



**SCOTT COUNTY
PLANNING AND ZONING COMMISSION
Tuesday, March 21, 2023
5:30 P.M.**

MEETING MINUTES

1st Floor Board Room
600 West 4th Street
Davenport, IA 52801

MEMBERS PRESENT: Steve Piatak, Lori Rochau, Carolyn Scheibe, Hans Schnekloth, Kurt Steward

MEMBERS ABSENT: Easton Armstrong, Joan Maxwell

STAFF PRESENT: Chris Mathias, Planning & Development Director
Alan Silas, Planning & Development Specialist

OTHERS PRESENT: Rily and Ardita Grunwald, applicants
Seven (7) members of the public

1. **Call to Order:** Chair Scheibe called the meeting to order at 5:30 P.M.
2. **Election of 2023 Officers:** Piatak nominated Scheibe for 2023 Chair. Vote: All Ayes (5-0)
Rochau nominated Piatak for 2023 Vice Chair. Vote: All Ayes (5-0)
3. **Minutes:** Consideration of December 20, 2022 meeting minutes. Piatak made a motion to approve. Seconded by Steward. Vote: All Ayes (5-0)
4. **Minutes:** Consideration of Joint Meeting (January 17, 2023) minutes. Schnekloth made a motion to approve. Seconded by Steward. Vote: All Ayes (5-0)
5. **Public Hearing, Ordinance Text Amendment:** Mathias began by acknowledging that the applicants' specific proposal including location was featured in an article in the *North Scott Press*, but that this text amendment would affect all Conservation-Recreation (C-R) zoned land in general and that site-specific analysis needed to be set aside for the time being.

Mathias then detailed what the applicants were proposing and what staff was willing to recommend approval of. Two amendments were proposed by the applicant: the first to add a definition for "Snow Tubing Facility" in the Definitions section of the Ordinance; the second to add

“Snow Tubing Facility” to the (currently empty) list of Special Permitted Uses in the C-R District regulations.

The definition for “Snow Tubing Facility” proposed by the applicants would read, “A private park facility generally used for the recreational activity of sliding downhill over snow on a large inflated inner tube. Private snow tubing operations shall take advantage of natural topography, with minimal grading to provide appropriate slopes. Snow tubing operations may include: mechanical uphill surface-type person transportation system; a building to house pumps, snow-making and maintenance equipment and inner tube storage; a warming area with restrooms and concessions; a scale-appropriate parking lot; and water detention lake. Most snow tubing operations shall require approval from the Iowa Department of Natural Resources prior to construction and operation.”

Mathias said staff recommended approval of the addition of the definition for “Snow Tubing Facility” to the Definitions section of the Ordinance with the following modifications:

“Private snow tubing operations shall take advantage of natural topography, with minimal grading to provide appropriate slopes.” **Mathias** said staff recommends revising to read, “Private snow tubing operations shall take advantage of natural topography to provide appropriate slopes and shall not require significant grading.” Since the spirit and intent of the C-R district is to utilize and enjoy natural areas by leaving them in a mostly natural state, Staff feels “shall not require significant grading” is more appropriate and may be interpreted as more restrictive than “with minimal grading.” “Shall” is usually interpreted as obligatory or mandatory.

“...mechanical uphill surface-type person transportation system...” **Mathias** said staff recommends changing this to “...mechanical uphill surface transportation utilizing an uphill tow style or conveyor style system” The key word here is surface as the lift will not be in the air but will use the ground surface for support. Users of the lift will be on the ground being towed up the hill in a tube, or they will be standing on a conveyor holding a tube.

“...a warming area...” **Mathias** said staff recommends adding the definition of “Snow Tube Facility Concession/Warming Area” as detailed later.

“...a scale-appropriate parking lot...” **Mathias** said the parking lot should be as small as possible to accommodate the use and the lot should not be of a hard surface to be more compatible with sensitive environmental areas. ADA requirements may affect the hard surface requirement.

Along with these revisions, **Mathias** said staff recommends the addition of the definition of “Snow Tube Facility Concession/Warming Area” to the Definitions section of the ordinance, be added as follows:

“An enclosed building, limited to 720 square feet, containing restroom facilities, a warming area limited to space for changing clothes or preparation for snow tubing, and a concession area limited to the sale of pre-prepared foods with no food preparation that requires an oven, hood or grease trap.”

Chair Scheibe welcomed the applicants to respond.

Rily Grunwald said they were comfortable with the edits staff recommends, with the exception of the 720 square foot limitation for the Snow Tube Facility Concession/Warming Area. **Ardita Grunwald** said they felt it would be better to evaluate and approve building size when the site plan is reviewed during the Special Use Permit process. **Both** said they would rather not have to go through another text amendment process if the business succeeds and they want or need to expand to a size that's greater than 720 square feet.

Chair Scheibe opened the public hearing.

Larry Matzen (24689 Scott Park Road) spoke in favor of the request and agreed that the 720 square foot limitation should be removed.

Chair Scheibe asked whether staff had anything additional to add before the Commission began a discussion. **Mathias** reiterated that staff recommended a limitation of 720 square feet for the Snow Tube Facility Concession/Warming Area.

Piatak asked if the Snow Tubing Facility were to be successful, and they want to continue to expand and eventually have a restaurant, event center, or other similar use, what part of the zoning process would they need to undergo to get approval? **Mathias** said a restaurant, event center, or any other use would need to undergo the same text amendment procedure the applicants are doing now for the Snow Tubing Facility: each new use would need to be amended into the Special Permitted Use section for the C-R zoning district.

Piatak, Rily Grunwald, and **Mathias** had an exchange about the relative size of 720 square feet and what could practically fit within that space. **Ardita Grunwald** reiterated that they did not want to have a specific threshold for square footage. **Chair Scheibe** responded that she wanted a specific square footage limitation. **Chair Scheibe, Schnekloth,** and the **applicants** had an exchange over how much indoor space is really needed for an outdoor-focused land use like snow tubing.

