

Minutes - Woodbury County Zoning Commission Special Work Session – October 16, 2023

The Zoning Commission (ZC) meeting convened on Monday, the 16th of September, at 5:00 PM in the Board of Supervisors' meeting room in the Basement of the Woodbury County Courthouse, 620 Douglas Street, Sioux City, IA. The meeting was also made available via teleconference.

Meeting Audio:

For specific content of this meeting, refer to the recorded audio on the Woodbury County Zoning Commission "Committee Page" on the Woodbury County website:

- County Website Link:
 - o https://www.woodburycountyiowa.gov/committees/zoning_commission/
- YouTube Direct Link:
 - o <https://www.youtube.com/watch?v=IJAj6Xh3cSU>

ZC Members Present:

Chris Zellmer Zant, Corey Meister, Jeff O'Tool, Tom Bride, Barb Parker

County Staff Present:

Dan Priestley, Dawn Norton

Public Present:

Elizabeth Widman, Bill Jochum, Ann Johnston, Leo Jochum, Bev Jochum, Deb Harpenau, Jenny Barber, Emily Segura, Rebekah Moerer, Doyle Turner, Tom Jochum, Paula Wright, Jesus Cendejas Family, Daniel Segura, Will Dougherty

Call to Order

Chair Chris Zellmer Zant formally called the meeting to order at 5:03 PM. All Commissioners were present.

Public Comment on Matters Not on the Agenda

None

Work Session for Proposed Utility-Scale Solar Energy Systems Zoning Ordinance Amendment(s).

Prior to this meeting, the Zoning Commission has held two public hearings to collect comments from the public (Moville – 9/11/23 & Courthouse – 9/25/23). Subsequently, a follow up public hearing will be held on Monday, October 23 at the regular meeting of the Commission that begins at 5:00 PM.

Priestley offered an overview of the evening's proceedings including five considerations for a potential utility-scale solar energy systems ordinance that could be considered by the Zoning Commission in preparation for a recommendation to the Board of Supervisors.

Consideration 1

Consider updating the General Development Plan and/or Future Land Use Map to facilitate the potential expansion of the General Industrial (GI) and Limited Industrial (LI) Zoning Districts and consider adding additional requirements to the conditional use permitting process to make expectations clear for the applicants, area landowners, and the general public.

Consideration 2

Consider retaining the current permitting procedures in the Woodbury County Zoning Ordinance but add additional requirements to the conditional use permitting process to make expectations clear for the applicants, area landowners, and the general public. Consider retaining the General Industrial (GI) Zoning District as the only allowed location for the consideration of a conditional use.

Consideration 3

Consider establishing a utility-scale solar energy systems overlay zoning district that requires a rezone application to be reviewed by the Zoning Commission and considered for approval by the Board of Supervisors that must meet specific criteria for the appropriateness of whether a particular area in the Agricultural Preservation (AP) Zoning District is suitable for utility-scale solar energy systems. Consider adding additional requirements to the conditional use permitting process to make expectations clear for the applicants, area landowners, and the general public.

Consideration 4

Consider establishing an agrisolar utility-scale solar energy systems overlay zoning district for the specific purpose to coincide with an existing farming operation where each parcel of land shall include over 51% of its usage for farming purposes.

Consideration 5

Consider retaining the current policy for utility-scale solar energy systems (No changes).

The Commission discussed the current process for the permitting of utility-scale solar on agricultural land including the issue of spot zoning and its relationship with the comprehensive plan's future land use map. Priestley referenced the future land use map as a tool for justifying future industrial areas that could facilitate the permitting of utility-solar. He indicated that industrial

areas could be expanded on the map for future consideration of solar. However, it would take going through the comprehensive map approval process of amending the map to reflect additional industrial areas that could later justify additional areas.

Priestley discussed the concept of overlay districts as used by both Scott County and Linn County. Scott County relies on a CSR2 average of 60 or higher to authorize the rezone while Linn County uses a score card or rubric which identifies a number of issues not limited to CSR2, grading, vegetation, and good neighbor payments in order to obtain a permissible score. Priestley indicated that the rezone to an overlay is similar to a conditional use, however, it adds the Board of Supervisors to the process of determining whether or not an area of the county is appropriate for solar. Therefore, the Zoning Commission and Board of Supervisors would be involved in the overlay district rezone process. Additionally, the Zoning Commission and Board of Adjustment would be involved with the conditional use permit process. The Board of Supervisors would be involved with authorizing each individual agreement such as decommissioning, road use, agricultural mitigation, etc.

