

Dubuque County Zoning Commission Minutes of February 15, 2022

Chairperson Sam Boyes called the meeting to order at 6 p.m.

1. ROLL CALL: Members present via a Zoom teleconferencing meeting: Cathy Caitlin. Members present at the Dubuque County West Campus, 1225 Seippel Rd: Kevin Soppe, Jerry Sigwarth, Sam Boyes, Kathleen Scherrman and Dave George. Member Absent: Ron Breitbach. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Tammy Henry, Angela Steffens, Amy Schmerbach and Lindsey Schreiber.

2. APPROVAL OF MINUTES: A motion was made by Mr. Sigwarth, **seconded by Mr. George and passed unanimously to approve the minutes of the January 18, 2022 meeting. Vote: 6-0.**

3. PLAT APPROVAL:

a) Plat of Survey of Klein Farm Subdivision-Final Plat

Plat of Survey of Lot 1 and Lot 2 Klein Farm Subdivision comprised of Lot 1 of the NE ¼ of the SE ¼ and the NE ¼ of the SE ¼, Except Lot 1 all in Section 18, T90N, R1E, Jefferson Township, Dubuque County, Iowa.

The property is owned by Kenneth A. Klein Estate and is located 1.24 miles south of the City of Rickardsville along Horseshoe Road with a total of 40.10 acres surveyed. The property is zoned R-2, Single Family Residential and A-1, Agricultural. The purpose of the plat is to create a lot large enough to include the existing shed and well to be able to sell to a family member before the sale of the remainder of the crop ground.

The survey creates 2 lots. Lot 1 has a total of 3.03 acres surveyed with an existing shed and will be sold to a family member for a future home. Lot 2 has a total of 37.07 acres surveyed and will remain in current ownership and agricultural use.

Lot 1 and Lot 2 will share an existing 33' wide access and utility easement off of Horseshoe Road.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st St. North, Farley. Mr. Schneider said the applicant wants to expand the residential lot to include the shed and well, and be able to build a new home on it in the future. He said the Klein family is selling the rest of the land.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the plat. The motion passed unanimously. Vote: 6-0.**

b) Plat of Survey of Country View Estates Plat 2-Final Plat

Plat of Survey of Lot 9 thru Lot 33 of Country View Estates Plat 2 comprised of Lot 10 of Country View Estates all in Section 7, (T89N-R2E) Dubuque Township, Dubuque County Iowa.

The property is owned by Hales Mill Development, LLC and is located .19 miles northwest of the City of Dubuque along Hales Mill Road with a total of 46.693 acres surveyed. The property is zoned R-2, Single Family Residential and C-1, Conservancy. The purpose of the plat is to create a residential subdivision.

The survey creates 25 lots. Lot 9 thru Lot 33 are a minimum of 1 acre in size and each lot shall have its own individual septic system. There will be six (6) shared wells. Well #1 will serve Lots 1, 2, 3, 4 and 9. Well #2 will serve Lots 5, 6, 7, 8 and 33. Well #3 will serve Lots 10, 11, 12, 13, 14 and 15. Well #4 will serve Lots 16, 17, 18, 19, 20 and 21. Well #5 will serve Lots 22, 23, 24, 25 and 26. Well #6 will serve Lots 27, 28, 29, 30, 31 and 32. The Dubuque Water Department would recommend service lines from water main to building structures to be copper with a control valve (curb stop and box) near the right of way line. A copy of the water utility plan showing the water distribution piping from water wells and individual water services lines has been submitted for review and was approved by the Dubuque Water Department.

The property has provided a Declaration of Covenants, Conditions and Restriction that will be handled by the Country View Estates Plat 2 Homeowners Association Inc. Lots 9 thru 33 have approved residential entrances on permit #21-03 off of Hales Mill Road.

The survey creates a 66' wide right of way private access easement that will be utilized as a public utility easement and storm water conveyance easement. The site grades and Storm Water Pollution Prevention Plan (SWPPP) are detailed under the SWPPP for the entire 46.693 acres. The final plat has provided an engineered road plans including a site improvement plan, storm water calculation with plans showing infiltration of a 1 ¼' rainfall for the entire subdivision, grading plans and erosion control measures and covenants addressing well and septic maintenance, road & storm water Best Management Practices (BMP'S) maintenance by the Association.