Piatak asked the applicants for an exact size of Snow Tube Facility Concession/Warming Area they'd like to build. **Rily Grunwald** estimated 3,000 square feet. **Mathias** said staff would not recommend approval of a Snow Tube Facility Concession/Warming Area that large.

Chair Scheibe suggested a limitation of 1,200 square feet, which **Mathias** said staff would recommend approval of.

Schnekloth said he was supportive of the idea but didn't feel like much indoor space was required to have a successful Snow Tubing Facility. **Rochau** disagreed, saying as a grandparent, she would need an indoor space to supervise her grandkids. **Piatak** said he was supportive of a 1,200 square foot limitation, but could envision some of the property eventually being commercial in nature and requiring rezoning if they continue to expand.

Schnekloth made a motion to recommend approval of the text amendment to add "Snow Tubing Facility" to the list of definitions in accordance with staff's recommendation. Seconded by Rochau. Vote: 5-0, All Ayes

Piatak made a motion to recommend approval of the text amendment to add "Snow Tubing Facility Concession/Warming Area" to the list of definitions in accordance with staff's

recommendation, but with a square footage limitation of 1,200 square feet. Seconded by Schnekloth. Vote: 5-0, All Ayes

Rochau made a motion to recommend approval of the text amendment to add “Snow Tubing Facility” to the list of Special Permitted Uses in the Conservation-Recreation (C-R) Zoning District in accordance with staff’s recommendation. Seconded by Steward. Vote: 5-0, All Ayes

6. **Discussion, Ordinance Text Amendment:** The Commission agreed with staff’s proposal to double the minimum allowable lot size in the Single-Family Residential (R-1) Zoning District, which would result in a new minimum lot size of 60,000 square feet. The Commission directed staff to schedule a public hearing at an upcoming meeting.

While not a public hearing, **Chair Scheibe** welcomed the public to respond. No members of the public spoke for or against the proposal.

7. **Discussion, Ordinance Text Amendment:** The Commission mostly agreed with staff’s proposals on Accessory Dwelling Units, and directed staff to revisit the recommendation for the size limitations for detached units. As proposed by staff, detached Accessory Dwelling Units may not exceed the total habitable ground floor area of the principal dwelling – The Commission proposed that detached Accessory Dwelling Units may not exceed a certain percentage of the total ground floor habitable area of the principal dwelling. The Commission directed staff to schedule a public hearing at an upcoming meeting.

While not a public hearing, **Chair Scheibe** welcomed the public to respond.

Jill Grunwald (409 South Schultz Drive, Long Grove) asked whether an existing primary dwelling could become an accessory dwelling unit, which would allow the property owner to build a larger dwelling unit to become the new primary dwelling. **Mathias** said, as currently proposed, that would be permitted.

Matzen said he owned a 2-story home, so the square footage limitation for the accessory dwelling units being based on ground floor square footage didn’t reflect the size of his house.

8. **Discussion, Ordinance Text Amendment:** The Commission directed staff to draft ordinance text for hazardous liquid pipelines and pipelines that carry carbon dioxide.

While not a public hearing, **Chair Scheibe** welcomed the public to respond.

Mary Kay Pence (20642 270th Street), Eileen Dexter (14510 250th Street), and Brian Klever (512 West Mulberry Lane, Long Grove), all expressed concerns over the pipeline route proposed by Wolf Carbon Solutions, as well as the nature of the pipeline itself.

9. **Adjournment:** With no further business to discuss, **Chair Scheibe** adjourned the meeting at 6:59 P.M.



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STAFF REPORT

April 18, 2023



- Applicant:** Rily and Ardita Grunwald (deed holder Dale Grunwald)
- Request:** Rezone 55.7 acres, more or less, from Agricultural-Preservation (A-P) to Conservation-Recreation (C-R)
- Legal Description:** Part of the W ½ of the SW ¼ of Section 6 in Princeton Township
PINs: 950649003, 950633001
- General Location:** East-adjacent to Lost Grove Lake State Park along 240th Avenue (Z30)
- Existing Zoning:** Agricultural-Preservation (A-P)
- Surrounding Zoning:**
- North:** Agricultural-Preservation (A-P)
 - South:** Agricultural-Preservation (A-P)
 - East:** Agricultural-Preservation (A-P)
 - West:** Agricultural-Preservation (A-P)

GENERAL COMMENTS: This request is to rezone 55.7 acres, more or less, from Agricultural-Preservation (A-P) to Conservation-Recreation (C-R). The applicants intend to establish a Snow Tubing Facility on the site, which is a pending Special Permitted Use in the C-R district. The Planning and Zoning Commission voted (5-0) to recommend approval of ordinance text amendments to add a definition of “Snow Tubing Facility” and to add it to the list of Special Permitted Uses in the C-R district at its March 21, 2023 meeting. The Commission’s recommendation will be before the Board of Supervisors for its consideration at its April 27, 2023 meeting.

If the Commission were to favorably recommend and the Board of Supervisors were to approve a rezoning to C-R, the applicants still would not be able to initiate construction of the Snow Tubing Facility. Since the Snow Tubing Facility would be considered a *Special* Permitted Use rather than a Principal Permitted Use, a site plan would first need to be approved by the Zoning Board of Adjustment.

- In the case where the Board of Supervisors does not approve the ordinance text amendments to add a definition of “Snow Tubing Facility” and to add it to the list of Special Permitted Uses in the C-R district, the applicants will not apply to bring the Commission’s recommendation on the rezoning to the Board of Supervisors.
- In the case where the Board of Supervisors approves the rezoning to C-R but the Zoning Board of Adjustment does not approve a site plan for the Snow Tubing Facility, the property would remain zoned C-R, which would greatly limit the permitted land uses. However, it’s important to note that an agricultural-exempt



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farmer could use this land for agricultural uses.

STAFF REVIEW: Staff has reviewed this request for its adherence to the Scott County Zoning Ordinance and to the Scott County Land Use Policies. Any proposed changes in zoning in the rural unincorporated area of the county should comply with a preponderance of the applicable Scott County Land Use Policies:

Is the development in compliance with the adopted Future Land Use Map?

