

Minutes – Woodbury County Zoning Commission Meeting – April 24, 2023

The Zoning Commission (ZC) meeting convened on the 24th of April at 6:00 PM in the first-floor boardroom in the Woodbury County Courthouse. The meeting was also made available via teleconference.

ZC Members Present: Chris Zant, Corey Meister, Jeff O'Tool, Tom Bride
County Staff Present: Dan Priestley, Dawn Norton
Public Present: Doyle Turner, Leo Jochum, John Daniels, Sid Mosher, Matt Mosher, Adam Larson, Bill Holland, Dakin Schultz, Jason Klemme, Aaron Vargas (via teleconference)

Call to Order

Chair Chris Zant formally called the meeting to order at 6:01 PM.

Public Comment on Matters Not on the Agenda

None

Approval of Previous Meeting Minutes – March 27, 2023

O'Tool motioned. Second: Meister. Motion carried: 4-0.

Public Hearing: Niemeyer Addition, Minor Subdivision Proposal on Parcel #894607100006

Priestley read the preliminary report and staff recommendation into the record. Marilyn Niemeyer, as Trustee of Edwin O. Niemeyer Revocable Trust has filed a one (1) lot minor subdivision on parcel #894607100006. This subdivision application is being considered concurrently with a Condition Use Permit application to use the proposed 4.500 acres for Mosher Landscaping which provides landscaping and other services. This proposal has been properly noticed in the Sioux City Journal Legals Section on April 8, 2023. Neighbors within 1000 FT have been duly notified via an April 14, 2023 letter about the April 24, 2023 Zoning Commission Public Hearing. Appropriate stakeholders including government agencies, utilities and organization have been notified and have been requested to comment. The Woodbury County Engineer found the proposal in compliance with Iowa Code closure requirements and found the new lot has adequate access. The Engineer did reference the consistency with the legal description and stated the remaining land will need to receive a driveway permit unless an easement agreement is included. After clarification, both parties have made arrangements via purchase agreement. The purchase agreement states, "after closing, buyer agrees to grant access easement to Seller, and any ancillary thereto, so that Seller can access its adjoining real estate". Extraterritorial review, as required by Iowa Code 354.9, was completed by the City of Sioux City on March 27, 2023, with the passage of City Council Resolution No. 2023-0311. This property is located in the Agricultural Preservation (AP) Zoning District and is not located in the Special Flood Hazard Areas (SFHA). Based on the information received and the requirements set forth in the Zoning and Subdivision Ordinance, the proposal meets the appropriate criteria for approval. Priestley noted extraterritorial review was completed, the City of Sioux City is not currently planning on annexing but may in the future when city water is available in that area. Motion to close public hearing: O'Tool. Second: Meister. Motion approved 4-0. Motion to recommend the approval of the Niemeyer Addition to the Board of Supervisors: O'Tool. Second: Meister. Motion carried 4-0.

Review of Conditional Use Permit Application: Landscaping Services, Nursery Business, and Other Related Uses, Etc., on Parcel #894607100006

Priestley read into record the summary of the Conditional Use Permit Proposal. Marilyn Niemeyer, as Trustee of the Edwin O. Niemeyer Revocable Trust (Owner) and Sid Mosher (Applicant) has filed for a conditional use permit application to use the property for landscaping and nursery on a portion of the property identified as Parcel #894607100006 and referenced above. Although horticultural production (including nurseries & greenhouses) are principally allowed uses in the AP Zoning District, a conditional use permit is required for similar landscaping uses such as tree services, sand and gravel storage, and feed and seed sales, fertilizer storage/distribution/application, and other related uses to a landscaping business. This conditional use permit application is being considered concurrently with a one-lot minor subdivision application to establish a 4.5-acre lot. This proposal has been property noticed in the Sioux City Journal Legals Section on April 15, 2023. The neighbors within 1000 FT have been duly notified via April 14, 2023 letter about the May 1, 2023 Board of Adjustment Public Hearing. Appropriate stakeholders including government agencies, utilities, and organizations have been notified and have been requested to comment. This property is located in the Agricultural Preservation (AP) Zoning District and is not located in the Special Flood Hazard Area (SFHA). Based on the information received and the requirements set forth in the Zoning Ordinance, the proposal meets the appropriate criteria for approval. Staff recommends

approval. Motion by Meister to recommend approval of the conditional use request to allow for this property to be used as a landscaping and nursery business with associated uses including tree services, sand and gravel storage, feed and seed sales, fertilizer storage/distribution/application, and other uses related to a landscaping business. Second: O'Tool. Motion carried 4-0.