Storm Water Infiltration Basins will be constructed on Lots 9, 13, 15, 16, 18, 27, 28, 29 and 30 in relation to the primary structures as a requirement of the Dubuque County Storm Water Ordinances. The total square footage of each basin is identified on the drainage summary report and the improvement plans for this development. The final placement and installation of the storm water infiltration basins will be the responsibility of the developer. Any modifications to the size and/or location of the basins constructed by the developer must be approved by the developer and the Dubuque County Watershed Department. The maintenance of the storm water infiltration basins will be specified in the covenants associated with this development. The same criteria applies to the storm water detention structure constructed on Lots 19, 20, 25 and 26. Storm Water Management Basins, Storm Water Management and Infiltration Basins being used on this development must be completed by the Developer and maintained by the Home Owner's Association in conformance with the Dubuque County Storm Water Ordinance.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st North, Farley. Mr. Schneider said he has been working with Hales Mills Development LLC since last summer. He said he has been working with Eric Schmechel from the Soil and Water Department about the storm water related items. He said they are trying to figure out how the County controls the implementation and enforcement of the storm water structures that will be used. He said this plat will not go before the Board of Supervisors until the Soil and Water Department is satisfied with the storm water items.

Ms. Henry said the changes could be more restrictive on this but will not be any less restrictive. Mr. Schneider said it is in the covenants that if a property owner damages a storm water structure or facility that owner would get fined a certain amount of money until they get it fixed. He said they would use that money to maintain or repair these items. He said when something gets damaged or needs repair they would like to go to the Homeowners Association about the problem instead of dealing with each homeowner.

Ms. Boyes asked what is prompting this for this subdivision. Mr. Schneider said Eric Schmechel from the Soil & Water Department is learning from previous subdivisions and trying to avoid some of the problems before they happen. He said also there are other entities that have mandated more regulations that now need to be followed.

Ms. Caitlin said some of the developers purchase a bond then as each lot is sold, they pay that portion of the bond back so that this money sits in the Homeowners Association in case something goes wrong.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Ms. Scherrman to approve the plat. The motion passed unanimously. Vote: 6-0.**

4. REZONING CASES:

ZC#02-03-22 Joseph A Demmer Trust A-1 Agricultural to A-2 Agricultural Residential

The applicant is requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 4.2 acres to allow them to separate the existing farm home and buildings to sell to a relative to continue in the family farm operation. The property is located 1.32 miles south of the City of Peosta along Pilot Grove Road and is legally described as the SW NE & the NW SE lying north of the road Section 20, (T88N-R1E) Vernon Township, Dubuque County, Iowa.

The property is owned by Joseph A. Demmer Trust. Zoning in the area includes A-1, Agricultural to the north, south, east and west.

There are no previous zoning cases attached to this property. There are no Special Use Permits attached to this property. Five (5) rezoning notification letters were sent to the property owners and the City of Peosta was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 Objective 3.1 and Chapter 8 Housing page 122 Objective 12.7 may apply to this case.

Speaking to the Board was Joe Demmer, 19465 Pilot Grove Road. Peosta. Mr. Demmer said Ms. Henry explained things completely.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. George to approve the rezoning with the conditions that 4.2 acre more or less be rezoned around the existing home and buildings to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. That the balance of the parcel is not allowed to have another dwelling unless the property is rezoned for that use. The motion passed unanimously. Vote: 6-0.**

ZC#02-05-22 Edwin & Rose Marie Horsfield and Nicholas & Ellie Wegmann and Josh Wegmann A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 2.03 acres to be allowed to tear down the existing farm homes and build a new home to continue to assist in the family farming operation. The property is located 1.14 miles southeast of the City of Epworth along Placid Road and is legally described as part of the NW SE Section 23, (T88N-R1W) Taylor Township, Dubuque County, Iowa.

The property is owned by Edwin & Rose Marie Horsfield and Nicholas & Ellie Wegmann. Zoning in the area includes A-1, Agricultural to the north, south, east and west. A-2, Agricultural Residential to the north. The A-2, Agricultural Residential to the north on ZC#04-17-18 was to be allowed to survey off 2 existing homes on one farm to allow for the construction of a new home.

The applicant wants to build a new home on the property and plans to tear down the two existing homes. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Four (4) rezoning notification letters were sent to the property owners and the City of Epworth was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134
Objective 3.1 and Chapter 8 Housing page 122 Objective 12.7 may apply to this case.

Ms. Henry noticed she had skipped so they heard ZC#02-05-22 first then moved on ZC#02-04-22.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st. North, Farley. Mr. Schneider said this lot is north of the existing homestead that has two existing homes on it. He said Nicholas Wegmann lives in one of the houses and Josh Wegmann lives in the other and they both want to build new homes and tear down the old ones. He said they both work on the family farm. He said Nicholas bought the property from his grandparents and now they are figuring out how to get Josh as part owner.

