

WOODFORD COUNTY ZONING BOARD OF APPEALS

Woodford County Board Room
1837 S. Main St. Eureka, IL
6:00 P. M. Tuesday, March 28, 2023

- Call to Order:

Ms. Gauger called the meeting to order at 6:00 pm

- Roll Call: Teresa Gauger, Karen Krug, John Obery, Blake Otto, and Marty Clinch were present.

Ms. Gauger declared a quorum present.

Others present: Erik Gibson, Lisa Jording, and Blake Parsons

- Approval of minutes.

February 28, 2023

Motion to approve minutes made by Clinch, seconded by Obery. *Motion Carried.*

- Swearing in/ Affirmation – Completed for each petition.

- Presentation of Petitions

Ms. Gauger recused herself as Chairman, Ms. Krug was acting chairman for petition 2023-10-S

#2023-10-S El Paso Township, by Cottonwood Solar Project, LLC for a Special Use to operate a 32 acre, 5 MW Solar Farm Energy System, located in the (AG) Agriculture District, on two tracts consisting of ±100.25 acres commonly described as farm ground surrounding 638 County Road 2800 E, El Paso, Illinois.

Ms. Leah Grossman and Mr. Nick Standiford were sworn in.

Ms. Grossman explained the solar project is being situated on 32 acres of a 100 acre parcel. There will be local benefits of locally produced solar energy. They will offer subscriptions to the renewable energy project which provides savings to the local consumers, this is particularly valuable to the residents unable to install solar of their own.

This project is being developed by a private company and will power up to 1,100 private homes per year.

Ms. Grossman noted that they have three specific requests they wish to outline, those requests are:

The permit period will be 3 years from the date the Special Use was granted.

Option for future battery expansion

Acceptance of residential setback for the house at 638 County Road 2800 E reduced to the “participating” setback of 50 Ft.

The company be allowed to engage an independent engineer for the decommissioning study in the event the County engaged engineer is unresponsive or untimely.

Ms. Grossman Stated they have sent additional notices to the neighbors and received no feedback.

She explained that commercial solar has a standardized State tax assessment.

The board asked about the installation of the system. Ms. Grossman explained that they drive steel posts into the ground. A pollinator mix is planted under the panels for minimal maintenance.

The board asked what type of system will be installed. Ms. Grossman Stated that they will be single axis trackers, the system will be self-powered.

The board asked where the system would enter the grid. Ms. Grossman showed that the wiring would remain underground until immediately prior to crossing the road where it would come above ground, cross the road and hook into the main lines.

The battery storage request is for the potential of up to 5 MW, this would be dependent on what the State plans and rules are in the future.

The board asked about drainage concerns. Ms. Grossman discussed that the goal is to have no change in drainage, generally drainage issues are improved due to the planted pollinator mix.

They will have a local contract for mowing as needed.

Construction will be completed by a different company, they bid out the project to get the best contractor and rate.

The construction portion of the project takes approximately 12 – 16 weeks, weather and supply chain dependent.

The board asked about traffic. Ms. Grossman Stated that during construction there will be 1-5 trucks and approximately 10 large trucks for the delivery of components.

A drain tile survey will be completed prior to construction.

The entrance location has been discussed with the County Engineer, the preference is that the entrance be co-located with the house driveway. Any needed improvements will be made at the engineers' request.

Evidentiary portion of the hearing closed.

