

## **Minutes - Woodbury County Zoning Commission Meeting December 22, 2014**

The meeting convened on the 22<sup>nd</sup> of December, 2014 at 6:00 PM in the Board of Supervisor's meeting room on the first floor of the Court House, Downtown, Sioux City, Iowa. Present were the following Commission members – Tom Bride, Bruce Garbe, David McWilliams, Grady Marx and Christine Zelmer Zant. Zoning Staff Present: John Pylelo and Peggy Napier. From the public were Ben and Cathy Kooiker, Gary Wendell, Robert and Linda Clausen, Paula and Bradley L. Dunn, Mike Barkley, Mark Nahra.

**The first agenda item was approval of Zoning Commission Meeting of September 22, 2014.**

**Mr. McWilliams made a motion to accept the minutes as read. Mr. Marx seconded the motion; motion carried 5-0.**

**The next agenda item was a Public Hearing and Recommendation to the Board of Supervisors Re: Ron and Linda Clausen Zoning Map Amendment Application; The re-zoning of GIS Parcel #894632100011.**

Property owners Ronald and Linda M. Clausen have filed a re-zoning petition for a single 26.3 acre parcel. The re-zoning petition requests a change from the current AP (Agricultural Preservation) zoning district designation to AE (Agricultural Estates) to allow for the proposed residential density potential.

On November 18<sup>th</sup> the Board of Supervisors referred this matter to your Commission for public hearing and recommendation

Should the re-zoning petition be successful the applicants intend to subdivide the parent parcel using a minor subdivision procedure. The office of Planning and Zoning has received a subdivision application for the matter requesting the subdivision be named Clausen Acres Addition. A public hearing for the subdivision application will be held immediately following the conclusion of this agenda item.

The applicants have a purchase agreement in place for one of the three lots in Clausen Acres Addition. The buyers stated plans are for construction of a single family dwelling. The applicants will continue to reside on a second lot; with the third lot intended to remain in agricultural production. The legal descriptions for the area to be re-zoned and the area to be subdivided are identical.

The location to be re-zoned is within 2,800 feet of Sioux City at the northeast corner of the intersection of paved Buchanan Ave. and graveled 155<sup>th</sup> St. The parcel is currently addressed 1543 155<sup>th</sup> St. and located within a portion of the SENW of Section 32 in Concord Township.

Attached mapping shows the adjacent and nearby zoning district designations consist of:

- To the north: AP and AE
- To the east: AP
- To the south: AE
- To the west: AP and AE
- There is also a single parcel to the NW zoned GC (General Commercial) which provides radio broadcast facilities, equipment and a telecommunication tower.

Existing subdivisions known as Rambling Hills Addition, Millers Addition and Crull Addition lie adjacent to one another to the southwest. Rambling Hills Addition also abuts the same 155<sup>th</sup> St and Buchanan Avenue intersection as the proposed re-zoning.

The twenty-one (21) property owners within 1000'; and listed within the certified abstractor's affidavit; were notified by letter of the public hearing. An additional property owner not included within the affidavit was mailed a notice on December 15<sup>th</sup>. As of December 15<sup>th</sup> the Planning and Zoning office had not received comment from any property owner owning property within 1,000'.

The Planning and Zoning office asks the record of this meeting reflect the fact that certain Zoning Commission members; or in one case immediate family members of a Commissioner; own or control property in proximity to the proposed re-zoning. Those Zoning Commission members are:

- Commissioner Tom Bride: Bride's parent's trusts own property up to within 200' to the northwest.
- Commissioner Dave McWilliams: McWilliams owns property up to within 825' to the south.
- Commissioner Bruce Garbe: Garbe owns property up to within 1,575' to the north.
- Commissioner Grady Marx: Marx owns property up to within 2,540' to the west.
- Commissioner Zant: Zant owns property up to within 5,300' to the southwest.

Commissioners Bride's immediate family member and Commissioner McWilliams met the test to be listed as property owners to receive written notice of the public hearing; i.e. own property within 1000'.

The Woodbury County Attorney's Office has provided a recommendation that:

- Any Commissioner with property ownership; or having an immediate family member with property ownership; within 1,000 feet or less of the Clausen parent parcel should abstain from voting on this agenda item; i.e. Commissioners McWilliams and Bride.

