

The Clay County Zoning Commission meeting was called to order at 7:00 PM by Chairperson Keith Kruse.

Those in attendance were Keith Kruse, David Kaus, Bill Gerdeman Rita Smith, Sharon McKeever and Zoning Administrator Tammy McKeever. Guests included Steve Pick of SMU, Don Hemphill, attorney representing John Hjelm, and Clay County Attorney, Mike Houchins.

Motion by David Kaus, seconded by Bill Gerdeman to approve the minutes from meeting number 277 held on March 24, 2014. All those present voted aye. Motion carried.

The time having arrived for petition 05 -14 of John Hjelm, 1622 1<sup>st</sup> Avenue East, spencer, Iowa for a change in zoning from A-1 Agricultural to GC General Commercial on a parcel of land located in the West Half of the Southwest quarter of Section 2, township 96 North, Range 37 west of the fifth Principal Meridian, Clay County Iowa, described as follows to wit: Beginning at the southwest corner of Section 2, Township 96 North, Range 37 West of the fifth Principal Meridian, Clay County, Iowa and running from this point of beginning north 90 degrees 00' 00" east (north 90 degrees, 00 minutes 00 seconds east) along the south line of the southwest Quarter of said Section 2 a distance of 580.30 feet; thence north 00 degrees 00' 00" east a distance of 313.06 feet; thence North 90 degrees 00' 00" east a distance of 208.70 feet; thence north 00 degrees 00' 00" east a distance of 337.16 feet; thence north 04 degrees 28' 30" east a distance of 1138.56 feet; thence north 88 degrees 12' 37" west a distance of 736.67 feet to the west line of the Southwest Quarter of said Section 2; thence south 04 degrees 28' 30 " west along said west line a distance of 1813.85 feet to the point of beginning. All bearings stated in this description are based on the assumption that the south line of the Southwest Quarter of said Section 2 has a bearing of north 90 degrees 00' 00" east. The area of the above described parcel of land is 29.326 acres which includes 3.092 acres of Highway Right of Way, 60 feet in width along the west line and 50 feet in width along the south line of the above described Parcel of land.

The zoning administrator explained the application and reported procedure to date. All property owners within 500 feet of the property were notified and a legal notice was published in the Daily Reporter. No written objections were received.

Don Hemphill, attorney for John Hjelm presented the application. Mr. Hjelm would like to subdivide the property for commercial type development including office and warehouses. The ground is sandy and not good for farming. The CSR is 50 to 55. The west beltway had been developed and is an appropriate place for commercial development. This project would bring additional taxes to the county. Mr. Hjelm would like to start the project in late summer.

Steve Pick from SMU was present and indicated the utilities company is concerned about their wells which lye directly west and north of the proposed subdivision. Mr. Hjelm and Mr. Pick have discussed conveyances.

Following all discussion, motion by Sharon McKeever, seconded by David Kaus to recommend to the Board of Supervisors that they approve the change in zoning from A-1 Agricultural to GC

General Commercial on a parcel of land located in the West Half of the Southwest quarter of Section 2, township 96 North, Range 37 west of the fifth Principal Meridian, Clay County Iowa, described as follows to wit: Beginning at the southwest corner of Section 2, Township 96 North, Range 37 West of the fifth Principal Meridian, Clay County, Iowa and running from this point of beginning north 90 degrees 00' 00" east (north 90 degrees, 00 minutes 00 seconds east) along the south line of the southwest Quarter of said Section 2 a distance of 580.30 feet; thence north 00 degrees 00' 00" east a distance of 313.06 feet; thence North 90 degrees 00' 00" east a distance of 208.70 feet; thence north 00 degrees 00' 00" east a distance of 337.16 feet; thence north 04 degrees 28' 30" east a distance of 1138.56 feet; thence north 88 degrees 12' 37" west a distance of 736.67 feet to the west line of the Southwest Quarter of said Section 2; thence south 04 degrees 28' 30 " west along said west line a distance of 1813.85 feet to the point of beginning. All bearings stated in this description are based on the assumption that the south line of the Southwest Quarter of said Section 2 has a bearing of north 90 degrees 00' 00" east. The area of the above described parcel of land is 29.326 acres which includes 3.092 acres of Highway Right of Way, 60 feet in width along the west line and 50 feet in width along the south line of the above described Parcel of land based on the following information:

- 1) The current district classification of the property to be rezoned is valid.
- 2) There is a need for additional land zoned for the purposed requested.
- 3) The proposed change is not consistent with the current comprehensive plan but the road has changed to a bypass which lends itself to commercial development.
- 4) This is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

All those present voted aye. Motion carried.