Ms. Henry said each of the new houses will be on separate parcels. Mr. Schneider said they will be on separate parcels for financing reasons. Ms. Henry said that the brothers know they can not have any other homes on their parcel.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Soppe, **seconded by Mr. Sigwarth to approve the rezoning with the conditions that 2.03 acre more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. That the balance of the parcel is not allowed to have another dwelling unless the property is rezoned for that use. The motions passed unanimously.**

Vote: 6-0.

**ZC#02-04-22 Edwin & Rose Marie Horsfield and Nicholas & Ellie Wegmann A-1
Agricultural to A-2 Agricultural Residential**

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 2.43 acres to allow for the construction of a new home on the farm so they can continue to assist in the family farming operation. The property is located 1.34 miles southeast of the City of Epworth along Placid Road and is legally described as the SW SE Section 23, (T88N-R1W) Taylor Township, Dubuque County, Iowa.

The property is owned by Edwin & Rose Marie Horsfield and Nicholas and Ellie Wegmann. Zoning in the area includes A-1, Agricultural to the north, south, east and west. A-2, Agricultural Residential to the north. The A-2, Agricultural Residential to the north on ZC#04-17-18 was to be allowed to survey off 2 existing homes on one farm to allow for the construction of a new home.

This will be the first home on this property. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Four (4) rezoning notification letters were sent to the property owners and the City of Epworth was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134
Objective 3.1 and Chapter 8 Housing page 122 Objective 12.7 may apply to this case.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st. North, Farley. Mr. Schneider said Nicholas and his wife would like to build in this location to get a little further away from the livestock. He said they understand that the remainder will not be able to have any other homes.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. George, **seconded by Mr. Sigwarth to approve the rezoning with the conditions that 2.43 acre more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. That the balance of the parcel is not allowed to have another dwelling unless the property is rezoned for that use. The motions passed unanimously.**

Vote: 6-0.

**ZC#02-06-22 Wilfred & Darlene Vorwald Family's Living Trust and Danita Grant/DB&T
Bank A-1 Agricultural to A-2 Agricultural**

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 4.95 acres to be allowed to sell the existing farm house and building site to a prior to the sale of the crop ground. The property is located 1.12 miles northwest of the City of Farley along Route 20 is legally described as John Bergfeld's Farm in Sections 2 & 3, (T88N-R2W) Dodge Township, Dubuque County, Iowa.

The property is owned by Wilfred & Darlene Vorwald Family's Living Trust and Danita Grant with Dubuque Bank & Trust. Zoning in the area includes A-1, Agricultural to the north, south, east and west. A-2, Agricultural Residential to the south. R-1, Rural Residential to the north. The A-2, Agricultural Residential to the south on ZC#11-33-15 was to allow an existing farm home to be separated from the farm ground for estate purposes. The R-1, Rural Residential to the north on ZC#01-02-06 was to allow for one single family home

with a condition that only one home can be allowed on the 5 acre lot. They then re-applied on ZC#07-20-06 to allow an additional 5 acres to be added to the parcel with a total of 10 acres rezoned conditional for one home only.

There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Eight (8) rezoning notification letters were sent to the property owners and the City of Farley was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134
Objective 3.1 and Chapter 8 Housing page 122 Objective 12.7 may apply to this case.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st. North, Farley. Mr. Schneider said this farm is going to be sold and the family gave the trust to Dubuque Bank & Trust to take care of selling it. He said they need to separate the parcel that the family member wants from the acreage.

Mr. Schneider said the farm in general has poor access but nothing can be done about it because they are land locked from the north. He said they access off Hwy 20 and have to cross the railroad and Heritage Trail and they are making sure the easements are correct. He said they have an access permit from the railroad.

Ms. Caitlin said this is a bigger piece than normal and asked why. Mr. Schneider said they followed the crop line around the buildings so they can sell all the crop ground. Ms. Caitlin said this will not be able to be used for anything other than agricultural. Mr. Schneider said yes that is correct.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Sigwarth, **seconded by Mr. Soppe to approve the rezoning with the conditions that 4.95 acres more or less be rezoned around the existing home and buildings to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. That the balance of the parcel is not allowed to have another dwelling unless the property is rezoned for that use. The motion passed unanimously. Vote: 6-0.**

c) Plat of Survey of John Bergfeld's Farm No. 2-Final Plat

Plat of Survey of Lot 1 and Lot 2 of John Bergfeld's Farm No. 2 comprised of John Bergfeld's Farm of Section 3 and the SW ¼ of the NW ¼ of Sections 2 & 3, all in (T88N-R2W) Dodge Township, Dubuque County, Iowa.

The property is owned by Wilfred & Darlene Vorwald Family's Living Trust and is located 1.18 miles northwest of the City of Farley along U.S. Highway 20 with a total of 228.66 acres surveyed. The property is zoned A-1, Agricultural with a pending ZC#02-06-22 requesting to rezone 4.95 acres to A-2, Agricultural Residential. The purpose of the plat is to separate the existing home and buildings to be able to sell it to a relative.