Zellmer Zant indicated that she likes the involvement of the Zoning Commission, Board of Adjustment, and Board of Supervisors as it gives the public more opportunities to participate in the process. She also questioned whether the overlay district is permanent or temporary. Priestley indicated that depends on how the overlay district is designed. The goal of the district is to allow a new use but retain the base use. The policy for a decommissioning plan will be a determining factor as to whether the specific use of the overlay can continue or conclude.

Bride inquired as to whether there would be any issues if separate overlay districts associated with other projects were treated differently than others. Priestley indicated that there must be clear consistent expectations in the requirements for establishing the district, however there can be some room for conditions if information is identified that should be addressed. Priestley stated there must be a balance, but various options must be exhausted as applicants/developers must know what they are getting into from the start. Priestley discussed other considerations such as separation distances, setbacks, setback waivers, and the floodplain.

Priestley discussed a potential application process and expectations of staff, associated county departments, the commission, and boards. He discussed the concept of the solar-ordinance conditional use as being portable for either the industrial or overlay district. If the overlay district is not used, then an added feature conditional use permit process can be used for the general industrial areas. If the overlay district is used, there would need to be a set of parameters for determining how the overlay gets approved.

Bride shared a concern that if the Commission recommends no changes that the Supervisors might consider going with a stand-alone ordinance which does not involve zoning. Priestley indicated that a stand-alone ordinance does not include the zoning districts. Priestley stated that the Zoning Commission has the right to offer any reasonable recommendation to the Board of Supervisors. He indicated that everyone is mindful of the harvest season, and we will continue to offer multiple opportunities for input.

O'Tool inquired about the downside of using the overlay district. Priestley explained the debate of exclusively relying on CSR which could offer limitations for landowners. Meister mentioned in a previous public hearing questions about the reliability of CSR. He indicated that he likes Linn County's rubric as including CSR and other items. He also inquired who would be monitoring or policing the rubric for items such as grass species. Priestley responded that additional regulations create the need for more bureaucracy or more resources.

Mesiter inquired about how the Board of Supervisors arrived at 2% use of agricultural land. Is that enough or too much? He would like to see more information on how this equals to an existing power plant. Bride indicated that 2% is around 8,400 acres and stated that the Supervisors may be looking for a cap. Will Dougherty of MidAmerican discussed the acres on some existing projects in other counties. Meister offered concerns about the 2%. O'Tool inquired with Will Dougherty about the comparison of solar and wind in terms of megawatt capacity.

Bride inquired about the setbacks and if any of the allowed uses expand outside of the property lines. Priestley indicated the existing zoning ordinance does not include separation distances beyond the lot lines. Setbacks are determined by the zoning district dimensional standards in the zoning ordinance. Bride offered concerns about the impact of setbacks on other property owners. Priestley indicated that setback waivers could be used, and he cautioned about the law of unintended consequences.

O'Tool referenced the 5% slope proposed requirement. Bride inquired as to where the Supervisors arrived at that number. Priestley said it has been offered as part of the consideration for the Commission to research as a possibility. Zellmer Zant referenced the importance of comparing practices with other counties and not necessarily reinventing the wheel. Zellmer Zant also referenced the needs of the cities including community solar. Bride used Merville as an example using an overlay to facilitate solar. He also referenced the use of the percentage as an issue. Priestley indicated that the 51/49% solar ratio is meant to ensure agriculture remains a primary function on ag land.

Mesiter inquired about the proposed one mile notification area. Priestley responded that the purpose is to increase public awareness.

Zellmer Zant inquired with Will Dougherty as to whether these contracts are 10 years and questioned the rapid change of technology. Dougherty discussed maximizing efficiencies as a driving factor of change. He referenced ISU's study pertaining to the coexistence of agriculture and solar with aspects such as grazing. Bride inquired about damage to panels as a result of grazing. Dougherty referenced sheep as an option over others.

Bride inquired about how the land can be put back the way it was through decommissioning and referenced concrete left in the ground as result of wind turbines. Dougherty indicated that solar concrete footings are not being used. Zellmer Zant asked about the Port Neal solar field's footings. O'Tool asked Dougherty about buried power lines and if they can be buried in the floodplain. Priestley indicated that electrical assets must be elevated above the BFE. Bride and Zant indicated there are locations where lines are likely buried in the floodplain.

Zellmer Zant asked Dougherty about how much power gets lost from arrays through distribution. Bride asked Dougherty about the driving factor for locating solar parks.