There being no further business, motion by David Kaus and seconded by Rita Smith to adjourn. All those present voted aye. Motion carried. The meeting adjourned at 7:35 p.m.

---

Sharon McKeever, Secretary

The Clay County Zoning Commission meeting was called to order at 7:02 PM by David Wyatt.

Those in attendance were David Kaus, Rita Smith, Sharon McKeever, Marilyn White, David Wyatt and Zoning Administrator Tammy McKeever.

Motion by David Kaus, seconded by Rita Smith to approve the minutes from meeting number 278 held on April 28, 2014. All those present voted aye. Motion carried.

The time having arrived for petition 21 -14 of John Hjelm, 1622 1<sup>st</sup> Avenue East, Spencer, Iowa for a preliminary plat of West Beltway Commercial First Addition, on a parcel of land located in the West Half of the Southwest quarter of Section 2, township 96 North, Range 37 west of the fifth Principal Meridian, Clay County Iowa, described as follows to wit: Beginning at the southwest corner of Section 2, Township 96 North, Range 37 West of the fifth Principal Meridian, Clay County, Iowa and running from this point of beginning north 90 degrees 00' 00" east (north 90 degrees, 00 minutes 00 seconds east) along the south line of the southwest Quarter of said Section 2 a distance of 580.30 feet; thence north 00 degrees 00' 00" east a distance of 313.06 feet; thence North 90 degrees 00' 00" east a distance of 208.70 feet; thence north 00 degrees 00' 00" east a distance of 337.16 feet; thence north 04 degrees 28' 30" east a distance of 1138.56 feet; thence north 88 degrees 12' 37" west a distance of 736.67 feet to the west line of the Southwest Quarter of said Section 2; thence south 04 degrees 28' 30 " west along said west line a distance of 1813.85 feet to the point of beginning. All bearings stated in this description are based on the assumption that the south line of the Southwest Quarter of said Section 2 has a bearing of north 90 degrees 00' 00" east. The area of the above described parcel of land is 29.326 acres which includes 3.092 acres of Highway Right of Way, 60 feet in width along the west line and 50 feet in width along the south line of the above described Parcel of land.

The zoning administrator explained the application and reported procedure to date. All property owners within 500 feet of the property were notified and a legal notice was published in the Daily Reporter. No written objections were received.

Don Hemphill, attorney for John Hjelm presented the application. Mr. Hjelm would like to subdivide the property for commercial type development including office and warehouses. The ground is sandy and not good for farming. The CSR is 50 to 55. Entrances would be off of 32<sup>nd</sup> Avenue and septic's would be utilized in place of sanitary sewer. Mr. Hjelm would like to sell lots 1- 3 as a unit. He does have someone looking at lot 4 as a corporate office. The west beltway had been developed and is an appropriate place for commercial development. This project would bring additional taxes to the county.

SMU was not present but has indicated to Mr. Hemphill and Mr. Hjelm the utilities company is concerned about their wells which lie directly west and north of the proposed subdivision. Mr. Hjelm and Mr. Pick have discussed conveyances. They would be opposed to a gas station.

