

MAY 26, 2022

The Board of Supervisors of Clinton County, Iowa, met at the Grand Mound Community Center, Grand Mound, Iowa. Present were Supervisors Determann, Irwin and Srp. Minutes of the previous meeting were read and approved.

6:00 P.M. Call to Order – Pledge of Allegiance

Formal Action & Motions

RESOLUTIONS

The following resolution was presented and on motion approved:

RESOLUTION 2022-159

BE IT RESOLVED that the Clinton County Board of Supervisors will hold a Public Hearing on Monday, June 20, 2022, at 10:00 a.m. in Conference Room B at the Clinton County Administration Building, 1900 North 3rd Street, Clinton, Iowa, 52732, for the purpose of soliciting public comment on the construction permit application for a proposed confinement feeding operation expansion from Dean Adrian; and

BE IT FURTHER RESOLVED the Clinton County Board of Supervisors authorizes Planning and Zoning Director Thomas Barnes to prepare and submit the proper Public Hearing notice to the appropriate media outlets.

Roll Call: Srp: Yes; Irwin: Yes; Determann: Yes.

Tom Determann, Chairperson

DISCUSSION WITH POSSIBLE ACTION

Review of rezoning applications 4343 of Hawkeye Solar and 4344 of Hatchling Solar: Chairman Determann reviewed the process that has led up to tonight's meeting. Clinton County Planning and Zoning Administrator Thomas Barnes reviewed "Exhibit A" which includes conditions outside of the original application that will be included in the ordinance language. County Attorney Mike Wolf explained the items in Exhibit A are as far as the Board can go in negotiating conditions and can't go outside of current law. Wolf said the Board has been following the law and expects it will continue. The issue of the master plan was brought up. Supervisor Irwin said the master plan is not law and it has been discussed at previous meetings. A question about setbacks was asked. Irwin said the ordinance sets 50 feet and Ranger Power has agreed to 300 feet. Chairperson Determann said everyone has learned a lot from this process. He believes the Board has worked hard to get the best deal for everyone. A question was asked if others submit applications that they would go through. Supervisor Srp said this application is filed under current rules and he said those rules can be changed after this process. Srp added that he worked hard on finding how many more projects like these could locate in Clinton County. Srp said there is currently only one other site in the cue. The attorney for the projects explained the cue is a generator and connection cue which is ran by the entity that runs the energy grid for the Midwest. He said the County does not have control over the electric generation cue. Srp said any additional sites would have to follow the same County ordinance rules. Srp said rules could change prior to another application. Srp added he has learned there are no other viable sites right now in Clinton County outside of the project around Grand Mound and a potential site outside of Camanche. A question was asked if the Board has to say yes because all of the boxes are checked in the application. Srp said the bulk of the merits of the application are cut and dry. He said there are few other conditions that could be negotiated. Determann said the Supervisors may still vote yes or no. Srp said personal property rights also need to be considered. Bob McGee, consulting attorney, said he's been to the hearings and read many emails. He said the Board has acknowledged the opposition. He said the opposition won't change its mind. He said what the Board has tried to do is work within the laws and asked Ranger Power to push their boundaries. Irwin said there are more comments against, but it was close. But he said property rights are a big issue. He said many of the people in the room are trying to take away the rights of someone's land ownership. Determann said he represents all 46,000 people in the County. Srp said the Zoning Commission admitted they did not vote on the merits of the application. Irwin said he took an oath to enforce the rules of the County and the applications check all the boxes. His decision will be based on what is best for the County. Srp said it should be up to the owner of the land to make decisions on how their land is used and that's a fundamental principle. He understands there are people impacted around the project, but he can't move off of the existing rules have been met and that's what the Supervisors are charged with doing. Srp said the conditions applied were worked on in good faith. Determann said he agrees property rights are important in this decision and the ordinance has been in effect for a long time. He said the Supervisors appreciate all the input.

