

Minutes - Woodbury County Zoning Commission Special Meeting – September 11, 2023

The Zoning Commission (ZC) special meeting convened on the 11th of September at 5:00 PM at the Merville Community Center in Merville, Iowa. The meeting was also made available via teleconference.

ZC Members Present: Chris Zellmer Zant, Corey Meister, Jeff O'Tool, Tom Bride
County Staff Present: Dan Priestley, Dawn Norton
Public Present: Angie Heck, Tony Heck, Kim Luze, Rich Luze, Vicki Atwell, Steve Mrla, Leo Jochum, Bev Jochum, Janet Yanak, Tony Yanak, Dennis Ragan, JoAnn Sadler, Zach Hummel, Wally Wagner, John Johnston, Jeremy Taylor, Kevin Heck, Kyle Gates, Eric Nelson, Elizabeth Widman, Rebekah Moerer, Genise Hallowell, Kalyn Heetland, Josh Heetland, Elisabeth Cendejas, Jesus Cendejas, Robert Knaack, Greg Jochum, Brad Jochum, Tom Jochum, Bob Fritzmeier

Call to Order

Chair Chris Zant formally called the meeting to order at 5:00 PM. Four Commissioners were present. Commissioner Parker was absent.

Public Comment on Matters Not on the Agenda

None

Approval of Previous Meeting Minutes – July 24, 2023

O'Tool motioned to approve the minutes from July 24, 2023. Second: Bride. Motion carried: 4-0.

Formal approval of Zoning Commission Rules of Procedure

At the July 24, 2023 meeting of the Zoning Commission, the rules of procedure were approved and sent to the Board of Supervisors who voted to approve the rules on August 8, 2023. Motion to formally adopt the rules and authorize the chair to sign the Rules of Procedure by Meister. Second: O'Tool. Motion carried: 4-0.

Public Hearing: Proposed Janet Heck Subdivision (Parcel #874724300005)

Priestley read the preliminary report and staff recommendation into the record. Kevin Heck, executor for Janet K. Heck has filed for a one (1) lot minor subdivision on the property identified as Parcel #8747243000005. This subdivision is being completed to separate the house location from the farm ground. This agricultural subdivision proposal has been properly noticed in the Sioux City Journal legal section on August 29, 2023. The neighbors within 1000 FT have been duly notified via an August 23, 2023 letter about the September 11, 2023 Zoning Commission public hearing. Appropriate stakeholders including government agencies, utilities, and organizations 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 that the lot(s) have adequate access. This property is located in the Agricultural Preservation (AP) Zoning District and is located in the Special Flood Hazard Area (SFHA) – Zone A. The City of Salix waived their extraterritorial review authority with the approval of Resolution No. 2023-20. The area of the subdivision is less than 5 acres and the Base Flood Elevation (BFE) data is not required. Based on the information received and the requirements set forth in the Zoning and Subdivision Ordinance, the proposal meets the appropriate criteria for approval. Motion to close public hearing: O'Tool. Second: Bride. Carried: 4-0. Motion to recommend the approval to the Board of Supervisors as proposed: O'Tool. Second: Meister. Motion carried: 4-0.

Public Hearing: Proposed Zoning Ordinance Map Amendment (Rezone) (Parcel #884506200006)

Priestley read into record the preliminary report and staff recommendation. Richard and Kimberly Luze (Applicants/Owners) have filed a Zoning ordinance Map Amendment application with Woodbury County to request their property (Parcel #884506200006) be rezoned from Agricultural Preservation (AP) Zoning District to the Agricultural Estates (AE) Zoning District. The applicants are making this request to pursue an eventual split of their parcel to facilitate the ability to add a neighboring single-family dwelling in the future as there are presently two houses located within the existing quarter-quarter section. The split will likely consist of approximately three acres from the existing 18+ acres. This will be initiated at a future date. The neighbors within 1000 FT have been notified via an August 23, 2023 letter about the September 11, 2023 Zoning Commission 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 floodplain. This requested zoning change is compliant with the future land use map of Woodbury County's development plan as this area is designated within the rural residential area. 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. Priestley has received some phone inquiries regarding future land uses. A Neighboring landowner spoke with concerns of possible subdivisions and increasing density. Priestley stated with Hwy 20 abutting the land, the state

would likely not allow more driveways off Hwy 20. If additional land splits were requested through a subdivision application, there would be public conversations and meetings. Ms. Atwell expressed concerns if a subdivision would go in and how it could affect her cattle farming. Bride stated it would have no impact on what she is currently doing and stated communication between landowners is important. Steve Mrla stated DOT could build a frontage road which would allow more access. Bride discussed how eliminant domain should not be used for private use. Bride motioned to close public hearing. Second: Meister. Carried: 4-0. Motion to recommend the approval to the Board of Supervisors as proposed: Meister. Second: Bride. Motion carried: 4-0.