The area to be rezoned is shown on the Future Land Use Map (FLUM) as remaining A-P. That being said, the General Intent of the C-R district as adopted in the Zoning Ordinance is as follows:

The Conservation-Recreation District is intended and designed to provide opportunities for residents and visitors to enjoy the natural resources and environmentally-sensitive areas in the County. The standards are intended to define and conserve selected natural resource areas by either minimizing impact to them or allowing for responsible recreational uses within them.

From its conception, staff has considered the C-R district very much parallel to and compatible with the environmental preservation goals of the County, and therefore views the proposed development as in compliance with the FLUM.

The rezoning request meets a preponderance of this criteria.

Is the development on marginal or poor agricultural land?

The subject property has CSR2 ratings ranging from 8 to 87, and steep topography with elevations ranging from 740 feet to 665 feet. The average CSR2 rating for PIN 950633001 (38.65 acres, more or less) is 34.71. The average CSR2 rating for PIN 950649003 (17.05 acres, more or less) is 43.46. Scott County has traditionally considered CSR2 ratings of 60 and above as “prime agricultural land.”

The rezoning request meets this criteria.

Does the proposed development have access to adequately-constructed, paved roads?

The area to be rezoned has frontage along 240th Avenue, an adequately-constructed, paved County road. The County Secondary Roads Department did not have any comments or concerns regarding the proposal.

The rezoning request meets this criteria.



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Does the proposed development have adequate provision for public or private sewer and water services?

The property is not currently served by public sewer or public water. Any further development must comply with State and County health regulations for on-site wastewater treatment. The County Health Department did not have any comments or concerns regarding the proposal at this point.

A Snow Tubing Facility would create a unique challenge for water services since snow-making would be an integral part of operations. Before bringing any proposals forward on the Snow Tubing Facility, staff was in contact with the Iowa Department of Natural Resources (DNR) to evaluate whether the applicants would be able to utilize the surface water source(s) available. The DNR seemed open to approving a detention lake that would be created by damming the tributary to Lost Creek located on the property.

The rezoning request meets this criteria.

Is the area near existing employment centers, commercial areas and does not encourage urban sprawl?

Staff always envisioned private park uses within C-R districts as being near existing conservation-recreation areas like public parks and other natural areas, not near existing employment centers or commercial areas. The subject property is immediately adjacent to Lost Grove Lake State Park, which is the ideal location for a private park use.

The rezoning request meets this criteria.

Is the proposed development located where it is least disruptive to existing agricultural activities?

The intent of the Scott County land use policies is not only to limit or prevent the conversion of prime agricultural land for development, but also to prevent the incursion of non-farming neighbors into agricultural areas. The area to be rezoned is heavily surrounded by agricultural uses, but is also immediately adjacent to Lost Grove Lake State Park. When viewed as an extension of the adjacent park use, the proposal is less disruptive to existing agricultural activities than a location without an adjacent park use.

The rezoning request meets a preponderance of this criteria.



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Does the area have stable environmental resources?

The area to be rezoned has two primary bluffs at the northern and southern boundaries with two drainage ways that meet and join Lost Creek on another property approximately 900 feet to the southeast. Elevations on the property range from 740 feet to 665 feet, with slopes ranging from 2% to 18% and either “eroded” or “severely eroded” status according to the Web Soil Survey data from the Natural Resources Conservation Service (NRCS). The area is currently farmed with row crops, which may destabilize the soils on the site to a greater extent than a private park use would over time.

The rezoning request meets this criteria.

Is the proposed development sufficiently buffered from other less intensive land uses?

The area to be rezoned is immediately adjacent to a public park land use and surrounded by agricultural land uses. Buffering requirements will likely be part of any Special Use Permit review and approval by the Zoning Board of Adjustment.

The rezoning request meets a preponderance of this criteria.

Is there a recognized need for such development?

Chapter 2 of the Scott County Comprehensive Plan includes “Parks, Open Space, and Conservation Area Objectives” that direct County planning efforts to “ensure that existing and future parks, open space, and conservation areas are meeting the needs of the residents and offer opportunities for visitors to the County.” The Commission and Board of Supervisors advanced that objective by creating the C-R district, and it is clear the private sector sees a demand for private park uses within the County and is responding by attempting to amend the ordinance text and zoning map.

The rezoning request meets this criteria.

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Staff has mailed notification to the adjacent property owners within five hundred feet (500') of this property of this hearing. A sign has also been placed on the property stating the date and time this request would be heard by the Planning and Zoning Commission. Staff has received comment from one member of the public who is opposed to the rezoning, and intends to attend the public hearing.

Staff has also notified the County Secondary Roads Department, County Health Department, Bi-State Regional Commission, and the local NRCS for review and



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comment. The Secondary Roads Department, Health Department, and local NRCS did not have any comments or concerns. Staff expects Bi-State Regional Commission to provide a review, which will be provided to Commission members before or at the hearing.

RECOMMENDATION: Staff recommends that the rezoning of 55.7 acres of this property from Agricultural-Preservation (A-P) to Conservation-Recreation (C-R) be approved based on its compliance with a preponderance of the criteria of the Revised Land Use Policies.