Findings by the Zoning Board of Appeals for Petition 2023-10-S:

- A. Will not be detrimental to the public health, safety, and welfare;** No impact on health, safety and welfare of the surrounding community. County Engineer concerns have been addressed.
- B. Will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted. The applicant need not demonstrate complete compatibility, but the applicant shall demonstrate reasonable efforts to minimize incompatibility;** Surrounding landowners will have no issues. Entrance and public safety are not a concern.
- C. Will not be injurious to the district in which it shall be located;** Not injurious, the project is inside a 100-acre parcel, all other houses are ¼ – ½ mile away, this project will not be harmful.
- D. Will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the districts;** Zoned AG, some improvements will be advantageous to the property through improved drainage.
- E. That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided;** Will address drainage problems, reinforce the lane as needed, all necessary upgrades will be accomplished.
- F. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public roads;** Access will be coordinated with the Highway Engineer to determine the best entrance and ensure it is in line with standards.
- G. Is consistent with the Woodford County Comprehensive Land Use Plan.** The plan wants the ground to be productive, this appears to be consistent by being beneficial to the area. The project will provide power to 1,100 homes.

Motion to approve petition #2023-06-S for a Special Use to operate a 32 acre, 5 MW Solar Farm Energy System, located in the (AG) Agriculture District, on two tracts consisting of ±100.25 acres commonly described as farm ground surrounding 638 County Road 2800 E, El Paso, Illinois

With the following requests approved:

The permit period will be 3 years from the date the Special Use was granted.

Option for future battery expansion

Acceptance of residential setback for the house at 638 County Road 2800 E reduced to the “participating” setback of 50 Ft.

The company be allowed to engage an independent engineer for the decommissioning study in the event the County engaged engineer is unresponsive or untimely.

made by Obery, seconded by Otto.

Roll call vote: Blake Otto – *Yes*, Karen Krug – *Yes*, Marty Clinch – *Yes*, John Obery – *Yes*. *Motion Carried.*

Mr. Clinch left the meeting at 6:46

#2023-09-A County Wide, by the Conservation, Planning, and Zoning to amend the Woodford County Zoning Ordinance Section 5 – Administration, Enforcement and Fees, Section 24 – Special Uses, Section 28 – Wind Energy Conversion Systems, Section 30 – Solar Energy systems. These changes remove the Special Use requirements for

Commercial Wind and Commercial Solar projects in order to bring the Zoning Ordinance into compliance with Public Act 102-1123.

Mr. Blake Parsons was sworn in.

Mr. Parsons presented that The State has passed new legislation which changes the Counties ability to regulate wind and solar facility and prohibits Counties for prohibiting or placing moratorium on wind and solar projects. It also establishes setbacks requirements and establishes review and approval requirements for these projects. The changes proposed removing the Wind Energy Conversion System section and Solar Farm Energy System section. This would strike anything more stringent than what is allowed in the new law. This was discussed in committee and with the Assistant States Attorney to determine what is still allowed. The concern is the hearings would offer false hope that changes could be made when in reality the State has the final authority.

He noted that anything applied for under the previous rules would remain on those rules. Ms. Gauger noted projects like Panther Creek would remain on the old rules. Ms. Jording noted that she has spoken with Panther Grove and several other companies about what happens going forward. She explained that for instance if Panther Grove Wind allows their Special Use to expire and submit a new application they would then fall under the new rules.

Report for Interested Government Agency

Ms. Sheryl Churney was sworn in.

Ms. Churney explained she is an attorney from Klein, Thorpe & Jenkins and represents Clayton Township and Clayton Township Road District. She worked with the County and the Townships for the Panther Grove Wind project. She has been working with Counties and Townships on road use agreements with wind farms for 20 years throughout the State.

Ms. Churney provided proposed revisions to the road section of the Wind and Solar sections of the ordinance. The intent of these changes is to protect the infrastructure and make sure there are no costs that end up the responsibility of the road authority. These changes are to make sure the company is financially responsible for pre-construction improvements to the road and can withstand the construction activities. They would also make sure the company would complete post construction repairs to like kind improvements. She noted the changes also layout the preferred financial security for those improvements. It would also make the company responsible for the legal fees that could occur.

