



**SCOTT COUNTY PLANNING AND ZONING COMMISSION
PUBLIC MEETING- PROPOSED ZONING AMENDMENTS**

Tuesday, October 27, 2015 AT 7:00 P.M.

Library, Neil Armstrong Elementary School
212 S Park View Drive
Eldridge, IA 52748

MEETING MINUTES

MEMBERS PRESENT: Lynn Gibson, Tony Knobbe, Carolyn Scheibe, Marsha Findlay, Gary Mehrens and Clayton Lloyd

MEMBERS ABSENT: Allen Kluever

STAFF PRESENT: Timothy Huey, Planning & Development Director
Raymond Nees, Planning Technician

- 1. Call to Order:** Chairman Lloyd called the meeting to order at 7:00 P.M.
- 2. Presentation of proposed changes to the Zoning Ordinance.** Tim Huey, Scott County Planning and Development Director, gave a presentation on the history and proposed changes of zoning in Scott County. This presentation is on file with the Scott County Planning and Development Office located at 500 West 4th Street, Davenport, Iowa.
- 3. Opportunity for Public Comment.** Chairman Lloyd announced that the Commission would hear comments from the public at this time. He asked if there were any and if so please stand and be recognized. Also state your name and address for the record.

Jessica Armstrong asked if the slides of Huey's presentation would be available on line. **Huey** explained that if anyone has questions or wants information on any of the material, including the slideshow, they may contact the Planning and Development Department and provide contact information. **Jessica Armstrong** asked for an explanation of benefits of the change, and said that it seems the decision making will be the Planning Commission and not go through the Board of Adjustment. **Huey** then explained that currently, a request to approve an industrial project in an area already rezoned Heavy Manufacturing District (M) would have to go to the Board of Adjustment. Most requests would have to do that in the unincorporated area of the County because there are few areas already zoned for Industrial uses. The Board of Adjustment doesn't have a lot of requests for this because most Industrial zones are already in the cities. In rural Scott County, once a property is rezoned to Heavy Manufacturing (M), the petitioner would have to apply for a Special Use Permit because the uses allowed in the M district require a Special Use Permit. This is where the Board of Adjustment would require much more information. **Jessica Armstrong** asked if Orascom happened now, what would change under the proposed changes. **Clayton** said that if the Board of Supervisors had approved the rezoning, then Orascom would have needed to request a Special Use and that is when they would have required much more information. This decision would have been final, and it would have been made by a board of people appointed to their positions. Under the proposed amendments, Scott County would be able to require much more information up front and the final decision would be made by the Board of Supervisors, people who are elected.

Cyndi Diercks said that when this came up before, their concern was for the proposed “objective 6” (to be considered as an amendment to the policies in the County’s Comprehensive Plan), and they haven’t seen objective 6 referenced since that 2nd meeting. Objective 6 removed the rights of citizens to take legal action against officials who approve this stuff. Why are we changing it? We are spending “hundreds of thousands of dollars, maybe millions”, to change objective 6 to remove citizen’s rights. She stated that she works construction and there are always ways to work around the site plans that get approved. There are always changes- so approving a site plan before making the decisions doesn’t do any good. She requested to know what happened to objective 6 and how it would take away citizen’s rights? **Lloyd** stated that he didn’t know where she was getting her idea of that large amount of money being spent on considering the proposed changes. As far as Objective 6, he didn’t recall the words but asked Huey to show the changes to the objectives being proposed. **Huey** placed the slide on the screen and read out loud the proposed language. **Diercks** said that it used to say citizens can sue and now it doesn’t say that. **Lloyd** said we just viewed the only change being considered in the language of that section and that we were unaware of what she is referring to.

Becky Armstrong asked what the policies are on objective 6 and if the Chairman had seen objective 6? **Lloyd** stated they have been involved in the process all along. There is nothing taking away a citizen’s right to sue. It would represent a change in the County’s adopted policies and would fundamentally be a change in procedures for the consideration of these types of proposals.

Jessica Armstrong stated we should keep the existing process but require more information from companies like Orascom up front. This way the opposition can group together and oppose the companies. Making this change means that we lose a round to oppose them because it sounds like the Planning Commission makes the final decision. **Lloyd** explained that under the proposed changes, a petitioner would come in and would have to provide a lot of information. The request to rezone would be heard in front of the Planning Commission who would make a recommendation to the Board of Supervisors. The Board of Supervisors would have another public hearing to make the final decision. The 1st step would require more information to be able to base the recommendation on, and the 2nd step would be the Board of Supervisors making the final decision. The way it is now, the Board of Adjustment makes the final decision. So, under the current procedures, the final decision would be made by appointed citizens. Under the proposed changes, the final decision would be made by elected officials.