Following all discussion, motion by Sharon McKeever, seconded by David Kaus to recommend to the Board of Supervisors that they approve the preliminary plat of West Beltway Commercial

First Addition, on a parcel of land located in the West Half of the Southwest quarter of Section 2, township 96 North, Range 37 west of the fifth Principal Meridian, Clay County Iowa, described as follows to wit: Beginning at the southwest corner of Section 2, Township 96 North, Range 37 West of the fifth Principal Meridian, Clay County, Iowa and running from this point of beginning north 90 degrees 00' 00" east (north 90 degrees, 00 minutes 00 seconds east) along the south line of the southwest Quarter of said Section 2 a distance of 580.30 feet; thence north 00 degrees 00' 00" east a distance of 313.06 feet; thence North 90 degrees 00' 00" east a distance of 208.70 feet; thence north 00 degrees 00' 00" east a distance of 337.16 feet; thence north 04 degrees 28' 30" east a distance of 1138.56 feet; thence north 88 degrees 12' 37" west a distance of 736.67 feet to the west line of the Southwest Quarter of said Section 2; thence south 04 degrees 28' 30 " west along said west line a distance of 1813.85 feet to the point of beginning. All bearings stated in this description are based on the assumption that the south line of the Southwest Quarter of said Section 2 has a bearing of north 90 degrees 00' 00" east. The area of the above described parcel of land is 29.326 acres which includes 3.092 acres of Highway Right of Way, 60 feet in width along the west line and 50 feet in width along the south line of the above described Parcel of land. All those present voted aye. Motion carried.

The next meeting will be at 7:30 p.m. on Monday, September 15, 2014.

There being no further business, motion by Marilyn White and seconded by Rita Smith to adjourn. All those present voted aye. Motion carried. The meeting adjourned at 7:32 p.m.

---

Sharon McKeever, Secretary

The Clay County Zoning Commission meeting was called to order at 7:00 PM by Chairperson Keith Kruse.

Those in attendance were Keith Kruse, David Kaus, Marilyn White, Bill Gerdeman and Tammy McKeever.

Motion by David Kaus, seconded by Bill Gerdeman to approve the minutes from meeting number 276 held on August 5, 2013 with one correction. David Kaus made the motion to recommend to the Board of Adjustment to approve the petition instead of David Wyatt. All those present voted aye. Motion carried.

The time having arrived for petition 02 -14 US Cellular %Raymer Trust, 5065 Highway 71, Sioux Rapids, Iowa 50585 for a special exception use permit for a 340' guyed communication tower on property located in the Southeast ¼ of the Southwest ¼ of Section 36, Township 94 North, Range 37 West of the Fifth Principal Meridian, Douglas Township, Clay County, Iowa.

The zoning administrator explained the application and reported procedure to date. All property owners within 500 feet of the property were notified and a legal notice was published in the Daily Reporter. No written objections were received. Allan and Susan Mills, neighbors to the North are present and object to the petition.

Dan White and Jenni Kellis, US Cellular, and Bob Raymer, Jared Raymer, and John Raymer were present to explain the application. US Cellular needs to restructure and their current tower is unable to meet US Cellular's needs. There will be a shelter at the base of the tower that will house equipment. There would be an option of 3 co-locators. Bob Raymer spoke on behalf of the Trust. According to Mr. Raymer this tower could be placed in Buena Vista County which has less stringent rules. He also indicated that this tower is in progress and would bring tax dollars into the county.

Allan Mills the neighbor to the North provided the following objections:

1. It's a 340 foot tower that is 265 feet from our property line, if it were to fall over to the north, not only would it damage the fence, 75 feet of the tower will be laying on our property. If the 340 foot tower were to fall to the east, 55 feet of the tower will be laying on the highway.
2. Our field has tile which drain across the pasture and we are worried about the construction company crushing or disturbing the tile lines during construction. We have had past experience with companies that do not repair damage to field tile.
3. Surface water from our field drains across that pasture, and the proposed 12 foot wide gravel access road would likely create a dam. Last Memorial weekend, we got 6 inches of rain and the field tile could not handle all the water at once. Water ran out of our field across the grass for several hours. A raised gravel driveway would have caused water to pond in the field killing a large area of corn.