Ms. Gauger asked for the statutory text relating to roads in the new law. Ms. Jording read the section detailing what is allowable per the statute:

(55 ILCS 5/5-12020) (s) If a facility owner enters into a road use agreement with the Illinois Department of Transportation, a road district, or other unit of local government relating to a commercial wind energy facility or a commercial solar energy facility, the road use agreement shall require the facility owner to be responsible for (i) the reasonable cost of improving roads used by the facility owner to construct the commercial wind energy facility or the commercial solar energy facility and (ii) the reasonable cost of repairing roads used by the facility owner during construction of the commercial wind energy facility or the commercial solar energy facility so that those roads are in a condition that is safe for the driving public after the completion of the facility's construction. Roadways improved in preparation for and during the construction of the commercial wind energy facility or commercial solar energy facility shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

The road use agreement shall not require the facility owner to pay costs, fees, or charges for road work that is not specifically and uniquely attributable to the construction of the commercial wind energy facility or the commercial solar energy facility. Road-related fees, permit fees, or other charges imposed by the Illinois Department of Transportation, a road district, or other unit of local government under a road use agreement with the facility owner shall be reasonably related to the cost of administration of the road use agreement.

Ms. Gauger asked who that road agreement would be with.

Ms. Jording Stated that the agreement would be with the Road Authority. She noted that the language could be bolstered to require proof of a road use agreement being in place prior to zoning permits being issued. She Stated that she does not feel the Zoning Ordinance is the appropriate place to regulate roads.

Ms. Churney Stated that when it comes to the road use agreement, she has never been presented with a road use agreement from a developer that has been acceptable or appropriate for protecting public infrastructure. She Stated that the Public Act details that the reasonable cost is recoverable is why they are suggesting this language and spell out more clearly what Woodford County would expect.

Ms. Krug asked if this is legally enforceable. Ms. Churney noted that the Public Act does mandate certain things that Counties cannot regulate on their own. But it does not strip them of the authority to add language protecting their community.

Mr. Gibson discussed that adding this to the Special Use section will not do anything. The objective of the recommended amendment is to take wind and solar out of the purview of Special Use. The State has made it very clear they do not care about the local communities and their objective is to push through wind and solar projects. Mr. Gibson expressed that he does not know if there is anything in the new statute that allows for anything like what Ms. Churney is proposing on behalf of Clayton Township. He noted that the statute limits what can be recovered in road agreements in the text:

(55 ILCS 5/5-12020) (s)...The road use agreement shall not require the facility owner to pay costs, fees, or charges for road work that is not specifically and uniquely attributable to the construction of the commercial wind energy facility or the commercial solar energy facility. Road-related fees, permit fees, or other charges imposed by the Illinois Department of Transportation, a road district, or other unit of local government under a road use agreement with the facility owner shall be reasonably related to the cost of administration of the road use agreement.

He Stated he is not sure that we can do anything to expand upon that. The legislation has tied our hands however we have included that the companies need to contact the road authorities.

Ms. Churney noted that the legislation is not well written and because it was passed so quickly there is no legislative record to help guide local public officials on the intent of the legislature. Her view is that it was not intended to strip the local governments from regulating in their counties. She feels that clarifying what is expected at the local level. She encouraged the Zoning Board to recommend to the County Board to retain as much local control as possible. Ms. Gibson discussed that while no County wants to give up local control, the way this statute is written gives the County very little control and realistically the problem is that we would be conducting hearing which would give people false hope that they could sway the requirements. The State has set the boxes and if those boxes are checked we have to approve the project, we have very little control.

Mr. Otto asked if the proposed language would help us in a litigation scenario. Ms. Churney Stated that her goal in this is to give us a better position in negotiating and clearly detail what is expected and the type of financial security required. She noted the definition of reasonable differs between the County and the prospective company.

Ms. Krug asked since this is a Township concern can they take on that responsibility themselves. Ms. Churney Stated once the County passes zoning, the Townships may not regulate zoning issues. Mr. Gibson advised that the requirement to pull permits from the road authority remains. The proposal from Ms. Churney would be to retain the current ordinance text and enhance the road section. The main issue with the statute is the verbiage of “reasonable” cost or reimbursement is rather arbitrary and up for interpretation.