Margo Effland stated that elected officials are against the protection of the rural areas. She was sure that, if the Board of Adjustment had voted on Orascom, they would have approved it. There were so many lawyers fighting that she didn’t think they would have come here anyway. She stated she was not a “diehard- never take away farm ground- type of person”, but if the Board of Supervisors had voted she was sure they would have approved it. She believed Orascom was not worth the 150 jobs. She continued: When we went through that process, I lost confidence in my County, and I never cared before. I never bothered to pay attention to who was on the Board of Supervisors, but I lost confidence in my county and I sure watch now. I think the County views this as a learning experience and they want to bypass us and we have the most to learn by looking at this. **Scheibe** stated that the county learned that they really needed more information for a decision to be made. There would be more information so we would have more to consider, unlike Orascom, which wasn’t required to provide much information for a rezoning and didn’t provide much voluntarily. She agreed Orascom was not a good project and she had voted against it. She said that changing the ordinance will provide an opportunity to require more information in the beginning to make good and informed decisions.

Tony Knobbe stated that Orascom was an anomaly as most businesses only look at developed sites. For us to create this proposed Industrial Floating Zone district may increase the chance of a business coming only slightly. He commented that maybe we should take all of the Ag-Preservation area and sit down with the

public, the Board of Supervisors and the Planning Commission and look at the types of impacts such as more traffic or obstruction of views. Then we could see if we can reasonably find a consensus on what we can accept and what types of businesses. Maybe we would say no fertilizer plants but he added that he lives ½ mile from a Deere facility he thought he'd say yes to another. If that comes along, let's be able to say yes. Let's reasonably say what we'd accept. He continued: I grew up on farms, I love farming more than anything. I also know that most farms in this area were partly paid for by good jobs like those at Deere, Alcoa, Caterpillar and others. Today, we understand the fear created by Orascom and that we don't want that to happen again, but we do want to be able to have the option to look at other opportunities.

Tammy Petsche, Quad Cities Chamber of Commerce stated that she lives in DeWitt and she works for the Chamber on economic development projects. Most projects are going in on 10 to 40 acres within the cities but the possible zoning ordinance revision would be for those instances when we are looking at something bigger, something that is too big for the city locations that are available. With this we could be able to have that consideration and have companies look at our area because we have this opportunity.

Patricia Bare said (addressing Petsche) that the Chamber held an introductory meeting with Orascom, and we went there expecting to get information and see some hard numbers. All we got were coffee and cookies. We came away not really very trusting because it was nothing but a "dog and pony show". If you set this up, we want a Question and Answer session up front. Now, the industrial park in Mt. Joy is a nifty place served by rail, but I've never seen a train on the new tracks. Who does it serve if there aren't any trains? It worries me because these things are presented one way when they're really another way. **Lloyd** asked about the rail and if there were any users. **Huey** stated that Davenport had recently completed the development of a trainload facility in the industrial park where containers would be transferred to or from trains and the containers would be trucked to or from QC sites, however, there aren't any trains right now. **Patricia Bare** said she was at a meeting where it was said that Mayor Gluba dropped the ball and nobody uses the rail system there. **Huey** stated that, for a variety of reasons, rail in Eldridge is not connected to the spur going to the Industrial park, but it should be connected soon.

Royce Bare asked if Ag land can be made an Ag Preservation area. **Huey** stated that it can but that the 13 Ag Preservation Areas in Scott County were all established more than twenty years ago, prior to Huey's arrival. Ag Preservation Areas and Ag Preservation Zoning are two different things that just have similar terminology.

Royce Bare asked if a citizen has created an Ag Preservation Area, can the Board of Supervisors overrule that. **Huey** responded that that is a legal question and would require a legal determination by the County Attorney.

Lloyd asked Huey if he had any experience with the Ag Preservation Areas. **Huey** explained that his only experience was an instance when owners voluntarily removed the Ag Preservation Area Designation from their property.

Royce Bare asked if a citizen has created an Ag Preservation Area, can the Board of Supervisors overrule that. **Huey** responded that it is his understanding that no, the Board of Supervisors can't override that, but that is only his understanding and it should not be interpreted as a legal determination.

Lloyd said that another point is that where we are asked to consider changing the zoning to allow industrial uses, whether it is an Ag Preservation area or not, it has to be done voluntarily by or with the consent of the owners of the property.

Royce Bare stated that you think you're safe from industrial places moving in next to you. It may not be your neighbors that you know, but it might change when someone retires or passes away and their heirs will try to bring in companies. If we do this, people will learn that Scott County is open for business and real estate agents will market it that way. Bare expressed concern about spot zoning, if the County would approve an Industrial Floating Zone separate from other such districts or uses. Now if there are numerous re-zonings around the county- and if it is marketed this way it will happen- how can we live with that over our heads? How do you plan for improvements? You do hundreds of thousands of dollars in improvements to your place and the next day the Ag Preservation Area next to you is gone and industry is coming in. Orascom was terrible, Deere is responsible but you can't do spot zoning all over the county. You said (addressing **Knobbe**) that if you are proud of the agricultural land we have here, how can you approve a change in the ordinance such as this? **Knobbe** responded that he has his concerns. Reduced property values would be a concern. Has Deere reduced his property values? He doesn't think they have. **Bare** stated that he worked for Deere and if you look along Jersey Ridge Road, he doesn't think Deere has hurt property values either. Why can't we have a referendum on a proposed zoning district change and let the people vote on it. Members of the Board of Supervisors do not live in the rural areas. They want jobs and money no matter what, so we should let the people vote on it through a referendum.