The following resolution was presented and on motion approved:

RESOLUTION 2022-160

WHEREAS, on the matter herein, the Clinton County Planning and Zoning Commission held a Public Hearing on February 10, 2022, and following said hearing the Commission recommended Denial of the attached map amendment to the Clinton County Zoning Ordinance; and

WHEREAS, the Clinton County Board of Supervisors held a public hearing and first reading of the proposed map amendment on March 24, 2022, to consider said amendment and to hear comments for and against; and

WHEREAS, the Clinton County Board of Supervisors held a second reading of the proposed map amendment on April 7, 2022, to consider said amendments; and

WHEREAS, the Clinton County Board of Supervisors held a third reading of the proposed map amendment on April 12, 2022, to consider said amendments; and

NOW, THEREFORE BE IT RESOLVED by the Clinton County Board of Supervisors as follows:

1. The attached ordinance numbered 2022-04 is hereby adopted.
2. The Auditor is directed to publish said ordinance as required by law.
3. This ordinance shall be in effect from and after its adoption and publication as required by law.
4. This resolution and adopted ordinance amendment are specifically subject to the conditions specified in Exhibit "A", attached; to which the Applicant must comply.

Roll Call: Srp: Yes; Irwin: Yes; Determann: Yes.

Tom Determann, Chairperson

#### ORDINANCE 2022 - 04

### AN ORDINANCE AMENDING THE MAP OF THE CLINTON COUNTY ZONING ORDINANCE RELATIVE TO THE ZONING DESIGNATION OF CERTAIN PROPERTY LOCATED IN OLIVE AND ORANGE TOWNSHIPS CLINTON COUNTY, IOWA

BE IT ENACTED BY THE CLINTON COUNTY BOARD OF SUPERVISORS:

Section 1: The zoning district boundaries of the County of Clinton Iowa are herewith changed so as to provide for the change of the following described property: See Appendix A. Participating Parcels in Rezoning Application 4343.

within the A-1 (Prime Agriculture) District of Clinton County, Iowa to RE (Renewable Energy Overlay).

Section 2: The change as hereinabove set forth shall be entered and made part of the zoning map of the County of Clinton, Iowa, which map is made part of the Zoning Ordinance of the County of Clinton, Iowa, by incorporation therein as set forth in Chapter III, Section 3.2 of the said Clinton County Zoning Ordinance, and the Chairperson of the Board of Supervisors in accord with Chapter III, Section 3.2.3 shall promptly note on said map the Ordinance numbers, nature of change and date of change.

Section 3: If any section, provision or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4: This Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

PASSED AND ADOPTED this 26<sup>th</sup> Day of May, 2022 by the Board of Supervisors, Clinton County, State of Iowa.

Signed: Daniel A. Srp; Signed: Jim Irwin, Jr.; Signed: Tom E. Determann, Chairperson

ATTEST: Eric Van Lancker (Signed), County Auditor, County of Clinton, State of Iowa

Exhibit "A"

#### General

1. The Project shall be kept and maintained in good repair and conditions at all times: neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.

#### Setbacks

2. The Project shall maintain a minimum distance of 300 feet between all habitable structures and the Project's solar panels. Landowners may waive all or part of this setback if they choose.
3. The Project shall maintain a minimum distance of 100 feet between the U.S. Highway 30 right-of-way and all aboveground Project infrastructures.

#### Landscape Buffering

4. The Project shall install and maintain landscape buffering along adjacent, non-participating residential parcels, if requested by the adjacent, non-participating residential parcel owner, at a rate of at least six (6) trees per one hundred (100) feet. For the avoidance of doubt, the landscape buffering would be located along the sides of any adjacent, nonparticipating residential parcels that abut the Project. The trees shall be sufficient size at planting to reach eight (8) feet within three (3) years, and the Project shall promptly be replace any diseased or dead trees. There shall be an annual review of buffer trees and landscaping.
5. The Project will use commercially reasonable efforts to locate trees as far from adjacent, nonparticipating residential property lines as practicable.

#### Local Employment

6. The Project shall hold a local job fair and shall make a good faith effort to hire local employees to construct and maintain the Project. The Project shall track and report annually to the Clinton County Board of Supervisors the number of local employees hired.

#### Soil Sampling

7. The Project shall submit a Soil and Water Sampling plan to Clinton County prior to construction as part of the Zoning Permit and Final Site Plan approval process. The number of samples, sampling timing, and testing methodology shall be mutually agreed upon by the Project and the Clinton County Engineer.

#### Construction Hours

8. Construction laydown areas shall be located in a manner to minimize impacts to nonparticipating residences and shall be set back at least 500 feet from nonparticipating residences.
9. Construction hours shall be daylight hours, not earlier than 7am and not later than 7pm, Monday through Saturday. For this purpose, construction does not include meetings of crews or operation of cars, light trucks, or forklifts. Exceptions to this shall be made on a case by case basis by the Clinton County Zoning Director.