Public Hearing: Utility-Scale Solar Systems – Consideration of Solar Ordinances for Recommendation(s) to the Board of Supervisors

Priestley read into the record the direction by the Woodbury County Board of Supervisors that occurred on August 8, 2023 for Planning and Zoning and the Zoning Commission to establish/examine a new ordinance as it relates to utility-scale solar systems. The purpose of this public hearing is to receive comments from the public about solar energy systems not limited to utility-scale solar systems, agrisolar or agrivoltaics, and community solar systems as the Commission works toward preparing a recommendation for a proposed ordinance or amendments to the Woodbury County Zoning ordinance to address the permitting process for such systems in industrial and/or agricultural areas. The Board of Supervisors have indicated that “if the county was to engage in utility-scale solar, at minimum, the county should consider this only if the following is met”:

- A conditional use permit for AP “C” with Planning and Zoning and Board of Adjustment to be able to site-specifically take into consideration the concerns of neighbors, land/soil, and other factors when approving permit.
- A slope of no more than 5% in order to preserve the land and to account for soil erosion, compaction, and future land stewardship.
- A maximum height of no more than 20’ for panel structures.
- Of all AP, no more than 49% can be in such a project. In short, 51% must be for agricultural production or no longer considered “AP.”
- Utility solar can be no more than 2% of all AP “agricultural preservation,” preserving 98% of AP. This equates to approximately 8,540 acres of the 427,000 acres of ag land, ag land constituting 75% of the 570,000 total acres in Woodbury County.
- Current notification for utility-scale solar shall be 1 mile for public comment instead of 500 feet.
- A requirement (or at least strong consideration) that the utility-scale solar project either be on a landowner’s property or that the owner of the land be a resident of Woodbury County.

Priestley identified additional comments/resources that were received after the printing of the Zoning Commission agenda packet with backup materials. In particular, resources were received from the Center of Rural Affairs, the Northwest Iowa Power Cooperative (NIPCO), the Woodbury County Rural Electric Cooperative, and the Iowa Land & Liberty Coalition. Additionally, Priestley provided a copy of a map illustrating soil content with less than 5% slopes in comparison with soils with CSR2 ratings greater than 65 and 75. Priestley then offered a summary of potential approaches that could be taken to craft an ordinance including which entity would be in charge of the permitting. Looking at other counties, there is a mix of permitting utility-scale solar based on a conditional use permit via the Zoning Commission and Board of Adjustment in comparison with a standalone home rule ordinance where the Board of Supervisors are the permitting body. Priestley indicated that the following concepts would be up for discussion as an ordinance is considered: Certified Abstractor’s Listing – Public Notification Area; Site Plan; Setbacks; Height; Protected Areas; Slope; Landscaping/Buffer/Screening; Fencing/Security; Signage; Lighting; Noise; Outdoor Storage; Utility Plan / Utility Connections / Agreements; Floodplain; Habitat and Natural Resource Considerations; Solar Glare Minimization; Weed Control; Grading Plan; Compliance with applicable laws (local, state, federal); Access; Road Use; Aviation Protection; Maintenance, Repair, or Replacement / Repowering; Waste; Soil Erosion / Sediment Control; Stormwater Management; Administration / Enforcement / Violations; Emergency Management; Timeline; Safety; Abandonment / Cessation of Operations; Decommissioning and Reclamation; Fees; Agrivoltaics / Agrisolar; Community Solar Systems; Concentrating Solar Power; Solar definitions; Etc.

The following paraphrased public comments were offered:

Greg Jochum (Salix) addressed the Commission regarding the differences between CSR1 and CSR2 as well as height.

Brad Jochum (Plymouth County) addressed the Commission regarding out of county ownership.

Tom Jochum (Sgt. Bluff) addressed the Commission regarding the advantages of solar.

Eric Nelson (Merville) addressed the Commission regarding solar as a commercial/industrial entity.

Ron Wood (Salix) addressed the Commission regarding the need for solar power generation for growth.

Elizabeth Widman (Sgt. Bluff) addressed the Commission regarding the stewardship and protection of agricultural land from solar development.

Bob Fritzmeier (Sioux City) addressed the Commission regarding how solar installations help soil to rejuvenate and help the wildlife population.

Leo Jochum (Salix) addressed the Commission regarding renewable energy rates, vegetation for screening, capping AP land at 2%, and soil rejuvenation.

Kim Alexander (Smithland) addressed the Commission regarding money as a principal purpose for solar.

Will Dougherty (Urbandale) addressed the Commission on how MidAmerican works with various stakeholders as they pursue solar projects and offered an opportunity to tour the Port Neal solar site.

Ann Johnston (Salix) addressed the Commission with concerns on the impact of the farm ground and keeping the land the way it is.

Wally Kuntz (Merville) addressed the Commission inquiring about the tax income.

Supervisor Jeremy Taylor (Sioux City) addressed the Commission and responded to Mr. Kuntz's inquiry about generation usage tax.

Bride asked Will Dougherty from MidAmerican where the largest project was in Iowa, Dougherty stated Holiday Creek, north of Fort Dodge has an 800-acre, 100 M/Watt project. 8 acres generally produces 1 M/Watt.

Bride asked if there have been any requests to the Iowa Utilities Board for eminent domain for a commercial solar project.

Eric Nelson asked Dougherty about storage of excess power. Dougherty stated it is not an on-demand system. The grid goes where needed first, then to next load center. Port Neal is an on-demand system. Dougherty stated coal system is used as a back up to solar.

Motion to close public hearing: Meister. Second: O'Tool. Carried: 4-0.

Priestley thanked the attendees for their comments and questions. The information gathered will be taken into consideration as a proposal is prepared and possibly recommended by the Zoning Commission that would eventually go to the Board of Supervisors for up to three hearings. The next meeting of the Zoning Commission will be held on Monday, September 25 at 5:00 PM in the basement meeting room of the Woodbury County Courthouse where the Board of Supervisors meet.

Public Comment on Matters Not on the Agenda

None.

Commissioner Comment or Inquiry

None.

Staff Update

Priestley stated that the minor subdivision and rezone that were recommended this evening will be sent to the Board of Supervisors for consideration at future meeting(s).

Adjourn

Motion by Bride to adjourn; Second by O'Tool. Carried: 4-0. Adjourned: 6:34 p.m.