

The Clay County Zoning Commission meeting was called to order at 10:00 a.m. by Chairperson, Keith Kruse.

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

Motion by Bill Gerdeman, seconded by David Kaus to approve the minutes from meeting number 287 held on May 31, 2016. All those present voted aye. Motion carried.

The time having arrived for petition 16-16 of Marvin Allen, 54111 190<sup>th</sup> Avenue, Pocahontas, Iowa for a special exception use permit for a vehicle storage building on lots 21 & 22 A Sumner Beach, Lake 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 on August 16, 2016. The following written objection was received.

To the Clay County Zoning Administration:

We the undersigned property owners would encourage the board to NOT ALLOW or authorize the variance to Mr. Allen for the purpose of a vehicle storage unit. We have chosen to sign this petition for one or more of the following reasons.

1. The property will have to be “filled in” or “built up” due to the poor drainage and flood like conditions that occur there already. This in turn will jeopardize properties 18, 19, 20 and properties 23, 24 causing severe water issues for the neighbors with such a large structure, also these properties 21 and 22 at this time has no available driveway or access, which would have to be placed on the curve of 335<sup>th</sup> Ave. That being said Mr. Allen’s building would flood with an access to his building from the North, without a large amount of fill for this size of building.
2. A loss of property value for the surrounding home owners due to a large commercial building being added to an area that already has been affected by “loss of Lake view”. One of the home owner’s will potentially be “sandwiched” between 2 metal buildings creating No Views of the lake, nor neighbors, but metal sheds on both sides of their home. Also creating excessive heat, an environment no one would enjoy.
- 3.

Kevin LaRue, 3288 335<sup>th</sup> Avenue; Peg Kirkland, 3291 335<sup>th</sup> Avenue, Michael Sanderson, 3295 335<sup>th</sup> Avenue, Ronnie Loder, 3293 335<sup>th</sup> Avenue.

Marvin Allen was present to explain and answer any questions regarding the application. Mr. Allen has approximately \$200,000.00 worth of vehicles that he would be storing at this site. He would like to build a 40 X 60 building. Traffic will not be an issue. There is water and sewer to the property if it is needed.

Kevin LaRue, the neighbor to the west, is concerned about his view of the lake. He also has watershed and flooding concerns. There is no driveway to this property. According to Mr. LaRue the driveway would need to be built up.

Peggy Kirkland, 3291 33th Avenue, indicated that homes would be nice versus commercial type buildings like storage facilities. It would be better for Lost Island to have homes not sheds.

Following all discussion, motion by David Kaus and seconded by Marilyn White to recommend to the Board of Adjustment that they approve the special exception use permit to construct a vehicle storage building on lots 21 & 22 A Sumner Beach, Lake Township, Clay County, Iowa under the conditions that the building be placed as far back as possible on the property. All those present voted aye. Motion carried.

There being no further business, motion by Bill Gerdeman and seconded by Sharon McKeever to adjourn. All those present voted aye. Motion carried. The meeting adjourned at 10:48 AM.

---

Sharon McKeever, Secretary

The Clay County Zoning Commission meeting was called to order at 10:00 a.m. by Chairperson, Keith Kruse.

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

Motion by Marilyn White, seconded by Bill Gerdeman to approve the minutes from meeting number 283 held on December 7, 2015. All those present voted aye. Motion carried.

The time having arrived for petition 01-16 of Barry DeLoss, for a special exception use permit for a permanent mining operation located at the following parcel:

**DESCRIPTION (O<sub>1</sub>, N<sub>1</sub>, M<sub>1</sub>, L, M, N, O, P, Q, B, O<sub>1</sub>) (Parcel U):**

A Parcel of land in the East Half of Section 2, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, described as follows to wit: Commencing at the northeast corner of Section 2, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, and running from this point south 88° 05' 00" west (south 88 degrees 05 minutes 00 seconds west) along the north line of the Northeast Quarter of said Section 2 a distance of 975.22 feet to the point of beginning and running from this point of beginning south 01° 26' 10" east a distance of 1,014.25 feet; thence south 85° 04' 21" west a distance of 299.95 feet; thence south 01° 02' 12" east a distance of 712.00 feet; thence south 50° 17' 55" west a distance of 122.84 feet; thence south 87° 55' 37" west a distance of 245.90 feet; thence south 0° 02' 08" west a distance of 306.08 feet; thence south 30° 24' 56" west a distance of 985.86 feet; thence north 89° 37' 08" west a distance of 632.66 feet to the west line of the East Half of said Section 2; thence north 01° 33' 34" east along said west line a distance of 2,936.77 feet to the northwest corner of the Northeast Quarter of said Section 2; thence north 88° 05' 00" east along the north line of the Northeast Quarter of said Section 2 a distance of 1653.74 to the point of beginning. All bearings stated in this description are based on the assumption that the east line of the Northeast Quarter of said Section 2 has a bearing of north 01° 37' 50" west. The area of the above described parcel of land is 89.654 acres, which includes 1.252 acres of highway right-of-way, 33 feet in width along the north 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 on February 16, 2016. No written objections were received. Jim Lauck, a property owner to the North called and was not in favor of the project, but did not submit anything in writing.

Barry & Adam DeLoss were present to explain and answer any questions regarding the application. They hired a company who took approximately 30 borings and they hit blue clay at around 40 feet. There is roughly about 40 acres they would extract sand and gravel from and there would be a pond. Water level is about 8 to 10 feet down. This project fits into their business plans as they do a lot of site work.

Also present was Steve Pick representing Spencer Municipal Utilities. Mr. Pick stated that the wells south of the proposed property is the only primary and only source of public water supply. All the wells are in the same aquifer. He is very concerned with the water quantity and quality. SMU requested an in depth study.

Also present was Will & Danielle Johnson, 2176 260<sup>th</sup> Street, Milford, who made no comments.

Following all discussion, motion by David Kaus, seconded by Bill Gerdeman to recommend to the Board of Adjustment that they approve the special exception use permit for a permanent mining operation located in the East Half of Section 2, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa. All those present voted aye. Motion carried.

David Kaus made a motion that a unanimous ballot be cast to retain Keith Kruse as Chairperson, David Wyatt as Vice Chairperson and Sharon McKeever as Secretary. All those present voted aye. Motion carried.

There being no further business, motion by Bill Gerdeman and seconded by Marilyn White to adjourn. All those present voted aye. Motion carried. The meeting adjourned at 10:54 AM.

---

Tammy McKeever, Secretary Pro Temp

The Clay County Zoning Commission meeting was called to order at 10:03 a.m. by Chairperson, Keith Kruse.

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

Motion by David Kaus, seconded by Marilyn White to approve the minutes from meeting number 284 held on February 29, 2016. All those present voted aye. Motion carried.

The time having arrived for petition 02-16 of Flynn Company, Inc, PO Box 327, Dubuque, Iowa for a special exception use permit for a portable concrete batch plant located in the Northeast Quarter of Section 19, Township 96 North, Range 35 West of the Fifth Principal Meridian, Freeman Township, Clay County, Iowa.

The zoning administrator explained the application and reported procedures to date. All property owners within 500 feet of the property were notified and a legal was published in the Daily Reporter on March 11, 2016. No written or oral objections were received.

Matt Schmitt, representing the Flynn Company was present to answer any questions regarding the petition. The Flynn Company will be paving M-54 and B-24 in Clay County this summer. For this construction they will need to bring in a portable concrete batch. The plant will be located on approximately 4 acres and construction will take approximately 22 days. Upon completion the plant and all its equipment will be removed to the counties satisfaction and the site will be restored to preexisting conditions. They hope to star in late June but it may be pushed back until mid-July. The Flynn Company will provide dust control.

Following all discussion, motion by David Kaus and seconded by Sharon McKeever to recommend to the Board of Adjustment that they approved the special exception use permit for a portable concrete batch plant located in the Northeast Quarter of Section 19, Township 96 North, Range 35 West of the Fifth Principal Meridian, Freeman Township, Clay County, Iowa. All those present voted aye. Motion carried.

The time having arrived for petition 01-16 of Barry DeLoss, for a special exception use permit for a permanent mining operation located at the following parcel:

**DESCRIPTION (O<sub>1</sub>, N<sub>1</sub>, M<sub>1</sub>, L, M, N, O, P, Q, B, O<sub>1</sub>) (Parcel U):**

A Parcel of land in the East Half of Section 2, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, described as follows to wit: Commencing at the northeast corner of Section 2, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, and running from this point south 88° 05' 00" west (south 88 degrees 05 minutes 00 seconds west) along the north line of the Northeast Quarter of said Section 2 a distance of 975.22 feet to the point of beginning and running from this point of beginning south 01° 26' 10" east a distance of 1,014.25 feet; thence south 85° 04' 21" west a distance of 299.95 feet; thence south 01° 02' 12" east a distance of 712.00 feet; thence south 50° 17' 55" west a distance of 122.84 feet; thence south 87° 55' 37" west a distance of 245.90 feet; thence south 0° 02' 08" west a distance of 306.08 feet; thence south 30° 24' 56" west a distance of 985.86 feet; thence north 89° 37' 08" west a distance of 632.66 feet to the west line of the East Half of said Section 2; thence north 01° 33' 34" east along said west line a distance of 2,936.77 feet to the northwest corner of the Northeast Quarter of said Section 2; thence north 88° 05' 00" east along the north line of the Northeast Quarter of said Section 2 a distance of 1653.74 to the point of beginning. All bearings stated in this description are based on the assumption that the east line of the Northeast Quarter of said Section 2 has a bearing of north 01° 37' 50" west. The area of the above described parcel of land is 89.654 acres, which includes 1.252 acres of highway right-of-way, 33 feet in width along the north 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 on March 11, 2016. Written objections from the Lauck Family and the Thorne and Lina Wittstruck Family were distributed to the board.

Barry, Jodi, Jacob, Courtney & Adam DeLoss were present to explain and answer any questions regarding the application. They anticipate they will be approximately 2,500 feet from the city wells and eventually the closes they would ever get would be 1,500 feet. They have access of the gravel road to the orth. Roads would not need resurfaced. They do not plan on dewatering. They have 4 products they are looking at and they may screen some. Jacob DeLoss informed the board that they still have other permits to retain.

Present representing Spencer Municipal Utilities was Steve Pick who asked the board if they really felt that the petition met the standards of 25.5 of the Clay County Zoning Ordinance. Steve Pick also informed the Board that SMU had offered to purchase the property from Barry DeLoss at what he had paid plus expenses.

Roscoe Sopiwnik from Leggette, Brahers & Graham presented results in report form on the assessment on the potential risks associated with the proposed Deloss Sand and Gravel Mine. The objective of the assessment was to evaluate the hydrogeological conditions in the area and provide a professional opinion on the potential impacts that the proposed mine could have on the uppermost sand and gravel deposit that makes up the Ocheyedan –Little Sioux Aquifer. This aquifer supplies water to SMU's easternmost well field, which could be hydraulically connected to the portion of the aquifer that will be mined. Mr. Sopiwnik indicated several times that in his professional opinion there could be contaminations.

Julie Sievers, Iowa Department of Natural Resources, presented concerns regarding mining. 1) Dewatering causes impact 2) This would cause a change of class of wells for SMU which would mean additional treatment 3) Contaminants 4) Replacement of SMU wells. Approval of mines would impact future SMU wells. The SMU wells are high risk even without the sand and gravel mine. The DNR is concerned because when you remove sand and gravel you are removing a filter. Julie Sievers indicated she can give examples of mines that have effected public wells

Lisa Steffen of Montgomery, Barry & Bovee spoke on the behalf of the Ada Lauck Estate. The Lauck family has concerns in regards to the decrease in the value of their property, road damage, noise, dust, the changing landscape and runoff. They may build a house there in the future. The Laucks have concerns of what type of regulations and oversight of the proposed mine are in place. Mrs. Steffen indicated she agrees with Steve Pick and does not feel that the application meets the standards of the Clay County Zoning Ordinance.

Todd Lauck stated he was concerned the leaching of water would make the agricultural ground of less value.

Heather Lauck was not at the first meeting, but since has had an opportunity to talk with some people who live near gravel pits. Those people have informed her that their farm well runs dry and when the wind blows it sand blasts their house.

Linda Shoesmith shared that the Ada Lauck Estate is a 150 year farm and she has concerns about the type of operation. She also feels the board has not addressed the standards of the Clay County Zoning Ordinance.

Redge Shoesmith was concerned that the planning and zoning commission approved the petition based on setbacks and not on environmental impact. The family has always been good stewards of the land and they would have concerns with this type of operation not only for themselves but for the citizens of spencer.

Following all discussion, motion by Sharon McKeever, seconded by Bill Gerdeman to recommend to the Board of Adjustment that they approve the special exception use permit for a permanent mining operation located in the East Half of Section 2, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa.

Roll Call Vote: McKeever, Gerdeman, Kaus, Kruse voted aye. Marilyn White voted nay. 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 11:23 AM.