Staff Recommendation: Subject to public hearing testimony staff supports a Zoning Commission approval recommendation for the requested AE zoning. Staff has found the evaluation criteria within section 2.02:4.D is met supporting your Commission's approval recommendation. The rezoning is compliant with Woodbury County's Future Land Use Mapping. Staff would ask the Chairman consider polling members of their position on this matter prior to the vote taking place.

Find enclosed for your review.

- Location Mapping
- Parcel Information
- Aerial Mapping showing area zoning and property ownership
- Zoning ordinance language Section 2.02:4.D (Pages 12-13)
- Onsite photos

**Your Commission is asked to hold a public hearing and provide a re-zoning recommendation to the Board of Supervisors.**

Discussion:

Ben Kooiker, a buyer for one of the proposed lots, stated he was for re-zoning and subdividing the parcel.

No other comments were received by the commissioners.

**A motion was made by Mr. Marx to close the public hearing.  
The motion was seconded by Mr. Garbe; motion carried 5-0.**

**A motion was made by Mr. Marx to recommend approval of the re-zoning.  
The motion was seconded by Mr. McWilliams; Mr. Bride and Mr. McWilliams abstained;  
Motion carried 3-0.**

**Next Agenda Item was a Public Hearing and Recommendation to the Board of Supervisors on the Final Platting for: Clausen Acres Addition – a Minor Subdivision; GIS Parcel #894632100011**

This agenda item is a companion filing with the previous agenda item. On November 18<sup>th</sup> the Board of Supervisors referred this matter to your Commission for public hearing and recommendation.

Property owners Ronald and Linda M. Clausen have filed a Minor Subdivision Application for a three (3) lot subdivision of an existing 26.3 acre parent parcel. You are referred to the parcel's background information and the materials provided within the previous agenda item.

The area to be subdivided is not within any flood hazard area or drainage district. Re-zoning of the subdivision's location will be required before permitting can be issued for any residential development on Lots 1 or 3.

The average Corn Suitability Rating (CSR) for the existing parent parcel is 39.43 and within Woodbury County policy limits permitting subdivision. Approximately 19 of the 26 acres are currently in row crop agricultural production with the remaining acres in residential development, pasture or in timber.

The twenty-one (21) property owners within 1000' and listed within the certified abstractor's affidavit were notified by letter of the public hearing. An additional property owner not included within the affidavit was mailed a notice on November 18<sup>th</sup>. As of December 15<sup>th</sup> the Planning and Zoning office had not received comment from any property owner owning property within 1,000'.

The following departments or agencies were provided copies of the platting and ask to make comment:

Woodbury County REC: No response Received

AT&T Corporation: Letter returned undeliverable. (Century link found to be correct service for this area. Letter mailed to their address.)

Iowa Department of Natural Resources: Nov. 17<sup>th</sup> standard letter of potential NPDES permitting requirement received.. Copy mailed to applicant and Lot 1 buyer.

Siouxland District Health Department: No response Received

Woodbury County Assessor: No response Received

Woodbury County Board of Supervisors: No response Received

Woodbury County Department of Emergency Services: No response Received

Woodbury County Engineer: No response Received

Woodbury County Recorder-Real Estate Department: The subdivision name has been reserved and is available for use.

MidAmerican Energy Company regarding utility easement: No response Received

Woodbury County; Soil and Water Conservation Service regarding the conservation plan:  
No response Received

City Clerk, City of Sioux City: No response Received

The Planning and Zoning office asks the official record of this meeting reflect the fact that certain Zoning Commission members; and in one case the immediate family members of a Commissioner; own or control property in proximity to the proposed re-zoning. Those Commission members are:

Commissioner Tom Bride: Bride's parent's trusts own property up to within 200' to the northwest.

Commissioner Dave McWilliams: McWilliams owns property up to within 825' to the south.

Commissioner Bruce Garbe: Garbe owns property up to within 1,575' to the north.

Commissioner Grady Marx: Marx owns property up to within 2,540' to the west.

Commissioner Zant: Zant owns property up to within 5,300' to the southwest.

Commissioners Bride's immediate family members and Commissioner McWilliams met the test to be listed as property owners to receive written notice of the public hearing; i.e. own property within 1,000'.

The Woodbury County Attorney's Office has provided a recommendation that:

- Any Commissioner with property ownership; or having an immediate family member with property ownership; within 1,000 feet or less of the Clausen parent parcel should abstain from voting on this agenda item; i.e. Commissioners McWilliams and Bride.