The survey creates 2 lots. Lot 1 has a total of 223.71 acres surveyed and will remain in agricultural use and will be sold in the future. Lot 2 has a total of 4.95 acres surveyed and will remain in agricultural use and sold to a relative.

Lot 1 and Lot 2 will share an existing 66' wide access and utility easement off of U.S. Highway 20.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st. North, Farley. Mr. Schneider said this is the plat following the previous rezoning case for the Vorwald Family. He said this plat illustrates the easements and accesses to this property.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Scherrman, **seconded by Mr. Sigwarth to approve the plat. The motion passed unanimously. Vote: 6-0.**

d) Plat of Survey of John Bergfeld's Farm No. 3-Final Plat

Plat of Survey of Lot 1 thru Lot 3 John Bergfeld's Farm No. 3 comprised of part of the NE ¼ of the SW ¼, except the former railroad right of way also known as Heritage Trail; Part of Lot 1 in the SE ¼ of the SW ¼, except the former railroad right of way, also known as Heritage Trail; Lot 3 of Lot 1 in the NW ¼ of the SW ¼ and Lot 1 in the SW ¼ of the SW ¼, all in Section 2; and part of Lot 1 in the NE ¼ of the SE ¼ of Section 3, all in (T88N-R2W) Dodge Township, Dubuque County, Iowa.

The property is owned by the Vorwald Family Living Trust and is located .85 miles northwest of the City of Farley along U.S. Highway 20 with a total of 69.804 acres surveyed. The property is zoned A-1, Agricultural. The purpose of the plat is to clean up the access and the title issues before the land is sold.

The survey creates 3 lots. Lot 1 has a total of .474 acres surveyed and is a non-buildable lot. This lot will be used as an access and utility easement. Lot 2 has a total of 31.608 acres surveyed and will remain in agricultural use and be sold in the future. Lot 3 has a total of 37.722 acres surveyed and will remain in agricultural use and be sold in the future.

Lot 1 is used as an access and utility easement only. Lot 2 and Lot 3 will use an existing shared entrance off of U.S. Highway 20.

Speaking to the Board was Dave Schneider, Schneider Land Surveying, 906 1st. North, Farley. Mr. Schneider said that as he was doing the acreage survey and the large parcel that it was coming out of he realized there were a lot of title issues related to this farm that go back to the 1880's. He said with the previous platting and neglecting to include some of the parcels and with the Heritage Trail coming through the property caused titling issues. He said they are doing this plat to clean up all these parcels.

Ms. Boyes asked if anyone had any questions. No one spoke.

A motion was made by Mr. Soppe, **seconded by Ms. Scherrman to approve the plat. The motion passed unanimously. Vote: 6-0.**

ZC#10-21-21 Chapter 1-Zoning Ordinance Amendments (Tabled from the January 18, 2022 Meeting)

This amendment to the Dubuque County Code of Ordinances, Chapter 1- Zoning, includes a new addition to **PART 2**. This new addition adds **SECTION 1-19** titled UTILITY-SCALE SOLAR ENERGY SYSTEMS.

This section was previously approved by the Zoning Commission on October 12, 2021. Prior to the Board of Supervisors hearing there were concerns from local Utility/Solar Companies regarding the regulations in the new proposed Utility-Scale Solar Energy Systems Ordinance. The Board of Supervisors requested that the concerns be heard in a public hearing with the Zoning Commission and addressed before the Board of Supervisor's make their final decision. See Solar Ordinance Below:

AN ORDINANCE ADOPTING AN UTILITY-SCALE SOLAR ENERGY SYSTEMS ORDINANCE

Whereas, Dubuque County desires to regulate utility-scale solar energy systems within Dubuque County.

NOW, THEREFORE, BE IT HEREBY ADOPTED by the Dubuque County Board of Supervisors:

Section 1. Adoption. The Dubuque County Code of Ordinances, Title III: Property/Land Use and Development is amended by the adoption of the following chapter:

CHAPTER IX. UTILITY-SCALE SOLAR ENERGY SYSTEMS

The requirements of this Ordinance shall apply to all Utility-Scale Solar Energy Systems proposed after the effective date of this Ordinance. Utility-Scale Solar Energy Systems for which a required Dubuque County permit has been properly issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided, that any such pre-existing Utility-Scale Solar Energy System, which does not provide energy for a continuous period of twelve (12) months, shall meet the requirements of this Ordinance prior to recommencing production of energy. Also, no modification or alteration to an existing Utility- Scale Solar Energy System shall be allowed without full compliance with this Ordinance.