---

Sharon McKeever, Secretary

The Clay County Zoning Commission meeting was called to order at 10:02 a.m. by Chairperson, Keith Kruse.

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

Motion by David Kaus, seconded by Bill Gerdeman to approve the minutes from meeting number 285 held on March 22, 2016. All those present voted aye. Motion carried.

The time having arrived for petition 04-16 of Campbell Tree Service, 408 West 2<sup>nd</sup> Street, Everly, Iowa for a tree trimming and truck storage business located in the Southeast Quarter of Section Four (4), Township Ninety-six (96) North, Range Thirty-eight (38) West of the 5<sup>th</sup> P.M., Lone Tree Township, Clay County, Iowa.

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

Rocky Campbell was present to answer any questions regarding the petition. According to Mr. Campbell he has no heavy equipment for semis and no debris will be hauled back to the site. His office is in Spencer. This site will only be used for storing vehicles. He must drive through two blocks of residential before getting to his shared driveway. All the trucks have good mufflers. His crew will leave in the morning and not be back until evening. He will have no sign and no foot traffic. He has instructed his employees to always be watching for children.

Also in attendance was Lindsey Selzer, who shares a driveway with Rocky Campbell. Her concerns are about her two small children and the traffic and noise associated with a tree trimming business. After discussion between Lindsey and Rocky her concerns were addressed. Rocky stated he would be willing to maintain the road.

Following all discussion, motion by Bill Gerdeman and seconded by David Wyatt to recommend to the Board of Adjustment that they approved the special exception use permit for a tree trimming and truck storage business located in the Southeast Quarter of Section Four (4), Township Ninety-six (96) North, Range Thirty-eight (38) West of the 5<sup>th</sup> P.M., Lone Tree Township, Clay County, Iowa. All those present voted aye. Motion carried.

There being no further business, motion by David Kaus and seconded by David Wyatt to adjourn. All those present voted aye. Motion carried. The meeting adjourned at 10:23 AM.

---

Tammy McKeever, Secretary Pro Temp

The Clay County Zoning Commission meeting was called to order at 10:05 a.m. by Chairperson, Keith Kruse.

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

Motion by David Wyatt, seconded by David Kaus to approve the minutes from meeting number 286 held on May 3, 2016. All those present voted aye. Motion carried.

The time having arrived for petition 06-16 of Upland Prairie, Upland Prairie, LLC, 310 4<sup>th</sup> Street NE # 200, Charlottesville, VA 22902 for a special exception use permit to construct a 198 foot temporary meteorological test tower in Section 5 of Township 97, Range 38 West of the 5<sup>th</sup> P.M., all in 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 on May 19, 2016.

Brenna Gunderson, Apex Development Manager, was present to explain and answer any questions regarding the application. She explained that the temporary tower does not emit anything and there is no sound. This tower would strictly be utilized to collect data. The tower would remain until the project is completed which is estimated at 2018 but no longer than 7 years. The tower is gathering data for a 300 megawatt wind project. They are looking for additional sites for met towers.

Darrell & Connie Stave, property owners, were also in attendance and in favor of the project. They feel this is a good location because there is a knob on the hill and the soil is real light. This should not interfere with farming practices.

James Hartman, adjoining land owner submitted written comment which is attached to these minutes. This letter was read at the public hearing by Tammy McKeever.

Kent Kimball, who farms south of the proposed tower has no objections and indicated there is already guide wires in the area so the argument of aerial spraying should not be considered.

Bud Meyer introduced himself as a lifelong resident of Everly and assured the board that it is a myth that crop dusters will not spray around wind towers. Mr. Meyer is in support of the tower and feels it will not interfere with anything.

Zoning Commission Member explained to the Board as a pilot he did not feel the airport argument made by James Hartman was a valid argument.

Following all discussion, motion by David Kaus and seconded by Bill Gerdeman to recommend to the Board of Adjustment that they approved the special exception use permit to construct a 198 foot temporary meteorological test tower in Section 5 of Township 97, Range 38 West of the

5th P.M., all in Clay County, Iowa. Wyatt, Kaus, Gerdeman, & Kruse voted aye. Smith voted nay. Motion carried.

There being no further business, motion by Rita Smith and seconded by David Wyatt to adjourn. All those present voted aye. Motion carried. The meeting adjourned at 10:39 AM.

---

Tammy McKeever, Secretary Pro Temp