Submitted by:
Alan Silas, Planning & Development Specialist
April 14, 2023



PLANNING & ZONING COMMISSION

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April 18, 2023



- Applicant:** Steve and Lisa Zelle (DBA Legacy Development)
- Request:** Preliminary plat approval for a major subdivision known as Olathea Overlook
- Legal Description:** Lot 4 of the Amended Final Plat of Great River Hills, an addition to Scott County, Iowa, being part of the SW $\frac{1}{4}$ of the fractional Section 14 and part of the SE $\frac{1}{4}$ of Section 15, all in LeClaire Township.
PIN: 951555002
- General Location:** Approximately $\frac{1}{4}$ mile West of Great River Road, South-adjacent to Faulhaber's First Addition along 277th Avenue, part of the former Olathea Golf Course
- Existing Zoning:** Single-Family Residential (R-1)
- Surrounding Zoning:**
- North:** Single-Family Residential (R-1)
 - South:** Single-Family Residential (R-1), Agricultural-General (A-G)
 - East:** Single-Family Residential (R-1)
 - West:** Agricultural-General (A-G), Agricultural-Preservation (A-P)

GENERAL COMMENTS: This request is for approval of a Preliminary Plat to subdivide an existing 39-acre parcel, more or less, into six (6) new lots. The subdivision, which would be known as Olathea Overlook, would have frontage along 277th Avenue and would be adjacent to several existing residential subdivisions including Faulhaber's First Addition, Mt. Carmel Addition, and Woods & Meadows. The current proposed plat features a short cul-de-sac from 277th Avenue for access to the development lots, which range in size from 1.65 to 12.02 acres. The plat also includes a 2.97-acre outlot (Outlot Z), which would contain about half of the length of the cul-de-sac at the subdivision entrance as well as components of the proposed storm water management system.

The Planning & Zoning Commission reviewed and approved a Sketch Plan for the development in February 2021, which was known as The Overlook at the time. The conditions of approval of the Sketch Plan are detailed in the Staff Review section.

STAFF REVIEW: Staff has reviewed this request for compliance with the requirements of the Subdivision Regulations and Zoning Ordinances. The Subdivision Regulations define a major plat as any subdivision not classified as a minor plat, including but not limited to subdivisions of five (5) or more lots, or any size plat requiring any new street or extension of public facilities, or the creation of any public improvements. For major plats,



approval of a preliminary plat is required prior to any final plat submittal. Following a recommendation by the Planning Commission, the Preliminary Plat must be approved by the Board of Supervisors prior to the preparation of a final plat.

Zoning, Land Use, and Lot Layout

The proposed configuration of the 39-acre tract creates six (6) development lots and one (1) outlot, each with the development right for one (1) single-family dwelling. Half of the lots would be less than 3.0 acres in size (1.65, 1.80, 2.49) and the other half would be significantly larger at 8.97, 9.39, and 12.02 acres.

Common Open Space

A major subdivision of this proposed density does not require common open space, but a 2.97-acre lot (Outlot Z) at the entrance would feature a portion of the roadway, components of the proposed storm water management system, and green space.

Access and Roadway Improvements

The right-of-way widths prescribed in the Subdivision Regulations for local residential streets require that a typical section include a minimum of 50 feet of right-of-way. Olathea Overlook would provide 22 feet for the roadway itself, 2 feet on either side of the roadway for granular shoulders, and 12 feet on either side of the granular shoulders for drainage ditches, resulting in a 50-foot right-of-way. The County Engineer has reviewed the roadway construction plans for compliance.

The plat also includes a platted access easement to Lot 3 of Great River Hills Amended Final Plat to the east of the development (deed holder Susan K. Leander Revocable Trust) with room for an 11-foot driveway, which fulfills a perpetual access agreement to provide access to that property. The platted easement would be located along the northern boundaries of Lots 2 and 3. Given the topography of the easement location, staff required that a 10-foot grading easement be platted along the southern edge of the access easement so that future owners of proposed Lots 2 and 3 are conscious of the grading that may need to take place if the driveway were graded and paved or graveled. Zoning staff would measure required setbacks from the southern edge of the grading easement instead of the access easement or property line.

Protection of Natural Vegetation Cover

Whenever a wooded site is to be developed, no more than fifteen percent (15%) of the naturally occurring canopy-tree cover shall be removed due to surface earth grading, roadway construction, building site clearance, or any other construction activity associated with subdivision site improvement. While the site contains some wooded areas in the lower elevations along the southern and eastern boundaries, as well as near the subdivision entrance, less than 15% will be impacted since the majority of the site is fallow former agricultural land or part of the former golf course.



Storm Water Management

The proposed Preliminary Plat would manage storm water by utilizing a drainage easement with the owners of an adjacent subdivision, Faulhaber's First Addition, to divert storm and surface water to an existing detention basin. A copy of the drainage easement (labeled Permanent Ingress-Egress Easement and Maintenance Agreement) has been reviewed and entered into the record.

Erosion and Sediment Control Plan

Erosion and Sediment Control Plans are not expected at Preliminary Plat stage, but will be forwarded to the County Engineer for review and comment at Final Plat.

Water

Each lot will be served by a private well. The County Health Department did not submit any comments or concerns with this Preliminary Plat.

Wastewater disposal systems

Subdivisions containing less than forty (40) lots may install individual on-site systems that meet County Health Department regulations, which is the intention for this development. The Health Department did not submit any comments or concerns with this Preliminary Plat.

City of Princeton Review

This property is within two miles of the Princeton city limits. Therefore, review and approval of the Final Plat by the City of Princeton is required. At this time, staff has notified the City of the Preliminary Plat submittal. The City has had no comments at this time, and their consent/approval is not required until the Final Plat stage.

Approval Conditions of the Sketch Plan

The Planning & Zoning Commission reviewed and approved a Sketch Plan for the development in February 2021, which was known as The Overlook at the time. The approval was contingent on six (6) conditions:

1. The private covenants include provisions for the ownership and maintenance of the proposed outlet;
Final private covenants must be submitted at Final Plat approval, so this will remain a condition of approval.
2. The private covenants include provision for road maintenance of the shared private road;
Final private covenants must be submitted at Final Plat approval, so this will remain a condition of approval.



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3. That the easement for the shared driveway serving Lots 3 & 4 be a minimum of a 40 feet wide road easement with a 10 feet wide utility and drainage easement adjacent to one side of the road easement
The shared driveway for Lots 3 & 4 has been removed, so this condition is no longer relevant.
4. The private covenants include provisions for the use and maintenance of the proposed shared driveway;
The shared driveway for Lots 3 & 4 has been removed, so this condition is no longer relevant.
5. The private covenants include provisions that no additional subdivision of these lots be permitted; and
Final private covenants must be submitted at Final Plat approval, so this will remain a condition of approval.
6. The County Engineer review and approve all street construction plans, drainage plans, and erosion control plans prior to construction.
This will remain a condition of approval.