Review of Conditional Use Permit Application: Vendor Sales of Alcohol During RAGBRAI on Parcel #894407100006, 2590 110th St., Merville, IA 51039

Priestley read the proposed Conditional Use Permit proposal into the record. Backpocket Brewing (Applicant) and property owners Chad and Tara Schmitt have filed for a Conditional Use Permit application to sell alcohol during RAGBRAI's visit through Woodbury County on July 23, 2023. The proposed sales site is on Parcel #894407100006. The parcel is located in the Agricultural Preservation (AP) Zoning District and is not located in the floodplain. The Woodbury County Board of Supervisors approved Ordinance #69, effective November 16, 2022, authorizing this request as a conditional use in the AP District. Based on the information received and the requirements set forth in the Zoning and Subdivision Ordinance, the proposal meets the appropriate criteria for approval. Staff recommends approval. Aaron Vargas spoke on behalf of Backpocket Brewing. Motion by O'Tool to recommend approval and forward to Board of Adjustment the conditional use permit application to allow sales of alcohol only during the Special Event of RAGBRAI on July 23, 2023 with the condition that the property owner/applicant shall obtain all necessary federal, state, and local permits including, but not limited to liquor licensing; and the permit shall terminate at 11:59 PM CT on July 23, 2023. Second: Bride. Motion carried 4-0.

Review of Conditional Use Permit Application: Temporary Borrow Pits on Two Proposed Borrow Areas: Borrow Area #1: Parcel(s) 884704200001 & 884704200003; Borrow Area #2: Parcel(s): 884702100006

JB Holland Construction, Inc. (Applicant) and property owners Eric Hennings and Donald Hennings of the Hennings Joint Trust have filed for a Conditional Use Permit application to establish temporary borrow sites to remove earthen materials to be used in Phase 1 and 2 of the east bound Highway 20 project (IDOT Project #17-97-020-010). The proposed temporary borrow areas are located on Parcel #884704200001, Parcel #884704200003 and Parcel #884702100006. Both parcels are located on the south side of Highway 20. Each parcel is currently used as farm ground. The proposed cut area on Parcel #884704200001 and Parcel #884704200003 is 8-10 acres. The work area is 10 acres and the total excavation for export is 100,000-150,000 yds³. The proposed cut area on Parcel #884702100006 is 8-10 acres. The work area is 10 acres, and the total excavation for export is 100,000-150,000 yds³. The parcels are located in the Agricultural Preservation (AP) Zoning District and a portion of Parcel #884702100006 is located in the floodplain. However, this area will not be a part of the borrow site. The applicants have provided the necessary documentation for storm water management, soil erosion, dust control, haul routes, traffic entrances, hours of operation, and duration of operations. Appropriate stakeholders including government agencies, utilities, and organizations have been notified and have been requested to comment. Based on the information received and the requirements set forth in the Zoning and Subdivision Ordinance, staff recommends approval of Temporary Borrow Area #2 with the condition that an archeological study be completed for the area and approval of Temporary Borrow Area #1 with the condition that an archeological study also be completed for the area and that approval is contingent on a written agreement between Magellan Midstream Partners L.P. and the property owners and applicants that the active pipeline be removed at the location before any borrow activity can proceed. Without a verified written agreement, it is recommended by staff to deny the application for Temporary Borrow Area #1. Pipeline agreement has not been made as of April 24, 2023. Bill Holland stated the area is currently farmland, after completion of the project, area will be graded and returned to farmland. Motion by O'Tool to recommend approval of Temporary Borrow Area #2 with the condition that the final archaeological study be completed for the area and with the condition that approval is contingent on a written agreement between Magellan Midstream Partners L.P., the property owners, and applicants that the pipeline be removed at the location before any borrow activity can proceed. Without a verified written agreement, it is recommended to deny the application for Temporary Borrow Area #1. Second: Meister. Motion carried 4-0.