Ms. Jording Stated that her concern of placing more substantial verbiage in the Zoning Ordinance is that she then has to interpret and enforce those sections and that is not the expertise of the Zoning Office. She noted that she felt that enforcement should lie with those with the appropriate expertise. Ultimately it comes down to the arbitrary verbiage in the statute and the fact that the County and a developer may disagree with the definition of reasonable and it could lead to litigation.

Ms. Krug expressed concern over if a bridge is destroyed it could financially bankrupt a Township. Ms. Krug asked where that would be covered and who would negotiate it. Ms. Churney Stated that would be covered in the road agreement and the County Engineer would be the chief negotiator. Ms. Churney noted that there were road agreements with the County and Townships affected for the Panther Grove Farm. She discussed that she does not

feel the State stripped the Counties of the ability to regulate and the County should protect themselves to the best of their ability.

Ms. Krug asked if a recommendation is made to include Ms. Churney's text would hold weight. Mr. Gibson noted that Ms. Churney's recommendation only works if we keep the wind and solar section in place.

Motion to approve petition 2023-09-A to amend the Woodford County Zoning Ordinance Section 5 – Administration, Enforcement and Fees, Section 24 – Special Uses, Section 28 – Wind Energy Conversion Systems, Section 30 – Solar Energy systems. These changes remove the Special Use requirements for Commercial Wind and Commercial Solar projects in order to bring the Zoning Ordinance into compliance with Public Act 102-1123 made by Otto, seconded by Krug.

Roll call vote: Karen Krug – *No*, Teresa Gauger – *Yes*, John Obery – *No*, Blake Otto - *Yes*. *Motion Failed*.
This petition will be sent to the County Board with a recommendation to deny.

#2023-08-Z Spring Bay Township, by Landin Wernsman for a Map Amendment from Residential Single Family District (R-1) to Agriculture District (AG) on 8.7 acres commonly described as 1139 Upper Spring Bay Rd East Peoria, Illinois

Mr. Landin Wernsman and Mr. Kevin Wernsman were sworn in.

Mr. Landin Wernsman explained that they received a Variance and Special Use to operate a deer farm on their current property about a year ago. They have purchased this land and intend to move the operation to this larger location. The requested re-zoning would allow the deer farm to operate on the entire parcel. The parcel has been in agricultural production for at least 10 years.

The board asked about buildings and infrastructure. Mr. Landin Wernsman indicated that they did plan for building in the future and possible infrastructure at that time.

The testimony portion of the hearing was closed.

Findings by the Zoning Board of Appeals for Petition 2023-08-Z:

- A. Whether the proposed zoning district classification is consistent with the Woodford County Comprehensive Land Use Plan;** The property is already farmed, and is productive and useful as agriculture property.
- B. Whether there are any changed or changing conditions in the area affected that make the proposed rezoning necessary;** The area is not residentially developed, much of the ground surrounding the property is used for agriculture and several of the surrounding properties are currently zoned agriculture.
- C. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on the other properties in the immediate vicinity;** Most of the property is already agriculture or timber ground. This is not a true residential area, there are no major subdivisions in the vicinity. The property would be comparable to the surrounding area after the change.
- D. Whether adequate infrastructure exists or can be provided to serve the uses that would be permitted on the property if it were rezoned;** There is no need for infrastructure at this time, those needs will be addressed once more development is needed.
- E. The impact the uses, which would be permitted if the property were rezoned, will have upon the volume of vehicular traffic in the vicinity;** The planned use is a deer farm, there will be no substantial increase in traffic.
- F. Whether a reasonably viable economic use of the subject property will be denied if the proposed rezoning is not approved;** The property does need to be zoned agriculture to allow the deer farm. The proposed use is a reasonable use of the ground.