Others Notified

The Subdivision Ordinance requires additional notification of the following County Departments and local entities: Assessor, Auditor, Bi-State Regional Planning Commission, and District Soil Conservationist Staff. None of those entities submitted comments or concerns on the proposal as of this time.

Staff also notified adjacent property owners within five hundred feet (500') of the public hearing before the Planning Commission. No comments have been received as of yet.

RECOMMENDATION: Staff recommends that the Preliminary Plat of Olathea Overlook be approved with the following conditions:

1. The private covenants include provisions for the ownership and maintenance of the proposed outlot;
2. The private covenants include provision for road maintenance of the shared private road;
3. The private covenants include provisions that no additional subdivision of these lots be permitted;
4. The County Engineer review and approve all final street construction plans prior to construction; and
5. The subdivision infrastructure improvements be completed or a surety bond posted prior to Final Plat approval.

Submitted by:
Alan Silas, Planning & Development Specialist
April 14, 2023



Planning & Development
Scott County, Iowa

Chris Mathias, Director

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Administrative Center
600 West Fourth Street
Davenport, Iowa 52801-1106

April 12, 2023

To: Planning & Zoning Commission
From: Chris Mathias, Planning Director
Re: Minimum Lot Size

Based on the Planning & Zoning Commission’s direction, Staff are proposing the following text amendments to change the minimum lot size for the A-P, A-G and R-1 zoning districts. As you can see below, these changes will amend the tables in Sections in sections 6-9, 6-10 and 6-12. The minimum lot size would stay at 30,000 square feet for subdivisions that do not require on-site water and sewage systems. For subdivisions that do require on-site water and septic systems, the minimum lot size would be raised to 60,000 square feet.

A public hearing is scheduled for April 18th, 2023 at the Planning & Zoning Commission meeting to consider these changes. Chapter 6 of the Code or Ordinances would be amended as follows:

EDIT
6-9 E. Minimum Lot Area, Lot Width, Setback & Maximum Height Requirements

PRINCIPAL BUILDING	Lot Width	Front Yard	Side Yard	Rear Yard	Max Stories	Max Height
LOT AREA	100 ft	50 ft	10 ft	40 ft	2 ½	35 ft
NO SEWER OR WATER 3060,000 SF						
LOT AREA	100 ft	50 ft	10 ft	40 ft	2 ½	35 ft
W/ SEWER OR WATER						
30,000 sq ft						

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6-10 E. Minimum Lot Area, Lot Width, Setback & Maximum Height Requirements

PRINCIPAL BUILDING	Lot Width	Front Yard	Side Yard	Rear Yard	Max Stories	Max Height
LOT AREA	100 ft	50 ft	10 ft	40 ft	2 ½	35 ft
NO SEWER OR WATER 3060,000 SF						
LOT AREA	100 ft	50 ft	10 ft	40 ft	2 ½	35 ft
W/ SEWER OR WATER						
30,000 sq ft						

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6-12 E. Minimum Lot Area, Lot Width, Setback & Maximum Height Requirements

PRINCIPAL BUILDING	Lot Width	Front Yard	Side Yard	Rear Yard	Max Stories	Max Height
LOT AREA NO SEWER OR WATER 3060 000 SF	100 ft	50 ft	10 ft	40 ft	2 ½	35 ft
LOT AREA W/ SEWER OR WATER 30,000 sq ft	100 ft	50 ft	10 ft	40 ft	2 ½	35 ft

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Administrative Center
600 West Fourth Street
Davenport, Iowa 52801-1106

April 12, 2023

To: Planning & Zoning Commission
From: Chris Mathias, Planning Director
Re: Accessory Dwelling Units Ordinance

Based on the Planning & Zoning Commission's direction, Staff are proposing accessory dwelling unit (ADU) regulations for unincorporated Scott County. As you can see below, Staff have proposed changes to the language that was presented to you at the last commission meeting. These changes have been proposed to address the questions that the Commission had regarding the maximum size of a detached ADU, and the questions on which structure would be considered the principal or accessory structure. The maximum size of a detached ADU is now limited to 800 SF or 50% of the ground floor SF of the principal structure, whichever is greater. Moreover, the principal structure shall remain the first dwelling unit constructed on the property, and the second dwelling unit constructed shall always be the ADU, subject to the square footage limitation proposed. Finally, staff added some language that there should be unobstructed access to a detached ADU for emergency vehicles.

CHANGES PROPOSED TO CHAPTER 6

Add Definition to Section 6-4:

ACCESSORY DWELLING UNIT: a smaller, independent residential dwelling unit located on the same lot as a stand-alone single-family home, containing provisions for sleeping, cooking, and sanitation.

Add Section 6-6 (V) Accessory Dwelling Units:

V. Accessory Dwelling Units: Unless specified elsewhere in the Ordinance, these regulations shall apply to all residential lots regardless of zoning designation.

- (1) One accessory dwelling unit is allowed per residential lot.
- (2) The residential lot must meet the minimum lot size for that zoning district.
- (3) One of the two dwelling units must be occupied by the owner of the lot for as long as the accessory dwelling unit is occupied.
- (4) An accessory dwelling unit may be located within a detached structure or within the same structure as the principal dwelling unit.
 - a. Accessory dwelling units located within a detached structure must meet the maximum height and minimum setback requirements for detached accessory buildings within the applicable zoning district.
 - b. Accessory dwelling units located within the same structure as the principal dwelling units must meet the maximum height and minimum setback requirements for principal structures within the applicable zoning district.
- (5) Adequate off-street parking is required for an accessory dwelling unit.
- (6) Total square footage of accessory dwelling units located within detached structures shall not exceed 50% of the total habitable (i.e. excluding attached garage square footage) ground floor square footage of the principal structure or 800 square feet, whichever is greater.
 - a. The principal structure shall remain the first dwelling unit constructed on the property. (i.e. It is not permitted to construct a second dwelling unit that is larger than the first in order to



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convert the first unit into the Accessory Dwelling Unit; the second dwelling unit constructed shall always be the Accessory Dwelling Unit and subject to the square footage limitation above.)

b. The square footage limitation shall be determined at the point which a building permit is issued for the Accessory Dwelling Unit and shall be based on the current habitable ground floor square footage of the principal structure at that time. Future additions to or reconstruction of the principal structure after the Accessory Dwelling Unit is approved and constructed shall not increase the square footage limitation for the Accessory Dwelling Unit.