SECTION 1. DEFINITIONS.

Solar Energy System

A system that converts energy from sunlight into electricity or an additional energy source such as heat.

Residential/Small-Scale Solar Energy System

A solar energy system that is installed at a residence or business to meet the electrical demands at that location. These systems are typically intended to offset electricity use for the owner and are not intended to be net annual generators of electricity.

Concentrating Solar Power (CSP)

A system that generates solar power by using mirrors or lenses to concentrate a large area of sunlight onto a receiver.

Utility-Scale Solar Energy System

A group of interconnected solar panels/arrays that convert sunlight into electricity for the primary purpose of wholesale or retail sales of generated electricity. This definition does not apply to consumer scale solar installations that are constructed primarily to provide power for use on-site.

Easement or Lease

A legal agreement for the use of property for a specified purpose.

Feeder Circuits/Lines

A power line or network of lines used as a collection system that carries energy produced by a solar energy system to an interconnection point like a substation. Feeder circuits are most often placed underground.

Interconnection

Link between a generator of electricity and the electrical grid.

Module

An individual unit composed of multiple photovoltaic (PV) cells, with multiple modules used in a solar energy system.

Mounting

The method of anchoring solar energy system modules to the ground or a building.

Non-Participating Landowner

Any landowner that has not signed a lease agreement for an easement or lease with the project owner or developer, often adjacent to or near the project.

Operator

The entity or individual that operates a solar energy system.

Owner

The entity or individual that has ownership over a solar energy system.

Substation

A subsidiary station of electricity generation, transmission and distribution system where voltage is transformed from high to low or the reverse using transformers.

System Height

The height of a solar energy system, usually referring to ground mounted systems. Total system height is the measurement from the ground to the top of the mounting or modules associated with a system.

Transmission Lines

Power lines used to carry electricity from collection systems or substations over long distances.

SECTION 2. UTILITY-SCALE SOLAR ENERGY SYSTEMS

2.1 General Requirements.

a. **Concentrating Solar Power (CSP) Systems.** Concentrating Solar Power Systems shall be prohibited.

b. **Site Plan.** A site plan shall be submitted and reviewed prior to approval of a Utility-Scale Solar Energy System.

c. Special Use Permit Required. A Utility-Scale Solar Energy System is a Special Permitted Use in the A-1, Agricultural District and a permitted use in the M-1, Light Industrial and M-2, Heavy Industrial Districts.

d. Additional Information. In addition to all submittal requirements of a site plan and Special Use Permit application (where required), the application for a utility-scale solar installation shall include the following information on the site plan or in narrative form, supplied by utility-scale solar energy system owner, operator or contractor installing the structures.

1. Number, location and spacing of solar panels/arrays.
2. Planned location of underground or overhead electric lines.
3. Project development timeline which indicates how the applicant will inform adjacent property owners, persons in possession (tenants) and interested stakeholders in the community.
4. Interconnection plan.
5. Decommissioning plan.
6. Site and structure requirements.

For projects 25 MW or larger, the Application of Certificate, required by the Iowa Utilities Board, will be considered acceptable to meet the above additional requirements. In cases where a Special Use Permit is required, the current application to the Board of Adjustment shall still be required.

e. Setbacks. Setbacks for all structures (including solar arrays) shall be the same as what is required for residences in the A-1 Agricultural District unless the Board of Adjustment finds that less is warranted. All structures shall observe listed setbacks in the M-1 and M-2 Districts. No setbacks are required where a property line is shared by two participating landowners. Mandated setback distances may be waived with the consent of participating landowners and adjacent property owners.

f. Screening. A landscape buffer may be required to be installed and maintained during the life of the operation if a Special Use Permit is required. Determination of screening requirements will be made by the Board of Adjustment as part of the review and approval process and will be based on adjacent or nearby surrounding land uses and topography.

g. Utility connections. Reasonable efforts shall be made to place all connections within the solar installation underground, depending on appropriate soil conditions, shape and topography of the site, distance to the connection, or other conditions or requirements. All components used for the collection, conversion, and storage of energy shall be contained within the leased and fenced project area, excluding overhead and underground transmission lines.

h. Grading plan. A grading plan shall be submitted and shall include all proposed changes to the landscape of the site (e.g., clearing, grading, topographic changes, tree removal, etc.)

i. Glare minimization. All solar panels shall be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard.

j. Compliance with local, state and federal regulations. Utility-scale solar installations shall comply with applicable local, state and federal regulations.

k. Appurtenant structures. All appurtenant structures shall be subject to bulk and height regulations of structures in the applicable zoning district except where otherwise approved.

