motion to approve: Meister. Second: O'Tool. Vote: 5-0.

Review of Conditional Use Permit (CUP) – Temporary Borrow Pit Proposal (MidAmerican Energy)

Priestley read the preliminary report and staff recommendation into the record. The MidAmerican Energy Company requests to “establish a temporary borrow pit to remove earthen material / resource extraction.” This proposal is part of a multiyear project involving MidAmerican Energy’s ash impoundment system. There are several phases of the project that commenced in 2015. On June 1, 2020, the Woodbury County Board of Adjustment approved a conditional use permit for a temporary borrow pit on Parcel #874730200005. Similar to the 2020 proposal, this request is for the property located on Parcel #874731100008 in the NE of Section 31 on Government Lot 1 in T87N R47W (Liberty Township). The property is located west of Port Neal Circle and located in the General (GI) Zoning District on the MidAmerican Energy grounds. A portion of the property is located in the floodplain (Zone AE). However, the borrow area is not in the floodplain. Bill Holland of JB Holland Construction was present and responded to questions concerning reseeding the borrow area once the project is complete. Motion to recommend approval to the Board of Adjustment to use Parcel #874731100008 as a temporary borrow pit: O'Tool. Second: Bride. Motion passed 5-0.

Public Comment on Matters Not on the Agenda

None.

Commissioner Comment or Inquiry

Chair Zellmer Zant asked for an update about the proposed commercial wind energy ordinance going before the Board of Supervisors on 6/29/21. She expressed concerns about communication with the Commission relating to the Supervisors' ordinance approval process and changes that were made by the Supervisors during their initial public hearing.

The Commission was reminded that on 4/26/21, they reviewed a draft of the proposed ordinance and were asked to provide their input on whether it should be an outright allowed use in certain zoning districts; a conditional use in the Zoning Ordinance; or a special use in a stand-alone ordinance approved by the Supervisors.

After its formal review, the Commission agreed to support the draft ordinance as proposed (stand-alone ordinance structure, setback distances, provisions, etc.) and recommend the Board of Supervisors move to adopt the ordinance. The Board of Adjustment conducted the same evaluation during their 5/3/21 public meeting and subsequently reached the same conclusion as the Zoning Commission. CED staff were then directed to initiate the stand-alone ordinance adoption process for the Supervisors via 3 public hearings.

The Commission was informed that during the 6/15/21 Supervisors regular meeting, when the dates were being set for the 3 public hearings, Supervisor Monson asked if the ordinance included protections for the Loess Hills. Director Gleiser acknowledged that it didn't due to numerous factors and cited the county work group's belief that it wasn't necessary. However, if the Supervisors wanted that language it could be added during the public hearing process.

The Supervisors then directed Gleiser to collaborate with the Loess Hills Alliance and The Nature Conservancy of Iowa and develop some recommended language to prohibit commercial wind turbines within the Loess Hills landform area prior to their 1st scheduled public hearing. Gleiser did as directed and the Supervisors voted to include protective language for the Loess Hills during their 1st public hearing.

Chair Zellmer Zant asked why the proposed wind ordinance and subsequent language revision proposals did not go back to the Zoning Commission or Board of Adjustment for additional review and comment.

The Commission was reminded that they recommended the stand-alone ordinance, and that as a stand-alone ordinance, the Board of Supervisors exclusively operates the consideration and approval process under the Iowa home-rule regulations. There

is no requirement for the Planning & Zoning Commission or Board of Adjustment to review or make any recommendations under this provision. Gleiser also stated that it would not be logistically feasible to coordinate meetings with both volunteer bodies in such a short period of time and meet the requirements of the Open Meetings Law, and to do so when not required, would deviate staff from other required duties.

Chair Zellmer Zant expressed her fears of including the Loess Hills language as she interpreted the boundary description and relevant mapping proposal as creating a Conservation Overlay District. She mentioned various issues the county experienced during the development of its 2003 Comprehensive Plan, which included a proposed Conservation Overlay District for the Loess Hills that included numerous land-use restrictions. Gleiser confirmed that the County Attorney's Office reviewed the revision proposals for the Loess Hills and verified that this action would not create a Conservation Overlay District as that is only feasible within the Zoning Ordinance. This action would simply be creating an additional Protected Area with applicable setback distances in the stand-alone ordinance, which Iowa law allows.

Bride offered concerns about the effects of a possible Conservation Overlay District that could restrict the rights of private property owners in the Loess Hills. He referenced the previous zoning process when similar objections were offered by the public in 2003 and 2005, and he requested that Director Gleiser go on the record during the 2nd public hearing and inform the Supervisors that he (Tom Bride only) strongly encourages them to not create a Conservation Overlay District for the Loess Hills landform area. Gleiser agreed to do as requested and he offered to communicate Chair Zellmer Zant's comments to the Supervisors as well.

Gleiser acknowledged the comments made regarding the Supervisors' formal approval processes for issues such as ordinances, subdivisions, etc. He believed the Commission would like more information and communication as it relates to items that go before them and then to the Board of Supervisors for a final decision or additional actions. Gleiser stated they would work to make the accommodation.

Finally, the Commission was reminded that the Supervisors they have the discretion to ignore recommendations offered by any of their volunteer boards and commissions, county staff, or outside entities, and they ultimately hold the final decision-making authority.

Adjourn

Motion to adjourn: Parker. Second: Meister. Motion passed: 5-0. Meeting adjourned at 6:42 PM.