G. Information submitted at the public hearing.

Motion to approve petition 2023-08-Z for a Map Amendment for Landin Wernsman for a Map Amendment from Residential Single Family District (R-1) to Agriculture District (AG) on 8.7 acres commonly described as 1139 Upper Spring Bay Rd East Peoria, Illinois made by Obery, seconded by Otto.

Roll call vote: John Obery – *Yes*, Blake Otto – *Yes*, Karen Krug – *Yes*, Teresa Gauger – *Yes*. *Motion Carried.*

#2023-07-Z El Paso Township, by Don & Dawn McKinley for a Map Amendment from Heavy Industrial District(I-2) to Commercial District on 4.85 acres commonly described as 513 State Route 251 Kappa, Illinois

Mr. Don McKinley was sworn in.

Mr. McKinley explained that he purchased the Central Hydraulics building and would like to convert it into an Antique Mall. Eventually they plan to add a small bait shop and farmers market stand and utilize the farm ground on the site to grow produce for the stand.

Mr. McKinley was asked about the expected traffic. He noted that the existing shop in Bloomington sees approximately 10-15 people in the building at all times on the weekends. During the week the traffic is lower. He was asked about business hours. Mr. McKinley Stated that the Bloomington shop is open Monday – Saturday 9 am – 6 pm.

The Board asked if this would be a vendor mall, Mr. McKinley explained that they would have some vendors, but it would be mostly self-stocked.

Mr. McKinley was asked about the well and septic systems. He explained that they were new in 2002, the septic was inspected at the purchase. The well will need to be tested before they open to the public. The building currently has heating, cooling and electrical.

Mr. McKinley was asked about the size of the entrance off the State road. It was discussed that this is a commercial entrance off a State road, therefore it was designed and built to IDOT standards. It is a 30 ft. concrete entrance.

The testimony portion of the hearing was closed.

Findings by the Zoning Board of Appeals for Petition 2023-07-Z:

- A. Whether the proposed zoning district classification is consistent with the Woodford County Comprehensive Land Use Plan;** Commercial is in the land use plan, to go from I-2 to Commercial would be in the best interest of the area.
- B. Whether there are any changed or changing conditions in the area affected that make the proposed rezoning necessary;** No changes seen in the area.
- C. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on the other properties in the immediate vicinity;** The municipal property adjoining this parcel is zoned commercial.
- D. Whether adequate infrastructure exists or can be provided to serve the uses that would be permitted on the property if it were rezoned;** There is a 30 ft. commercial entrance and existing parking lot for 20 plus vehicles. Infrastructure will handle the expected volume of traffic.
- E. The impact the uses, which would be permitted if the property were rezoned, will have upon the volume of vehicular traffic in the vicinity;** More traffic will be expected but the property is located on State Route 251, adequate ingress/egress is in place.

F. Whether a reasonably viable economic use of the subject property will be denied if the proposed rezoning is not approved; The property was recently purchased, Commercial District is a better fit for the proposed business use.

G. Information submitted at the public hearing.

Motion to approve petition 2023-07-Z for a Map Amendment for Don & Dawn McKinley for a Map Amendment from Heavy Industrial District(I-2) to Commercial District on 4.85 acres commonly described as 513 State Route 251 Kappa, Illinois made by Krug, seconded by Obery.

Roll call vote: Blake Otto -*Yes*, Karen Krug – *Yes*, Teresa Gauger – *Yes*, John Obery – *Yes*. *Motion Carried*.

- Other Business to Come Before the Board:
 - Update on previous months petition/s: all petitions approved.
 - Update on next month petition/s: 2 – Map Amendment, 1- Text Amendment, 1 Special Use.
- Public Input – None
- Adjournment

Ms. Krug made the motion to adjourn at 8:44 p.m., 2nd by Mr. Otto. *Motion Carried*.

Lisa Jording, Secretary

Teresa Gauger, Chairman

Date