l. Floodplain considerations. Utility-scale solar installations are considered to be maximum damage potential structures and facilities for purposes of the floodplain district regulations. Utility-scale solar installations are discouraged within the 1% Special Flood Hazard Area (100 year floodplain), but may be allowed subject to provisions of the Dubuque County Floodplain Management Ordinance.

m. Fencing/Security. A NESC (National Electrical Safety Code) compliant security fence must be installed along all exterior sides of the utility-scale solar energy system and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates and warning signs must be maintained in good condition until the utility-scale solar installation is dismantled and removed from the site.

n. Signage. Signage with the following information shall be maintained at all locked entrance locations:

1. A visible "High Voltage" warning sign;
2. Name(s) and phone number(s) for the electric utility provider;
3. Name(s) and phone number(s) for the site operator;
4. The facility's 911 address, GPS coordinates; and,
5. A lockbox with keys as needed.

o. Operation and maintenance plan. The applicant shall submit a plan for the operation and maintenance of the solar installation, which shall include measures for maintaining safe access to the installation, stormwater and erosion controls, as well as general procedures for operation and maintenance of the installation.

p. Soil erosion and sediment control considerations. The applicant agrees to conduct all roadwork and other site development work in compliance with a national pollutant discharge elimination system (NPDES) permit as required by the state department of natural resources and comply with requirements as detailed by local jurisdictional authorities during the plan submittal. If subject to NPDES requirements, the applicant must submit the permit for review and comment and an erosion and sediment control plan before beginning construction. The plan must include both general "best management practices" for temporary erosion and sediment control both during and after construction and permanent drainage and erosion control measures to prevent damage to local roads or adjacent areas and to prevent sediment laden run-off into waterways.

q. Stormwater management considerations. For the purposes of pollutant removal, stormwater rate and runoff management, flood reduction and associated impacts, the applicant must meet and be in compliance with the Dubuque County Erosion and Sediment Control and Stormwater Ordinance. This requirement may be met by providing a copy of the applicant's Stormwater Pollution Prevention Plan prior to the start of construction.

r. Ground cover and buffer areas. Ground around and under solar arrays and in project site buffer areas shall be planted and maintained in perennial vegetated ground cover, and meet the following standards:

1. Top soil shall not be permanently removed during development, unless part of the remediation effort.
2. Soils shall be planted and maintained in short stature perennial vegetation capable of enhancing soil health and supporting pollinators. Blooming shrubs may be used in buffer areas as appropriate for visual screening.
3. Seed mixes and maintenance practices should be consistent with recommendations made by qualified natural resource professionals such as those from the Department of Natural Resources, County Soil and Water Conservation Service or Natural Resource Conservation Service.
4. Landowner, farmer, tenant and adjoining landowner notification must be conducted per the terms of an easement or land use agreement, or as otherwise required by the specific Candidate Conservation Agreement or Habitat Conservation Plan under the Endangered Species Act.

s. Maintenance, repair or replacement of facility. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to emergency response officials. Any retrofit, replacement or refurbishment of equipment shall adhere to all applicable local, state and federal requirements.

t. Access Required. The Zoning/Building Official and any other necessary personnel may enter the property with guided access from the project owner or their representative for which a Special Use Permit or Building Permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met as specified by statute, ordinance or code. Failure to provide access shall be deemed a violation of this ordinance.

2.2

Infrastructure Protection and Road Use Agreements.

A pre-construction plan will be developed between the system owner, operator or contractor and Dubuque County that addresses potential impacts to roads and other infrastructure from solar project construction as well as post construction review to identify impacts and provide for repairs, prior to issuance of the building permit. All routes on County roads that will be used for the construction and maintenance purposes shall be identified on the site plan. All routes for either ingress or egress shall be shown. Prior to issuance of a building permit, the developer must complete and provide a pre-construction baseline survey/assessment to determine existing road conditions for assessing potential future damage due to developmental-related traffic. Prior to the issuance of the building permit, the developer shall provide a road

repair plan to ameliorate any and all damage, installation, or replacement of roads that might be required by the developer. Prior to the issuance of the building permit, the developer shall provide a letter of credit or surety bond in an amount and form approved by the appropriate road authority (s) when warranted. The provisions of this section shall be subject to approval by the Dubuque County Engineer.

2.3

Decommissioning and Site Reclamation Plan.

The application must include a decommissioning plan that describes the anticipated life of the utility-scale solar installation; the anticipated manner in which the project will be decommissioned; the anticipated site restoration actions; the estimated decommissioning costs in current dollars; and the method for ensuring that funds will be available for decommissioning and restoration.