Staff Recommendation: Subject to public hearing testimony the staff recommendation supports a final plat approval recommendation by your Commission conditioned upon:

- 1.) A Paving Agreement meeting county policies be recorded for the 155<sup>th</sup> St. graveled right-of-way abutting the subdivision's southern boundary; and
- 2.) The subdivision be approved by the city of Sioux City pursuant to the city's extra-territorial right of review or, in the alternative, the city's waive said review right.
- 3.) All approved driveway locations and field entrances be properly noted on the final platting.
- 4.) Within the *Notes* section of the final platting that the telephone service provider reference of AT&T be confirmed or corrected to the current service provider.

Staff would ask the Chairman consider polling members of their position on this matter prior to the vote taking place.

Attached find the following for your review:

- Location and Parcel Information
- Final Platting
- Topographical Platting
- On site photographs

**Your Commission is asked to hold the required public hearing and make recommendation on final plat approval to the Board of Supervisors.**

Mr. Marx commented 2 lots are already on paved road (Buchanan) and 155<sup>th</sup> St. may be paved someday by the city. Those living on 155<sup>th</sup> St. shouldn't have to sign a paving agreement if it will eventually be absorbed by the taxpayers.

Mr. Kooiker said the plat should show the driveway and one (1) unused field entrances are on Buchanan. Lots 3 and 4 will be on graveled 155<sup>th</sup> St. He would want to sign a paving agreement should they need a driveway on 155<sup>th</sup> St.

Furthermore, if there is an interior road servicing more than one lot they would need a paving agreement.

Mr. Pylelo and Mr. Bride both commented if a paving agreement was not one of the conditions, the Board of Supervisors will most likely add it before approving subdivision anyway.

Mr. Pylelo agreed maybe they shouldn't be required to sign a paving agreement in the current situation, but Planning and Zoning needs to consider future possibilities and therefore recommends the condition.

Pylelo also pointed out the applicant is within two (2) miles of city limits and therefore will be required to sign the annexation agreement when the city council approves.

Robert Clausen did not think he should be required to sign the paving agreement.

Ms. Zant replied in twenty (20) years they will be within Sioux City. Since the city does not want gravel roads, taxpayers will have to pay for paving the road. She did not believe it was fair or honest to not sign the paving agreement.

Mr. Clausen said he is only concerned with the situation as it currently stands and he has no interest in who may have to pay for paving 155<sup>th</sup> St in the future.

Mr. Marx suggested omitting the paving agreement in the conditions and leaving it up to the Board of Supervisors to add or omit.

Mr. Garbe said the paving agreement should be signed and agreed with Ms. Zant. He did not believe it would be fair for the person who will own Lot 2 or for future owners.

Mr. Bride suggested rewording the condition to recommend the Board of Supervisors review the paving agreement issue.

Mr. Pylelo suggested reviewing the County Engineer's comments for the record;

*November 20, 2014  
Clausen Acres Addition*

*The Secondary Road Department has reviewed the final plat for the above referenced subdivision forwarded with your memo dated November 12, 2014.*

*I am offering the following comments for your consideration.*

- *We checked the closure on the plat and found it in compliance with the requirements for the full subdivision of 1 in 10,000 and 1 in 5,000 for each lot as required by Section 355.8 of the Code of Iowa.*
- *I have reviewed existing driveway location for lot 1. Sight distance is adequate. A proposed driveway was noted on the plat for lot 1 coming onto 155<sup>th</sup> Street. Since Lot 1 has an existing entrance, a second entrance would not be allowed unless the driveway off of Buchanan is abandoned. This second driveway location was not reviewed and reference to it should be removed from the final plat. Driveways for lots 2 and 3 off of 155<sup>th</sup> Street also exist, but were not reviewed for sight distance adequacy. The existing access driveway from Buchanan Avenue to Lot 3 also appears to have adequate sight distance. If any new driveways are requested, a permit must be obtained from this office.*
- *I have no other concerns or issues with this subdivision.*

*If there are any more questions or issues that arise later, please contact this office.*

Mr. Kooiker asked if Lot 3 could be further subdivided possibly into multiple lots in the future. The answer was yes.

**Mr. Marx made a motion to approve with all staff recommendations except no Paving Agreement being required. There was no motion to second. The motion died.**

Mr. Garbe agreed with Ms. Zant it was fair according to the ordinances that a paving agreement be signed.