Zellmer Zant inquired with the Commission about what they like/don't like in the packet considerations.

Parker referenced the Supervisors' discussion point of Light Industrial. Priestley indicated that the limited industrial use can be associated with Consideration #1 which would entail revising the development plan.

O'Tool referenced having a list of bullet points to follow to determine where an area is appropriate or not.

Zellmer-Zant stated that she prefers to not go with the map change as referenced in Consideration #1 because there are other systems in place. She indicated that she likes the conditional use and overlay district format as it includes multiple entities. Bride questioned the ability to accurately be able to paint/assign the industrial areas through mapping.

O'Tool indicated that the overlay could be used in AP areas. Bride discussed the flexibility of the overlay district and the permitting routes. Priestley discussed the creation of the overlay district on a project by project basis. He indicated that an acre cap could be instituted in the ordinance. Zellmer Zant stated that one of the counties she researched had a cap of 400 acres.

Zellmer Zant indicated that the Commission appears to be leaning toward Consideration #3. Priestley indicated that Consideration #4 is not field tested and was only brought into the discussion to discuss the relationship or co-existence of solar and agriculture. Agrisolar could be a part of Consideration #3. Priestley also discussed how battery systems should also be brought into the debate with the growing technology. He made reference to its inclusion in Linn County's ordinance. Will Dougherty discussed batteries in Iowa.

Zellmer Zant inquired if Consideration 5 is off the table. Bride indicated that not doing anything is not what the Supervisors are looking for. Priestley indicated the Commission has the latitude to make a recommendation as you see fit as long as it has an explanation and rationale behind it.

Zellmer Zant referenced the overlap between Considerations 2 and 3. Priestley discussed the overlay district and the overlay rezoning process.

Parker inquired if the county currently has an overlay district. Priestley stated that there is a conservation overlay district that could be petitioned for.

Zellmer Zant questioned the reference to the 10,000 acre limitation, dimensional standards, etc. between Consideration #3 and #4. She referenced the relationship between the 51% agricultural use and the CSR2 rating.

O'Tool questioned whether the CSR2 should be prohibited or not. Meister questioned the inconsistency and reliability of the CSR2.

Doyle Turner offered comments about the accuracy of CSR2. Leo Jochum referenced the difference in rainfall between CSR1 & CSR2.

Zellmer Zant indicated that CSR's may be over 65 in industrial areas. Priestley suggested the comprehensive plan and map allows for industrial areas to include areas of high CSR if the county plans for those areas to be industrial. Meister is concerned with CSR being the sole factor. Priestley indicated that CSR has traditionally been a part of this county's determination of land use.

O'Tool indicated that it would be appropriate to spell out that a lower CSR would be preferable. Bride indicated that CSR is presently considered in the rezone decision process.

Zellmer Zant inquired about 5% slope for fixed arrays and whether there should be a range. Bride offered concerns about the fixed percentage and discussed erosion. Doyle Turner commented about farming practices across the state and discussed soil erosion including highly erodible land (HEL).

Zellmer Zant inquired about the policy toward the special flood hazard area (floodplain). O'Tool suggested that the standard floodplain regulations could be followed.

Zellmer Zant referenced the conditional use language as being included along with the overlay. Priestley replied that it would need to be discussed and debated.

Zellmer Zant inquired about the definitions and the remaining concerns in the conditional use and overlay section. Priestley suggested that the concepts must continue to be vetted through the County Attorney's office. It will be shared with both parties. Priestley recommended that future work sessions be held following next week's public hearing.

Leo Jochum offered concerns about the comparison between Scott County and Woodbury County and the use of CSR2. Jochum made reference to other counties such as Louisa County, Mills County, Johnson County, and Linn County. He referenced the scorecard as used by Linn County and the role of using seed mixes.

Doyle Turner suggested that elected people should have a say on the locations of the solar parks. Turner offered concerns that parameters set could limit the amount of land available for these projects. He recommends giving the Supervisors more than one recommendation which could include the industrial areas. As part of the conditional use, he offered questions about the hurdle of being necessary and desirable.

Public Comment on Matters Not on the Agenda

None

Staff Update

Priestley announced the statewide County Zoning Officials conference in 2024 will be hosted by Woodbury County May 22 – 24 at the Hilton Garden Inn in Sioux City. May 23, Woodbury County has the opportunity to showcase our area, suggestions are welcome, commissioners are encouraged to attend.

Adjourn

Meeting adjourned at 7:30 p.m.