The applicant shall provide the basis for estimates of net costs for decommissioning the site (decommissioning costs less salvage value). The cost basis shall include a mechanism for calculating adjusted costs over the life of the project. The cost of the decommissioning and site reclamation plan will be the responsibility of the company who owns the equipment and/or applies for or receives the permit.

For any part of the energy project on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land. Any use of remaining structures must be in conformance with the regulations in effect at the time.

After the utility-scale solar installation is in service, following a continuous one-year period in which no electricity is generated, or if substantial action on the project is discontinued for a period of one year, the permit holder will have one year to complete decommissioning of the utility-scale solar installation.

Decommissioning shall be completed in accordance with the approved decommissioning plan. The owner or operator of the system must notify the County when the project is discontinued.

Section 2. Amendments. The Dubuque County Code of Ordinances, Title III Property/Land Use and Development, Chapter II Zoning Ordinance is amended by adoption of the following new subsections:

Article III, Section 3: 3.31 Utility-Scale Solar Energy

Systems Article X, Section 2: 2.8 Utility-Scale Solar

Energy Systems

Section 3. Severability. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the regulations as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 4. Effective Date. This ordinance shall take effect upon its publication as required by law.

Section 5. Conflict with Provisions. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Speaking to the Board was Ed Raber, Dubuque County, 720 Central Ave., Dubuque. Mr. Raber said in the time the Solar Ordinance had been through the Zoning Board and before it went to the Board of Supervisors he was contacted by a local solar industry provider who wanted to review the ordinance and share his thoughts. He said he spoke with this person several times and set up some meetings with the zoning office so they could talk together.

Mr. Raber said previously before the Zoning Board passed this ordinance in October, he and Ms. Henry had several conversations with a representative from Alliant Energy that deals with the solar. He said he also reached out to Maquoketa Valley and they didn't respond back to him. He said the ordinance that they have in front of them is the ordinance as what was presented to them.

Mr. Raber presented a Memo that he prepared and he said he has also gone over it with Ms. Henry and Ms. Steffens. The Memo had five proposed changes. They are as follows.

Section 2.1a- Concentrating Solar Power (CSP) Systems

Proposed change to: Concentrating Solar Power Systems are not a permitted use under this ordinance.

Section 2.1g-Utility Connections

Proposed change to: Reasonable efforts shall be made to place all connections within the solar installation underground or above ground no higher than the surrounding solar panel array. All components used for the collection, conversion, and storage of energy shall be contained within the leased and fenced project area, excluding overhead and underground transmission lines.

Definitions

Residential/Small Scale- change to Consumer Solar and redefine as follows:

Consumer Solar Energy System

A solar energy system of interconnected solar panels/arrays that convert sunlight into electricity for the primary purpose of meeting the electrical demands at that location. These systems are typically intended to offset electricity usage for the owner and are not intended to be net annually generators of electricity. Consumer solar energy systems may be installed at residential, business or agriculture property.

Utility-Scale Solar Energy System – change to Commercial Solar and redefine as follows:

Commercial Solar Energy System

A solar energy system of interconnected solar panels/arrays that convert sunlight into electricity for the primary purpose of wholesale or retail sale, or purchase power arrangements of generated electricity.

Rename the Ordinance to “Commercial Solar Energy Systems” rather than “Utility-Scale Solar.” Also, replace references in the ordinance from Utility-Scale Solar to Commercial Solar Energy System.

Mr. Raber explained each of these proposed changes.

Ms. Caitlin asked why the Consumer Solar Energy Systems doesn't include public buildings, such as courthouses and schools. Mr. Raber said there was no reason these were not included and said they could add them in that part.

Mr. George asked how they would stop someone who originally had a solar system for their own use to keep adding to it and become a net provider. Mr. Raber said they would have to get a permit to add on and that would come before the Zoning Office. Mr. George said it would be pretty hard to police these. Mr. Raber said as with anything it would be.

Ms. Caitlin said if somebody was at that scale it would be very obvious.

Speaking to the Board was Dave Schneider, 906 1st St. North, Farley. Mr. Schneider if someone wanted to rent 500 to 600 acres from him to put a huge solar array on, is that allowed? Mr. Raber said this would be a commercial use. Ms. Henry said they would have to get a Special Use Permit to do this. Mr. Raber said this ordinance controls the use but does not talk about the density of the solar arrays.

Speaking to the Board was Raki Giannakouros, 14419 N. Cascade Rd. Dubuque. Mr. Giannakouros said he talked with Mr. Raber and Ms. Henry a little bit about this ordinance and feels like he was not heard in the discussions. He feels they are really careless with the language used in the ordinance. He said they are incentivising these really big solar arrays. He said this solar ordinance is putting more restrictions on the smaller arrays. He shared this with Mr. Raber and Ms. Henry but doesn't feel like they heard him. Mr. Giannakouros explained things about the larger arrays and the smaller arrays, talking about wattage and how much he would use.