The issue was discussed further.

**Mr. Marx made a motion to approve subject to the conditions as written;**

- 1.) A Paving Agreement meeting county policies be recorded for the 155<sup>th</sup> St. graveled right-of way abutting the subdivision's southern boundary; and**
- 2.) The subdivision be approved by the city of Sioux City pursuant to the city's extra-territorial right of review or, in the alternative, the city's waive said review right.**
- 3.) All approved driveway locations and field entrances be properly noted on the final platting.**
- 4.) Within the *Notes* section of the final platting that the telephone service provider reference of AT&T be confirmed or corrected to the current service provider.**

**Mr. Garbe seconded the motion; motion carried with Mr. Bride and Mr. McWilliams abstaining, 3-0.**

Ms. Zant commented issues such as this creates inconsistencies within the Zoning Commission.

Mr. Kooiker commented consistency is important. The paving agreement "...doesn't apply unless it doesn't apply." There should be no second guessing. The weight is carried with most of the lots having access to Buchanan. Give the benefit of the doubt to the ordinance as it is stated.

The Commission requested the Zoning Director advise the supervisors of the possible need the Paving Policy be more flexible and thus reviewed.

**The next agenda item is a Public Hearing and Recommendation Re: Zoning Ordinance/Map Amendment to Adopt Woodbury County's Flood Insurance Study Number 19193CV000B and Mapping Panel 19193C0037E Dated March 2, 2015.**

This item is an agenda item added to your November meeting agenda.

Woodbury County has received the above referenced study and eight (8) revised flood insurance rate map panels. Subsequent review by the Office of Planning and Zoning confirms all of the map panels lie within Woodbury County but within the incorporated area of Sioux City. The exception being a portion of Flood Insurance Rate Map Panel 19093C0037E representing an area within rural Woodbury County consisting of approximately 2 square miles; further described as an area between:

- The Plymouth County line south to 120th St.; and
- The Eastern Sioux City corporate boundary then east for approximately 1 mile.

You will find provided the following:

- Woodbury County Iowa Flood Insurance Study Number 19193CV000B Revised March 2, 2015;
- Flood Insurance Rate Map Panel 19193C0037E dated March 2, 2015; and
- TAM Mapping Locater Mapping for Concord Township showing the area to which the map panel applies.

Note: No rural Woodbury County landowner within the mapping area is impacted by any mapping change.

Should Woodbury County wish to continue its long term participation in flood Insurance programs; and participate in post-disaster funding mechanisms; FEMA requires the County adopt the Study and the applicable mapping panel by referencing within its Floodplain



Management ordinances. The Supervisors' December 16, 2014 referral of the Study and Mapping to the Zoning Commission for public hearing and recommendation is the required initial step in the adoption process.

Failure to adopt the new mapping could have negative effects upon county residents and businesses who may have casualty loss exposure should a flood event occur. There is also the potential for loss of marketability of property and structures as no federally insured financial institution can loan funds without flood insurance being in place.

Below is provided a work up of a portion of page 57 of the Flood Plain Management ordinances reflecting proposed language changes within Section 5:03:2.B. NOTE: Language in **bold** typeface reflects language addition. ~~Strike through~~ typeface reflects deleted language.

Amend Section 5.03:2.B *General Provisions* to read:

B.

Establishment of Official Floodplain Zoning Map. The FEMA Flood Insurance Rate Maps ~~19193C0037D~~, **19193C0037E**, 19193C0039D, 19193C0045D, 19193C0075D, 19193C0100D, 19193C0117D, 19193C0125D, 19193C0136D, 19193C0150D, 19193C0165D, 19193C0193D, 19193C0194D, 19193C0202, 19193C0204D; 19193C02011D through 19193C0214D; 19193C0225D; 19193C0227D, 19193C0230D, 19193C0231D, 19193C0235D, 19193C0240D, 19193C0245D, 19193C0252D, 19193C0256D, 19193C0275D, 19193C0300D, 19193C0306D, 19193C0307D, 19193C0313D, 19193C0325D, 19193C0333D, 19193C0350D, 19193C0360D, 19193C0400D, 19193C0425D, 19193C0450D, 19193C0467D, 19193C0469D, 19193C0475D, 19193C0500D, 19193C0525D, 19193C0550D, 19193C0575D through 19193C0577D, 19193C0600D, 9193C0602D, 9193C0606D, 9193C0625D, 9193C0650D through 9193C0652D and 9193C0675D for unincorporated areas of Woodbury County Iowa - Community Number 190536, dated September 29, 2011 **or March 2, 2015** are hereby adopted by reference and declared to be Woodbury County Iowa's Official Floodplain Zoning Maps.