Becky Armstrong stated that with the non-disclosures, people will market their properties and we won't know who bought them because of the non-disclosers they have. No one will have opposition if we don't know who the land was sold to, so how do we plan around that? **Lloyd** replied that the proposed changes cannot control ownership. The key is to find out what a project is and what impacts it will have- both positive and negative. I agree that the lack of information from Orascom created mistrust, but we cannot look primarily at who is doing a project. We have to look at what the appropriate conditions are for an area and decide if we feel a proposed project meets that. We may not know who the ultimate developer or operator may be, but the key is what is being proposed.

Royce Bare asked the Commission to find out if the Board of Supervisors can remove an Ag Preservation Area designation and not change zoning. Is spot zoning legal in Iowa? Because that's what this is. **Lloyd** tasked Tim Huey to find out, on behalf of the Commission, from the Scott County Attorney's Office if an Ag Preservation Area designation can be removed by the Board of Supervisors without the owner's consent. **Huey** explained that, in effect, all zoning is spot zoning because zoned areas stop at some point and become another zoning district. The concern with spot zoning becoming illegal arises where it isn't done in keeping with a land use plan or if a plan does not differentiate why a zoning would or would not fit into an area.

Royce Bare stated that in this instance, the difference between Ag and Industrial is so different that it would be spot zoning. **Lloyd** asked **Royce Bare** if he would consider the Deere plant to have been spot zoning. **Royce Bare** stated that this is why we need a referendum. **Lloyd** stated that spot zoning is a judgement call and is an emotionally charged term.

Jessica Armstrong said that the industrial park by I-80 is advertised as inside the city limits of Davenport but 70 acres is outside the city limits. Davenport is moving forward with advertising that this is part of the Eastern Iowa Industrial Center. (EIIC) She questioned how they put a price on property? What incentive is there to use that property instead of finding a cheaper property out in the county? **Huey** stated that prices are set by the free market. **Gibson** said that most businesses want to be in a city industrial park due to the availability of services like fiber, rail, water, sewer, roads, etc. From the city's perspective, we want them there. When negotiating with a developer, prices jump if the city must run fiber, water, sewer roads etc. The first goal in the city is that the developers want a property they can use at a cheap price and that means a property that already has fiber, water, sewer and other services.

Knobbe said the Greater Davenport Redevelopment Corporation (GDRC) has around 180 acres available but it is already subdivided into smaller parcels. He asked **Huey** what the largest parcel would be—70-80 acres? **Huey** replied that they have a 70-acre parcel and an 80-acre parcel together.

Knobbe said that the proposed changes would allow consideration of something more the size of IPSCO in Muscatine County. **Royce Bare** asked if that project had ruined everyone's well?

Margo Effland said Ralph Kay owned most of the land which has become the EIIC but it was acquired under threat of eminent domain. Kay he took it to court and got a higher price after being offered a lower price.

Royce Bare said Objective 6 takes away citizen's rights to sue and makes it harder to win a case against spot zoning. **Lloyd** stated that it was a change in policy and it doesn't take away people's rights to sue. **Royce Bare** said it may weaken our rights then.

Royce Bare asked who is drawing up these proposed changes. **Lloyd** responded that it was true that the Board of Supervisors wanted changes to improve how the County can consider larger projects, and the Planning Commission is considering advancing this possible approach.

Royce Bare said that if the Board of Supervisors wants this and it goes, then Ag-Preservation is gone and this is all a sham. **Lloyd** responded that it is a policy judgement that we are considering to make a recommendation to the Board of Supervisors.

Royce Bare stated that he is asking the Board not do that.

Diercks stated that she seconded that.

Knobbe stated that they hadn't heard much from the citizens of Park View and asked if there was anyone who would like to speak on the changes related to the Park View area? An un-named person responded that they were just observing.

Lloyd asked if there were any other comments. **Huey** stated that the plat for the Mt. Carmel subdivision resubmittal was going to be on the agenda for November 17th. It is for the same property but a very different proposal than the first submittal.

Huey informed everyone the next public meeting will be at Cody School in Le Claire on November 3rd and invited all to attend.

With no further public comments and no other business to discuss, Knobbe made a motion to adjourn the meeting. Seconded by Scheibe. All Ayes. (6-0) Chairman Lloyd adjourned the meeting at 8:41 P.M.