#### Road Use and Repair

10. The Project shall enter into a Road Use and Repair Agreement with Clinton County prior to construction satisfactory to the Clinton County Engineer.
11. The Project shall conduct a pre-construction survey in coordination with the County Engineer to determine the condition of existing roads and drainage districts. The survey shall include photographs and a written agreement to document the condition of the public facility.
12. Clinton County shall provide on-going road maintenance and dust control measures deemed appropriate at the expense of the applicant utilizing their standard rates charged to cities within the county.
13. The Project shall be responsible for restoring or paying damages as agreed to by the County Engineer sufficient to restore the road(s) and bridges to preconstruction conditions.
14. Financial security shall be submitted before construction covering up to 100% of estimated cost for repairs as agreed to by the Project and the County Engineer.

#### Decommissioning

15. Decommissioning of the Project shall include removal of all Project infrastructures, including underground installations and shall include the restoration of the grounds and roads utilized to their condition prior to the removal of the infrastructure.
16. The Project shall submit an updated Decommissioning Plan to Clinton County prior to construction as part of the Zoning Permit and Final Site Plan approval process.
17. The Decommissioning Plan shall include a decommissioning cost estimate prepared by a state licensed professional engineer.
18. The estimated decommissioning cost, less any resale and salvage value, shall be guaranteed in one of the following forms: (i) surety bond obtained from a surety authorized by the Iowa Insurance Commissioner, (ii) cash to be held in escrow by the County Treasurer at a Bank, or (iii) a letter of credit from a financial institution reasonably acceptable to the County which shall be irrevocable unless replaced with cash or other form of security reasonably acceptable to County. The initial bond amount shall be the amount set in the Project application. The form, source and amount of bond shall be approved by the County Board of Supervisors.
19. The Project shall provide the decommissioning cost guaranty before the start of construction and shall maintain the financial security thereafter for as long as each is in existence or upon discontinuance, decommissioning, or abandonment.
20. The Project shall revise and update the decommissioning cost estimate every five (5) years from the date of approval to account for inflation, cost and value changes, and advances in decommissioning technologies and approaches over the life of the Project.
21. If Clinton County disputes the decommissioning cost estimate provided by the Project, the estimate shall be reviewed by a mutually agreed upon third party engineer.

#### RE Overlay Distract Term

22. The Renewable Energy Overlay District shall expire after the earlier of (a) completion of decommissioning of the Project, or (b) forty-one (41) years following the commercial operation date of the Project. Forty-one (41) years would account for the 40-year maximum operational period under lease agreements and the one (1) year decommissioning period.

#### Insurance

23. The Project shall at all times during construction and operation of the Project maintain a broad general liability insurance policy commensurate with industry standards. Certificates of insurance shall be provided to Clinton County upon request. The Project shall indemnify and hold Clinton County and its employees, agents and representatives free and harmless from any third party claims for damages to property directly caused by the Project arising from the installation, operation and decommissioning of the Project; provided, however, such indemnification obligation shall not apply if such damage was caused by Clinton County or any of its employees, agents or representatives.

#### Fire Safety

24. The Project shall coordinate with emergency services staff to provide materials, education and/or training to the departments serving the property with emergency services.
25. The Project shall provide the Grand Mound Volunteer Fire Department, Calamus Volunteer Fire Department and mutual aid partner fire departments all pertinent information in case of a fire or other emergency on site to ensure safe operation and emergency response, including but not limited to specific training, 24-hour contact information, access to lock boxes (e.g. Knox Boxes), access point locations, the locations of shut offs and circulation patterns. The Project shall update the fire departments of any changes to such information and provide an annual tour for any new fire department volunteers. The Project shall provide, at the Project's sole cost, any equipment, keys, or codes as necessary for the fire departments to gain entry to the site in the event of an emergency.

#### Assignment

26. Any instrument assigning ownership or control of the Project shall include express language requiring any future owners of the Project to construct, maintain, and operate the Project in compliance with all Clinton County requirements, unless modified by a condition of this approval. For the avoidance of doubt, these requirements include the decommissioning and site restoration obligations and road use and repair obligations. If there is a change in ownership, the Project shall notify the Clinton County Planning and Zoning Director within 30 days of any such transfer, assignment, or sale.