Ms. Caitlin said she really didn't understand a lot of what he said because it was probably industry language and said until he could explain it in such a way that they could understand what he was saying they couldn't agree or disagree with him. Ms. Caitlin said she thought they had to pull a building permit when constructing any array. Ms. Henry said they first have to ask for the Special Use Permit then they get the building permit.

Mr. Giannakouros said he would need more than five minutes to explain to them what he is trying to. Ms. Henry said they have had several public meetings on the solar array and anyone could have talked and gave their opinions at those meetings.

Mr. George said he thinks Mr. Giannakouros is talking about distributed generation. He said that can sometimes be off the grid totally on the customer side of the transmission system and having its own substation.

Mr. Giannakouros said he thinks this solar ordinance needs to address the scale. He thinks it should say anything over 20 acres, this ordinance would apply and anything under 20 acres it would not. He feels like this is an anti-solar ordinance.

Mr. Sigwarth this is a basic set of rules and the solar arrays will still have to get a Special Use Permit that the Board of Adjustment will have to approve and can add conditions to their decision.

Ms. Henry said they were asked by the Board of Supervisors to make a Solar Ordinance.

Mr. Sigwarth said there were other public meetings about this ordinance. He said neither Alliant nor Maquoketa Valley showed up for the meetings so the Zoning Board had to do the best they could.

Mr. Giannakouros said there were many things in the ordinance that he liked.

Ms. Caitlin said the purpose of this ordinance is to encourage people to use solar energy.

Ms. Boyes said she feels that the Zoning Board has the responsibility to get this ordinance finished and if they need to change something later they can do that. She suggest moving forward with the explained changes from the memo and told Mr. Giannakouros if he wanted to present them with changes they would meet with him about them.

Ms. Boyes said she will read in all the changes that they have approved then they will vote on all of them at the same time.

Ms. Caitlin asked that they add “public property” to Consumer Solar Energy System. The Zoning Board agreed this should be added.

Ms. Boyes read the changes as follows:

Section 2.1a- Concentrating Solar Power (CSP) Systems

Proposed change to: Concentrating Solar Power Systems are not a permitted use under this ordinance.

Section 2.1g-Utility Connections

Proposed change to: Reasonable efforts shall be made to place all connections within the solar installation underground or above ground no higher than the surrounding solar panel array. All components used for the collection, conversion, and storage of energy shall be contained within the leased and fenced project area, excluding overhead and underground transmission lines.

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Rename the Ordinance to “Commercial Solar Energy Systems” rather than “Utility-Scale Solar.” Also, replace references in the ordinance from Utility-Scale Solar to Commercial Solar Energy System.

A motion was made by Ms. Caitlin, **seconded by Mr. Sigwarth to approve the Solar Ordinance with the above changes. The motion passed unanimously. Vote: 6-0.**

5. OLD BUSINESS:

Ms. Henry said ZC#12-28-21 Elizabeth Reuter and Mike Weber, Surveyor A-1 Agricultural to R-3 Single Family Residential, ZC#12-29-21 Russell & Danielle Schueller A-1 Agricultural to A-2 Agricultural Residential, ZC#12-30-21 Paul & Cathy Koerperich A-1 Agricultural to A-2 Agricultural Residential, ZC#01-01-22 Ronald & Kimberly Reuter and Adam & Maggie Domeyer A-1 Agricultural to A-2 Agricultural Residential and ZC#01-02-22 Daniel & Jean Gaul and Collin Dolphin & Melissa Gaul A-1 Agricultural to A-2 Agricultural Residential were all approved by the Board of Supervisors. ZC#05-11-21 Timothy Kendrick Trust and Kirby Kendrick A-1 Agricultural to PC Planned Complex was denied and was told to complete the application and reapply with the Zoning Office. She told the Board to be thinking of ideas on how they can approve the Planned Complex application. The Board discussed different things they could do to make the application more clear. Ms. Caitlin raised the issue on the Kendrick case that since the case was coming back in March it was too fast to comply with the ordinance, which requires a process of sending the proposal to the board members and a 30 day time frame for written questions back to him.

Mr. Sigwarth asked Ms. Henry if the County Attorney looked at the information on a ten-acre farm. Ms. Henry said yes and he said it will take a while because there is a lot of information to look at.

6. NEW BUSINESS:

7. PUBLIC COMMENTS:

8. ADJOURNMENT: A motion was made by Mr. Soppe, **seconded by Mr. Sigwarth to adjourn the meeting. The motion passed unanimously. Vote: 6-0. The meeting ended at 8:08 p.m.**