Information/Discussion: Woodbury County Solar Energy Requirements Review for Possible Changes to Zoning Ordinance

Priestley informed the Commission that on April 4, 2023, the Woodbury County Board of Supervisors directed zoning to evaluate solar power in the unincorporated areas of the county. Solar energy generation can be classified into two categories including personal or private and utility scale systems. The permitting or allowed use of solar panels in Woodbury County is three-fold. First, utility solar scale systems are only allowed for consideration as a conditional use in the General Industrial (GI) Zoning District. They are prohibited in all of the other zoning classifications. Second, personal or private systems are considered in each zoning district via the conditional use permit process. Lastly, it is possible that the Agricultural Exemption in Iowa Code 335.2 could be

invoked for farms to utilize solar energy as a means of supporting their operation by being primarily adapted agricultural purposes. As noted, the Woodbury County Zoning Ordinance prohibits commercial large-scale electrical energy generation (not including wind) in each zoning district except for General Industrial (GI). Within the GI Zoning District, a conditional use permit application is required to be reviewed by the Zoning Commission and considered for approval by the Board of Adjustment. Under this policy, utility scale solar panel systems are prohibited on farmland (and all districts except GI) unless a farming operation uses them under the parameters of the agricultural exemption as enumerated in Iowa Code 335.2. If there is no agricultural exemption and the landowner resides on agricultural land, the ordinance prohibits electric energy generation (not including wind). If a landowner desires to use several acres of land in the Agricultural Preservation (AP) Zoning District, they would first need to achieve a rezone from the AP to the GI Zoning District. However, since spot zoning by convention is not a widely accepted practice, and that much of the future land use map does not provide for industrial activities in agricultural areas (see Future Land Use Map below), the chances are minimal for the zoning designation to change in order to consider a commercial solar conditional use permit on AP zoned land. The Commission discussed some potential paths to address solar including focusing on amending the private systems to be allowed as an accessory use via building permit. They also discussed the possibility of making the consideration of the conditional use permit an option in the Agricultural Preservation (AP) Zoning District. Leo Jochum and Doyle Turner offered comments about solar including the CSR ratings. Jochum discussed potential areas in the county that could facilitate solar. Turner offered concerns about the CSR and suggested the siting of solar from a slope standpoint instead. The Commission discussed having a public hearing next month to consider amendments to the zoning ordinance.

Information/Discussion: Summary of Proposed Revisions to Woodbury County Ordinance #56:

Priestley informed the Commission that the Board of Supervisors are looking toward amending the wind energy ordinance, Ordinance #56. The proposed public hearing dates are May 9, 16 and 23. The proposal is to amend portions of Woodbury County Ordinance #56: an amendment to modify section 6.1.A: wind turbines set back requirements to increase certain setback requirements in the ordinance regulating commercial wind energy conversion systems in unincorporated Woodbury County. Amendment #1: On page 10, Section 6.1.A, to repeal and replace the Wind Turbine Set Back Requirement for the City Limits Protected Area from 600 feet to 2 miles. Amendment #2: On page 10, Section 6.1.A, to repeal and replace the Wind Turbine Set Back Requirement for the Public Conservation Protected Area from 600 feet or 110% of total height (whichever is greater) to 2,640 feet or 4.5x tower height (whichever is greater).

Information/Discussion: Woodbury County Comprehensive Plan 2040 Update

SIMPSCO will present a draft version of the 2040 Comprehensive Plan at an Open House on Wednesday, April 26th from 5:00 – 6:30 in the basement meeting room of the courthouse to review the plan and receive comments on the future development of Woodbury County. Everyone is encouraged to attend and offer input.

Public Comment on Matters Not on the Agenda

None

Commissioner Comment or Inquiry

None

Staff Update

Iowa State University Extension and Outreach will provide a Zoning Training session on April 27, 2023 at the Hilton Garden Inn on April 27, 2023. Board of Supervisors, Zoning Commission, and Board of Adjustment members are invited to attend. The Federal government is getting closer to implementation of the new FEMA maps. The 90-day appeal period will be up through July 24, 2023.

Adjourn

Motion by O'Tool. Second: Meister. Carried 4-0. The meeting adjourned at 7:29 PM.