#### Drainage

27. The Project shall be responsible for maintaining the integrity of the drainage system so as not to cause drainage issues within the Project area or on neighboring properties.
28. The Project shall be responsible for reasonably prompt repair of damage to public drainage systems stemming from construction, operation or maintenance. In the event of impacts to public drainage systems within the Project footprint, the Project shall ensure that this does not affect neighboring properties. There shall be in place at all times a defined procedure for the county to notify the applicant of any drainage issue. In the event the applicant fails to take or make a prompt effort to address the same, the county may at the applicant's expense act to correct the situation.
29. If drainage infrastructure or systems on non-participating properties are damaged by any cause connected with the Project, the Project shall restore the drainage infrastructure or system to a condition at least as good or the pre-construction condition.

#### Soils

30. Topsoil shall not be removed during development, unless as part of a remediation effort. If removed, the full depth of topsoil shall be replaced.
31. Seeds shall be planted and maintained in deep rooted perennial vegetation to prevent erosion, manage runoff and build soil. Seeds should include a mix of grasses and wildflowers, ideally native to the region of the Project site that will result in a short stature prairie with a diversity of forbs or flowering plants that bloom throughout the growing season.
32. Buffer trees, seed mixes and maintenance practices should be consistent with recommendations made by qualified natural resource professionals such as those from the Department of Natural Resources, County Soil and Water Conservation Service, or Natural Resource Conservation Service.

The following resolution was presented and on motion approved:

#### Resolution 2022-161

WHEREAS, on the matter herein, the Clinton County Planning and Zoning Commission held a Public Hearing on February 10, 2022, and following said hearing the Commission recommended Denial of the attached map amendment to the Clinton County Zoning Ordinance; and

WHEREAS, the Clinton County Board of Supervisors held a public hearing and first reading of the proposed map amendment on March 24, 2022, to consider said amendment and to hear comments for and against; and

WHEREAS, the Clinton County Board of Supervisors held a second reading of the proposed map amendment on April 7, 2022, to consider said amendments; and

WHEREAS, the Clinton County Board of Supervisors held a third reading of the proposed map amendment on April 12, 2022, to consider said amendments; and

NOW, THEREFORE BE IT RESOLVED by the Clinton County Board of Supervisors as follows:

1. The attached ordinance numbered 2022-05 is hereby adopted.
2. The Auditor is directed to publish said ordinance as required by law.
3. This ordinance shall be in effect from and after its adoption and publication as required by law.
4. This resolution and adopted ordinance amendment are specifically subject to the conditions specified in Exhibit "A", attached; to which the Applicant must comply.

Roll Call: Srp: Yes; Irwin: Yes; Determann: Yes.

Tom Determann, Chairperson

ORDINANCE 2022 – 05

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BE IT ENACTED BY THE CLINTON COUNTY BOARD OF SUPERVISORS:

Section 1: The zoning district boundaries of the County of Clinton Iowa are herewith changed so as to provide for the change of the following described property: See Appendix A. Participating Parcels in Rezoning Application 4344.

within the A-1 (Prime Agriculture) District of Clinton County, Iowa to RE (Renewable Energy Overlay).

Section 2: The change as hereinabove set forth shall be entered and made part of the zoning map of the County of Clinton, Iowa, which map is made part of the Zoning Ordinance of the County of Clinton, Iowa, by incorporation therein as set forth in Chapter III, Section 3.2 of the said Clinton County Zoning Ordinance, and the Chairperson of the Board of Supervisors in accord with Chapter III, Section 3.2.3 shall promptly note on said map the Ordinance numbers, nature of change and date of change.

Section 3: If any section, provision or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4: This Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

PASSED AND ADOPTED this 26<sup>th</sup> Day of May, 2022 by the Board of Supervisors, Clinton County, State of Iowa.

Signed: Daniel A. Srp; Signed: Jim Irwin, Jr.; Signed: Tom E. Determann, Chairperson

ATTEST: Eric Van Lancker (Signed), County Auditor, County of Clinton, State of Iowa

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General

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Drainage

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32. Buffer trees, seed mixes and maintenance practices should be consistent with recommendations made by qualified natural resource professionals such as those from the Department of Natural Resources, County Soil and Water Conservation Service, or Natural Resource Conservation Service.

The Board of Supervisors adjourned to meet Monday, June 6, 2022 at 9:00 a.m. at the Clinton County Administration Building, Clinton, IA.

Eric Van Lancker, County Auditor

Tom Determann, Chairperson

-APPROVED-

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County Auditor

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Chairperson