(7) Detached structures containing accessory dwelling units must be architecturally compatible with the principal structure and/or zoning district. Architectural compatibility generally includes the following: matching or similar building materials, roofing materials, roof slopes, building eaves, and building fenestration.

(8) The combined number of occupants in the principal structure and the accessory dwelling unit may not exceed the number allowed by the definition of "FAMILY" as defined by the Zoning Ordinance.

(9) The accessory dwelling unit must satisfy the requirements of all construction codes adopted by the County including building, electrical, fire, and plumbing codes.

(10) The County Health Department must approve the sewage and water systems for the accessory dwelling unit prior to the issuance of a building permit.

(11) There shall remain unobstructed access to a detached accessory unit **for emergency vehicles** for as long as the unit is occupied.

(12) Before an accessory dwelling unit is approved for construction and/or occupancy, the property owner must submit a registration agreement to the Planning & Development Department with the following information: A statement agreeing that one of the two dwelling units must be occupied by the owner of the lot for as long as the accessory dwelling unit is occupied, and a statement agreeing to the limits and other standards listed above. Accessory dwelling units constructed or occupied without a registration agreement shall be considered principal structures, which is a violation of Section 6-6 N. One Principal Building to a Lot.

(13) Regulations, restrictions, and limitations applicable to "Community Area Development Residential District (CAD-R)" zoned properties and other properties under the jurisdiction of homeowners' associations may supersede the standards listed above.

OTHER DEFINITIONS/SECTIONS TO EDIT – Revisions in Red

Edit Section 6-6 H Zero Lot Line:

6-6 H. Zero Lot Line: In residential districts, single-family attached dwellings, two-family dwellings and townhouses may be sited on a lot line in such a manner that the lot line runs the entire length of the common wall separating the dwelling units. The front and rear yard setbacks shall be maintained, and the side yard for the end units shall conform to the district area regulations. In a "C-1" or "C-2" District, the building(s) may be sited on the side and/or rear yard lot line so long as the principal building is no closer than thirty-five (35) feet to a residential district or an adjoining residence lot line. Any new subdivision or re-subdivision proposing the use of the zero lot line shall comply with the procedures of a site plan review by the Planning and Zoning Commission, as described in Section 6-29. **Accessory Dwelling Units shall not be sited with a zero lot line and must follow the Accessory Dwelling Unit standards set forth in Sec. 6-6 (V) of this Code.**



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Edit Section 6-6 N One Principal Building to a lot:

6-6 N. One Principal Building to a Lot: Every building hereafter erected or structurally altered shall be located on a lot, as defined herein, and in no case shall there be more than one (1) single-family residence or duplex on a single lot or tract of land except under the following conditions: (1) An approved temporary mobile home on a farmstead or residential lot may be located on the same lot as the primary residence. (2) ~~A subordinate residence~~ **An Accessory Dwelling Unit approved with a Special Use Permit meeting the requirements of Section 6-6(V) of this Code**, or a second residence with an approved farmstead split created with a Plat of Survey. (3) More than one (1) industrial, commercial, multi-family dwelling or institutional principal building may be erected on a single lot or tract, but all such buildings must be located in compliance with the setback requirements of the applicable district regulations.

Edit Section 6-6 U(4b):

6-6 U(4b). No accessory building may contain or be used as a dwelling unit unless ~~a second residence is approved with a Special Use Permit~~ **it is approved as an accessory dwelling unit per Section 6-6(V) of this Code**, or a second residence is created with farmstead split by an approved Plat of Survey.

Delete Section 6-9 D(11):

~~6-9 D(11). One attached or detached dwelling unit subordinate to the existing dwelling unit, provided that the new dwelling unit meets all building and fire codes and zoning area and setback requirements, that there is unobstructed access to the new dwelling unit for emergency vehicles, and that the County Health Department approves the sewage and water systems.~~

There will be a public hearing at the April 18th meeting to consider these proposed changes. If you choose to recommend approval, the proposed ordinance will then go to the Board of Supervisors for the final decision.



**Planning & Development
Scott County, Iowa**

Chris Mathias, Director

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April 12, 2023

To: Planning & Zoning Commission
From: Chris Mathias, Planning Director
Re: Proposed Pipeline Ordinance Changes

At the March meeting, Planning & Zoning Commission directed Staff to bring back a pipeline ordinance for discussion once it was fully drafted. Staff have completed the ordinance which is attached to this memo for your review. Carbon dioxide pipelines are a hot topic in Iowa right now and as such, the situation is very much in flux and there is news regarding pipelines on a weekly basis it seems.

As I mentioned in previous meetings, the ordinance we are proposing is based on an ordinance that Story County passed last year. Linn County and Cedar County are also considering something similar to Story County's language. However, in talking to Story County they are considering some changes to their ordinance. While they're not in a place to share those changes right now due to pending litigation, we will be keeping an eye on those changes and would hope to evaluate them soon.

Ultimately, this proposed ordinance adds setbacks and depth requirements for hazardous liquid pipelines and even more stringent setbacks for carbon dioxide pipelines in the dense or supercritical state. Those setbacks are based on federal standards or when there is a lack of federal standards they are based on scientific studies. Staff also addressed some of the questions from the March meeting by redefining which utilities are exempt from zoning regulations, requiring an emergency plan and additional materials to be submitted, and requiring a consultation with cities if the pipeline is planned in a "To be Annexed" area on the future land use map.