4. We do not want the proposed FFA required strobe and beacon hazard lights on top of the tower and the required mid-level flashing lights in the windows of our house. We have lived at this location for the past 34 years, remodeled our home, improved our buildings, and hope to live here another 30 years. We do not want the distraction of lights flashing into our home 24/7. It is our understanding that Mr. Raymer's wife owns a home in Spencer and he lives there with her. We live in our home full-time.
5. We have an established private airstrip on our land. We, as well as others, use our airstrip on a frequent basis. The proposed tower height in proximity to our airstrip would make for a very dangerous situation for us and other pilots.
6. Clay County Rural Water line that feeds the Little Sioux Golf & Country Club and others runs right under the proposed tower site.
7. Unknowns: Will we suffer a loss of property value due to this nuisance and hazard? Will this tower's frequency interrupt or disturb signals or reception? For example, guidance systems of tractors, radio stations, cell phone users who aren't US Cellular customers, satellite TV? Are there any long term health effects to living within ¼ mile of a cell tower? Will there be a liability issue for us if the tower falls onto our property killing or injuring someone?
8. Along with the letter notifying us of tonight's meetings, there was a letter from the design engineer of the tower. In his letter, he states that the tower has an overall minimum safety factor of 25%. The engineer only addresses wind events, there is no mention of human error. For example, what happens if a tractor or implement comes into contact with one of the guys wires?

Thank you for time and service on this board. Alan & Susan Mills

Following all discussion, motion by Marilyn White, seconded by Bill Gerdeman to recommend to the Board of Adjustment that they approve the special exception use permit for a 340' guyed communication tower on property located in the Southeast ¼ of the Southwest ¼ of Section 36, Township 94 North, Range 37 West of the Fifth Principal Meridian, Douglas Township, Clay County, Iowa. All those present voted aye. Motion carried.

Motion by Bill Gerdeman, seconded by David Kaus to recommend to the Board of Adjustment the following conditions. 1) Surface water will be controlled 2) Tile lines will be addressed appropriately 3) Rural Water lines will be addressed. All those present voted aye. Motion carried.

There being no further business, motion by David Kaus and seconded by Bill Gerdeman to adjourn. All those present voted aye. Motion carried. The meeting adjourned at 7:40 p.m.

---

Tammy McKeever, Secretary Pro Temp

The Clay County Zoning Commission meeting was called to order at 7:31 PM by Chairperson, Keith Kruse.

Those in attendance were David Kaus, Marilyn White, David Wyatt, Keith Kruse, Bill Gerdeman and Zoning Administrator Tammy McKeever.

Motion by Marilyn White, seconded by David Kaus to approve the minutes from meeting number 279 held on August 18, 2014. All those present voted aye. Motion carried.

The time having arrived for petition 23 -14 of John Hjelm, 1622 1<sup>st</sup> Avenue East, Spencer, Iowa for a final plat of West Beltway Commercial First Addition, on a parcel of land located in the West Half of the Southwest quarter of Section 2, township 96 North, Range 37 west of the fifth Principal Meridian, Clay County Iowa, described as follows to wit: Beginning at the southwest corner of Section 2, Township 96 North, Range 37 West of the fifth Principal Meridian, Clay County, Iowa and running from this point of beginning north 90 degrees 00' 00" east (north 90 degrees, 00 minutes 00 seconds east) along the south line of the southwest Quarter of said Section 2 a distance of 580.30 feet; thence north 00 degrees 00' 00" east a distance of 313.06 feet; thence North 90 degrees 00' 00" east a distance of 208.70 feet; thence north 00 degrees 00' 00" east a distance of 337.16 feet; thence north 04 degrees 28' 30" east a distance of 1138.56 feet; thence north 88 degrees 12' 37" west a distance of 736.67 feet to the west line of the Southwest Quarter of said Section 2; thence south 04 degrees 28' 30" west along said west line a distance of 1813.85 feet to the point of beginning. All bearings stated in this description are based on the assumption that the south line of the Southwest Quarter of said Section 2 has a bearing of north 90 degrees 00' 00" east. The area of the above described parcel of land is 29.326 acres which includes 3.092 acres of Highway Right of Way, 60 feet in width along the west line and 50 feet in width along the south line of the above described Parcel of land.