The flood profiles and all explanatory material contained within the Flood Insurance Study **dated September 29, 2011 and as changed by Study Number 19193CV000B dated March 2, 2015** are also declared to be a part of this ordinance.

Staff Recommendation:

The Woodbury County Planning and Zoning office; in coordination with Iowa Department of Natural Resources' personnel; has reviewed the Study and the resulting mapping amendment. Subject to public testimony staff would recommend an affirmative adoption recommendation to the Board of Supervisors for the adoption of the study and amendment of the referred to mapping.

**Your Commission is asked to hold the public hearing, study the proposed amendments and vote to make recommendation to the Board of Supervisors for the adoption of Woodbury County, Iowa Flood Insurance Study Number 19193CV000B and the Adoption of Flood Insurance Rate Map 19193C0037E both dated March 2, 2015.**

Mike Barkley, whose father lives on the border of Sioux City limits and rural Woodbury County, observed land has gone into the floodplain since dams were put in causing issues that did not exist before.

His father's parcel is partially affected; only one corner of the house. His father's house is paid for resulting in no insurance required.

Mr. Barkley commented some areas received government grants for repairs after the Missouri River flood but some areas were required to pay the grant back when apparently issued erroneously.

Mr. Pylelo explained the adoption was a formality. Nothing in the rural flood zoning would be different. The Commission would be recommending adoption to the Board of Supervisors.

**Mr. Marx made a motion to close the public hearing. Mr. McWilliams seconded the motion; motion carried 5-0.**

The staff recommended the Board of Supervisors adopt the maps.

**Mr. Marx made a motion to recommend adoption of the maps. Mr. McWilliams seconded the motion; motion carried 4-1 with Marx opposing the adoption with no explanation.**

**The next agenda item was a Driveway Installation Policy Study Session with Mark Nahra, Woodbury County Engineer.**

County Engineer Mark Nahra said he was here to answer questions.

The roads policies pretty much copies IDOT. The heights of vehicles are all in the green book. Some heights or site distance requirements are not in the green book. The Board of Supervisors has authority to set their standards.

Mr. McWilliams wanted to know why the county does not have jurisdiction for gravel roads in the county and state have jurisdiction over state highways.

Mr. Nahra said the state can have access over the first 500' to restrict accidents. Controlling accidents is very important on every level. It becomes difficult when two (2) roads are in two (2) very different environments.

Mr. McWilliams told of the issue with a semi-truck trying to turn onto Franklin Ave.

Mr. Nahra reminded McWilliams the parcel owner had talked to him before the issue came up with the Zoning Commission and was aware of what it would take to be able to add a driveway onto his land from Franklin Ave. The owner followed the necessary procedure and was granted a driveway off of Franklin Ave.

Mr. Marx told Mr. Nahra he would like the County Engineer to have flexibility to make a change in his policy in very dangerous situations.

Nahra said he rejects such exceptions every year. He cited several examples. He feels the policy is simple and fair and he uses the ordinances to settle issues.

Certain agricultural situations on larger parcels of land could alter decisions.

Nahra assured the Commission there are many reasons Secondary Roads does not want to see more roads in the country than they have to see.

Mr. Marx would like to have a review board for special situations like the one on Franklin Ave.

Mr. Nahra interjected the County Engineer is the review board.

The Commission and Nahra discussed how Home Occupation businesses or other types of businesses might be affected by the road policies.

Mr. Nahra said the policies are determined by how the parcel is used, not how it is zoned. However, use changes over time.

Nahra said they will remove an access road and/or a culvert if it is no longer used or it breaks down. They will continue to have reservations on putting in any more roads than they have to.

**Next Agenda Item was Any Citizen wishing to be heard.**

There were no citizens waiting to be heard.

**Mr. Marx made a motion to adjourn. Mr. McWilliam seconded the motion; motion carried 5-0.**

Meeting adjourned at 8:45 PM. Next scheduled meeting will be Monday, January 26, 2015.