At the March meeting I mentioned that we needed to look again at which utilities are exempt in the Zoning Code. Currently, "franchised electric transmission and gas/commodity pipe lines and associated structures and equipment, including substations" are principal permitted uses in the A-P (Agricultural-Preservation) and A-G (Agricultural-General) zoning districts. This means that pipelines have historically been allowed in these Ag districts, but doesn't necessarily mean that they are exempt from zoning. To address this, we have added a definition of public utility and this defines what would ultimately be exempt from the ordinance. It's based on the definition of a public utility in the Iowa Code and also adds some other uses like smaller utility providers. We also proposed some changes to the exemption language in Sections 6-4 B and 6-9 B to clearly define what is exempt.

As you can see in the attachment, the ordinance adds definitions for Hazardous Materials, Immediately Dangerous to Life of Health, Pipeline, Professional Accepted Level of Concern Threshold, and Public Utility. We are also proposing a new section to the Code; Sec. 6-6 W Hazardous Materials Pipelines. This section would apply to any hazardous liquid pipeline that is not exempt as a public utility. The ordinance is attached for your review and I will be giving a full presentation on the ordinance at Tuesday's meeting.

Prepared by: Scott County Planning & Development, 600 West Fourth Street, Davenport Iowa

SCOTT COUNTY ORDINANCE NO. 23 - _____

AN ORDINANCE TO AMEND PORTIONS OF THE ZONING ORDINANCE FOR UNINCORPORATED SCOTT COUNTY TO CREATE REGULATIONS FOR HAZARDOUS LIQUID PIPELINES.

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF SCOTT COUNTY IOWA:

Section 1. Amend Section 6-4(B) FARM EXEMPTIONS of the Zoning Ordinance for Unincorporated Scott County by editing:

A special exemption applies to certain matters regulated by the Iowa Utility Board. The exemption from complying with the ordinance applies to ~~franchised electric transmission public utilities and gas/commodity pipe lines~~ and associated structures and equipment. Exempted ~~franchised utilities~~ public utilities are urged to comply voluntarily with the zoning requirements and Scott County Land Use Policies. This exemption does not include communications towers for telephone, cellular, and cable television companies, and other public and private towers as referenced in Section 6-9 D.(1) herein below.

Section 2. Amend Section 6-5 DEFINITIONS of the Zoning Ordinance for Unincorporated Scott County by editing:

Section 6-5(60) HAZARDOUS MATERIALS: Those materials listed on the Hazardous Materials Table in 49 Code of Federal Regulations (CFR) § 172.101.

Section 6-5(67) IMMEDIATELY DANGEROUS TO LIFE OR HEALTH: An atmospheric concentration of any toxic, corrosive, or asphyxiant substance that poses an immediate threat to life or would cause irreversible or delayed adverse health effects or would interfere with an individual's ability to escape from a dangerous atmosphere, as determined by the National Institute for Occupational Safety and Health or other professionally accepted source.

Section 6-5(98) PIPELINE All parts of those physical facilities through which a gas or liquid moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.

Section 6-5(100) PROFESSIONAL ACCEPTED LEVEL OF CONCERN THRESHOLD Those levels of a hazardous material that federal regulatory agencies, such as the Occupational Safety and Health Administration (OSHA), National Institute for Occupational Safety and Health (NIOSH), or industry professionals have recognized as the threshold for being immediately dangerous to life or health. If industry professionals or federal regulatory agencies differ on a recognized threshold, whichever threshold is stricter shall apply.

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Section 6-5(101) PUBLIC UTILITY A public utility as defined in the Iowa Code Chapter 476.1 and municipally owned waterworks, waterworks having less than two thousand customers, joint water utilities established pursuant to Iowa Code Chapter 389, rural water districts incorporated and organized pursuant to Iowa Code Chapters 357A and 504, cooperative water associations incorporated and organized pursuant to Iowa Code Chapter 499, districts organized pursuant to Iowa Code Chapter 468, or a person furnishing electricity to five or fewer customers either by secondary line or from an alternate energy production facility or small hydro facility, from electricity that is produced primarily for the person's own use.

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Section 3. Amend the Zoning Ordinance for Unincorporated Scott County by adding a new Section 6-6 W as follows:

6-6. GENERAL REGULATIONS PROVISIONS

W. Hazardous Liquid Pipelines: Hazardous liquid pipelines and carbon dioxide pipelines in the dense or supercritical state, are allowed in A-P and A-G districts, subject to the requirements of this section. These standards do not apply to pipelines operated by public utilities or existing pipelines.

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1. Setbacks Required. The setbacks listed in Table 6-6 W(1) shall apply to all new hazardous liquid pipelines and carbon dioxide pipelines in the dense or supercritical state. When an emergency plan is submitted meeting the following requirements, the minimum setback may be reduced to the point at which no occupied structure, or place of public assembly, is located within a risk area. A risk area is the area where a professionally accepted level of concern threshold (where the concentration or other effect of a material is immediately dangerous to life or health) may be exceeded. The Scott County Emergency Management Director shall review the emergency plan with local emergency personnel, as applicable, to ensure standards are met. An emergency plan shall include the following:

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- a. A copy of all emergency plans required by 49 CFR § 195 and/or 49 CFR § 192.
- b. Identification of Emergency Events. The plan shall outline the types of potential emergency events, the operator's ability to respond, and when local emergency response may be needed.
- c. Immediate Actions Identification. The Plan shall identify immediate actions to be taken by the operator in emergency events, including immediate shut down or pressure reduction.
- d. Notification. The plan shall identify how the operator will promptly and effectively notify local emergency responders. The plan shall also establish a liaison and emergency contact for the

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pipeline operator in case local authorities need to notify the operator of an emergency or other issue.