The zoning administrator explained the application and reported procedure to date. All property owners within 500 feet of the property were notified and a legal notice was published in the Daily Reporter. No written objections were received. Because the property is within 2 miles of the city limits of Spencer, the City of Spencer has met and approved the final plat.

Don Hemphill, attorney for John Hjelm presented the application and distributed the Proprietor's Statement that includes protective and restrictive covenants. All lots in the subdivision may be used for all uses permitted under the Clay County General Commercial Zoning District Ordinance except funeral services, service stations and cemeteries. The ground is sandy and not good for farming. Entrances would be off of 32<sup>nd</sup> Avenue and septic's would be utilized in place of sanitary sewer. Mr. Hjelm would like to sell lots 1- 3 as a unit. He does have someone looking at lot 4 as a corporate office.

Following all discussion, motion by Marilyn White, seconded by David Kaus to recommend to the Board of Supervisors that they approve the final plat of West Beltway Commercial First Addition, on a parcel of land located in the West Half of the Southwest quarter of Section 2, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County Iowa, described as follows to wit: Beginning at the southwest corner of Section 2, Township 96 North, Range 37 West of the fifth Principal Meridian, Clay County, Iowa and running from this point of

beginning north 90 degrees 00' 00" east (north 90 degrees, 00 minutes 00 seconds east) along the south line of the southwest Quarter of said Section 2 a distance of 580.30 feet; thence north 00 degrees 00' 00" east a distance of 313.06 feet; thence North 90 degrees 00' 00" east a distance of 208.70 feet; thence north 00 degrees 00' 00" east a distance of 337.16 feet; thence north 04 degrees 28' 30" east a distance of 1138.56 feet; thence north 88 degrees 12' 37" west a distance of 736.67 feet to the west line of the Southwest Quarter of said Section 2; thence south 04 degrees 28' 30" west along said west line a distance of 1813.85 feet to the point of beginning. All bearings stated in this description are based on the assumption that the south line of the Southwest Quarter of said Section 2 has a bearing of north 90 degrees 00' 00" east. The area of the above described parcel of land is 29.326 acres which includes 3.092 acres of Highway Right of Way, 60 feet in width along the west line and 50 feet in width along the south line of the above described Parcel of land. All those present voted aye. Motion carried.

The time having arrived for petition 24-14 of Rosemary Jacob, P O Box 81, Galva, Iowa for a change in zoning from I -2 Heavy Industrial to A-1 Agricultural on a tract 462' X 529' of the northwest quarter of the northeast quarter of section 8, township 96 North, Range 37 west, (Riverton Township) of the Fifth Principal Meridian, Clay County Iowa, also described as 1765 340<sup>th</sup> Street, Everly, Iowa.

The zoning administrator explained the application and reported procedure to date. All property owners within 500 feet of the property were notified and a legal notice was published in the Daily Reporter. No written or oral objections were received.

Rosemary Jacobs was present to answer questions regarding the application. Also in attendance was Jerry Stevenson, JoAnn Phelps, and Amber Snyder all in favor of the petition.

Following all discussion it was moved by David Wyatt, seconded by Bill Gerdeman to recommend to the Board of Supervisors they approve petition 24-14 of Rosemary Jacob, P O Box 81, Galva, Iowa for a change in zoning from I -2 Heavy Industrial to A-1 Agricultural on a tract 462' X 529' of the northwest quarter of the northeast quarter of section 8, township 96 North, Range 37 west, (Riverton Township) of the Fifth Principal Meridian, Clay County Iowa, also described as 1765 340<sup>th</sup> Street, Everly, Iowa, based on the classification of the property to be rezoned is valid, the need is present to rezone for the purpose requested, the proposed change does not cause spot zoning and the property is already developed as a residence. All those present voted aye. Motion carried.

Motion by David Kaus, seconded by Bill Gerdeman to nominate David Wyatt as Chairperson of the Clay County Zoning Commission. All those present voted aye. Motion carried.

There being no further business, motion by Marilyn White and seconded by Bill Gerdeman to adjourn. All those present voted aye. Motion carried. The meeting adjourned at 8:12 p.m.

---

Tammy McKeever, Secretary Pro-Temp