- e. Local Emergency Response. In the case that local emergency response is needed, the plan shall identify:
 - i. Unique risks or hazards associated with a leak of a hazardous liquid transported by the pipeline that may affect the local emergency response or require additional precautions.
 - ii. Specialized equipment that may be needed to assist in response and potential evacuations, including, but not limited to, breathing apparatus, personal protective equipment, harnesses, instruments, detectors, or other specialized tools. It is strongly recommended that the pipeline operator provide any specialized equipment to local emergency responders.
 - iii. Drills and training, including their frequency, to be provided to local emergency responders by the pipeline operator.
- f. Modeling. The plan shall contain model(s) of plume dispersion, leaks, vapor cloud, or overpressure for the potential range of loss-of-containment events. The model(s) shall be based on prevailing weather conditions. The model(s) shall also account for any unique topographic or other local conditions that may influence the area impacted. The model(s) shall include professionally-accepted level of concern thresholds and the radius or other distance from the center of the loss-of-containment event where they are predicted to be found. Thresholds should be based on levels of a given hazard (thermal, radiological, asphyxiation, chemical, etiological, mechanical, etc.) that are immediately dangerous to life or health.
- g. Evacuation. The plan shall provide a list of dwellings and places of public assembly, as defined by Table 6-6 W(1), within one (1) mile of the pipeline to be used by local emergency responders in case an evacuation is needed. The pipeline operator shall also mail notice to the identified dwellings and places of public assembly at the time of the permit application, including information on risks, precautions, and what to do in case of loss-of-containment. Annual notifications are recommended.
- h. Results of Consultation with Cities. When a hazardous liquid pipeline is proposed within a “To Be Annexed (prior to development)” area on the Scott County Comprehensive Plan Future Land Use Map, the pipeline operator shall consult with the applicable city about their future growth plans in these areas and consider the plans in its routing. The emergency plan shall outline

[this consultation process and any changes in route or other outcomes from the consultation.](#)

Table: 6-6 W(1) Setback and Cover Requirements for Hazardous Materials Pipelines

Hazardous Material Pipeline Type and Use Type	Setback and cover*
Liquid	
Places of Public Assembly**	As established in 49 CFR § 195, no pipeline may be located within 50 feet (15 meters) of any private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or assemble, unless it is provided with at least 12 inches (305 millimeters) of cover in addition to that prescribed in 49 CFR § 195.248.
Dwellings	As established in 49 CFR § 195, no pipeline may be located within 50 feet (15 meters) of any private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or assemble, unless it is provided with at least 12 inches (305 millimeters) of cover in addition to that prescribed in 49 CFR § 195.248
Carbon Dioxide, Dense or Supercritical Phase***	
Places of Public Assembly**	The circle formed around the center point of a pipeline, the radius of which is $r = (155.80 \times d) + 738.19$ where r is the radius in feet, and d is the nominal diameter of the pipeline in inches. For example, a six inch pipeline would require a setback of 1,673 feet.
Dwellings	The circle formed around the center point of a pipeline, the radius of which is $r = (107.65 \times d) + 328.08$ where r is the radius in feet, and d is the nominal diameter of the pipeline in inches. For example, a six inch pipeline would require a setback of 974 feet.

* [The setback shall be the distance identified under the setback column in Table 6-6 W\(1\) measured from the pipeline to the closest point of the building, depending on the identified use type.](#)

** [As referenced in Table 6-6 W\(1\), Places of Public Assembly are areas where evacuation of occupants may present difficulties, including, but not limited to, retirement and nursing homes, family homes, schools and childcare homes and centers, group homes, hospitals, detention facilities, or human service facilities; outdoor places of public assembly, including, but not limited to, campgrounds, day camps, cemeteries, stables, amphitheaters, shooting ranges, golf courses, stadiums, and parks that may be](#)

occupied by 20 or more persons at least 50 days per year; and indoor places of public assembly including, but not limited to stores, workplaces, houses of worship, and auditoriums that may be occupied by 20 or more persons five days per week.

***Supercritical or dense phase carbon dioxide is that which is held above its critical pressure and temperature in a fluid state.

- 1) *Minimum cover required.* Minimum cover requirements, as established by federal regulations (49 CFR § 192.327 and § 195.248) shall be met. Where federal law does not define a minimum depth of cover and land is in agricultural production, a minimum depth of 36 inches or greater shall be maintained. A greater depth shall be required when determined necessary to withstand external loads anticipated from deep tillage of 18 inches, as required by Iowa Administrative Code 9.5(6), Restoration of Agricultural Lands During and After Pipeline Construction.
- 2) *Development within the floodplain.* All pipelines shall meet both state and local floodplain regulations.
- 3) *Iowa Utilities Board Approval Required.* All pipelines shall have received written approval from the Iowa Utilities Board in accordance with Iowa Code chapter 479B before submitting an application for zoning verification.

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Section 4. Amend the Zoning Ordinance for Unincorporated Scott County by editing Section 6-9 B(5) as follows:

Public utilities and gas/commodity pipe lines and associated structures and equipment, including substations, but not including hazardous liquid pipelines and carbon dioxide pipelines in the dense or supercritical state which shall meet the standards of Sec 6.6 W, which includes required setbacks, cover depth and other requirements. All structures of the utilities which exceed 35 feet shall be located where disruption of agricultural, residential or commercial activity is minimized. The base of towers shall be located at least the distance of the height of the tower from any existing, and adjacent neighboring structure(s).

Section 5. The County Auditor is directed to record this ordinance in the County Recorder's Office.

Section 6. Severability Clause. If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of the Ordinance, which are separate from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

Section 7. Repealer. All ordinances or part of ordinances in conflict with the provisions of the Ordinance are hereby repealed.

Section 8. Effective Date. This Ordinance shall be in full force and effect after its final passage and publication as by law provided.

Public Hearing / First Consideration _____,

Second Consideration _____,

Third Consideration _____,

Ken Beck, Chair
Scott County Board of Supervisors

Attested by: _____
Kerri Tompkins, County Auditor

Published on _____

