

Minutes of the Marion County Zoning Commission Meeting
October 18, 2022

The Marion County Zoning Commission met in person on October 18, 2022, at 5:00p.m. at 2003 North Lincoln St., the Marion County Public Health Building to accommodate the number of property owners notified. More than 100 notices were sent.

Acting Chairman Davis called the meeting to order. The members present were Keith Davis, Sarah Trefth, Leslie Miller, Sandy Agan and Larry De Zwarte. Members of the public present were:

Ann Rice
Mike Landsberger
Ron Steenhoek
Robert Rus
Donna and Roger Murr
Alan Callendar
Roy Provenzano
Kent Mc Corkle
Leigh Walker
Cameron Kleinschmidt
Barbara Vasquez

The minutes of the August 16, 2022, meeting were read. Davis called for a motion to approve. Trefth made a motion to approve as presented and Miller seconded the motion.

Davis	aye
De Zwarte	aye
Miller	aye
Trefth	aye
Agan	aye

A public hearing for Petition 896 was opened on parcels 1267200300 & 1267303500 to rezone from A-1; Agricultural to A-R; Ag Residential. A portion of the 42 acres falls in a tract that already has four buildable lots. Per 55.25 (6) a rezoning and subdivision would be required for further development. The property is owned by Ron and Kari Steenhoek and described as:

The SW 1/4 of the SE1/4 of Section 22, Township 76 North, Range 18 West of the 5th P.M.
except the following three tracts:

1. The East 460 feet of the South 340 feet thereof;
2. Parcel E thereof according to the Plat of Survey recorded in Book 2017, Page 1141; and
3. Parcel F thereof according to the Plat of Survey recorded in Book 2021, Page 4463.

AND

The SE1/4 of the SW/14 of Section 22, Township 76 North, Range 18 West of the 5th P.M., except beginning at a point

60.7 feet West of the Southeast corner of said 1/4 1/4, thence North 648 feet, thence West 370 feet, thence South 51°31' West 498.29 feet; thence South 71°10' West 519.83 feet, thence South 170 feet to the South line of said 1/4 1/4,

thence East along said South line 1251.9 feet to place of beginning. Total acreage is 43.78 acres.

Poffenbarger explained the property's north property line is the one-mile limit for Pella.

Poffenbarger did explain for the commission that the only property owner that inquired after notices were sent was the Pella Police Department. The Pella PD does have a shooting range directly west of the subject property and the shooting range lays on the west 425' of that property. The east 850' is used for Public Works material storage. Poffenbarger also explained the elevation difference between the two properties. The shooting range is at approximately a 730-foot elevation with a 30-foot berm at the end of the range and the subject property is approximately 800 foot elevation.

For the record Chapter 657.9 Iowa Code protects existing shooting ranges from nuisance suits when development take place around them. This ensures development must be aware and accept the existing range and cannot file shoot trying to shut them down. The only type of suit that can be filed is in cases or reckless use of a firearm. Pella uses the range 5 to 6 times a year and notifies all property owners in advance of the use. Mr. Steenhoek was made aware of all of this information prior to the meeting by the Zoning Office.

With no further question Davis called for a motion to close the public hearing. Miller made the motion and Agan seconded the motion.

Davis	aye
De Zwarte	aye
Miller	aye
Treft	aye
Agan	aye

With no further questions the commission took action on the rezoning request Petition 896. Miller made a motion to approve with De Zwarte seconding the motion. Poffenbarger let the public know Petition 896 will go to the BOS on November 22, 2022.

Davis	aye
De Zwarte	aye
Miller	aye
Treft	aye
Agan	aye

The second half of Petition 896 Steenhoek Minor Subdivision was presented to the commission described in the previous action. Lot 1 is 3.02 acres. Lot 2 is 3.02 acres and Lot 3 is 37.18 acres. Lot 3 will own the 66-foot roadway. Lot 3 has potential for further development as a major subdivision.

The driveway locations have been verified. The front lots meet 55.12 street frontage; the preference of the County Road Department is for all 3 parcels to share a common entrance that is will be owned by lot3 with lots one and two have easement access.

Poffenbarger explained the subdivision meets all the minimum requirements of Chapter 56.

With no further questions the commission Steenhoek Subdivision Minor Plat. Agan made a motion to approve with Miller seconding the motion. Poffenbarger let the public know Petition 896 will go to the BOS on November 22, 2022.

Davis	aye
De Zwarte	aye
Miller	aye
Treft	aye
Agan	aye

A public hearing for Petition 897 – Minor Plat of Subdivision of Parcel D for Columbia Land Company which includes the current seed business and five acres described as: The subdivision of the Northwest Quarter of the Southwest Quarter of Section 27, Township 74 North, Range 20 West of the 5th P.M., Marion County, Iowa. (Parcel 2395501000) The proposed split is in a tract currently at 5 parcels. A subdivision is required as defined by 56.03 (40)(A) a tract with repeated subdivision resulting in 5 or more parcels.

No rezoning will be required as the proposed parcel is zoned C-2: Hwy Commercial and R-2; One and two family residential. Since the parcel and the remainder both have road frontage this split is allowed with a minor subdivision.

Donna Murr asked what the plans were for the property; she owns one across the road. Mr. Mc Corkle explained he has plans to sell the commercial seed business and keep the farmland.

With no further question Davis called for a motion to close the public hearing. Agan made the motion and Treft seconded the motion.

Davis	aye
De Zwarte	aye
Miller	aye
Treft	aye
Agan	aye

With no further questions the commission took action on the rezoning request Petition 897. Miller made a motion to approve with De Zwarte seconding the motion. Poffenbarger explains with no rezoning requirements the subdivision will go to the BOS on October 25, 2022.

Davis	aye
De Zwarte	aye
Miller	aye
Treft	aye
Agan	aye

Sarah Treft, member of the commission asked to be excused for a prior commitment she must attend.

Davis opened the public hearing on the proposed ordinance changes to Chapter 55. The changes include the rezoning of the unincorporated Pershing to R-1; Single Family. Pershing has been unzoned since 1976 by resolution of the BOS at that time. September 2021 the BOS gave direction to the zoning director and zoning commission to move forward with rezoning Pershing to R-1.

Poffenbarger explains to the public that Marion County strives to use consistency when applying zoning. Pershing being unzoned for the past 40+ years has proven to be cause a negative impact on public infrastructure, mainly roads and neighboring property owners.

After road updates and the septic project this became obvious. In September 2021 the current BOS gave direction by resolution that the unzoned area currently known as Pershing should be included in the proposed zoning updates to eliminate the inconsistencies in the County.

After research throughout Iowa there were no other documented areas in zoned counties that allowed pockets of areas to be unzoned unless incorporated. Moving forward the area known as the unincorporated Pershing will be zoned R-1. As of the adopted date set for 1/1/2023 all structures, uses and lot sizes will be grandfathered in. Any new structures, lots or uses will have to comply with zoning regulations and apply for the required permits.

Most citizens in Pershing are not aware of what being “zoned” means. Poffenbarger explained that uses, structures, lot sizes and nuisances are all included in zoning to help guide in organized rural development but again stated all current structures and lots are going to be allowed to continue unless a catastrophic event comes through and new structures would need to comply. Young talked about the build to line being added to the ordinance and the allowance for future structures to be allowed at the area setback instead of the required 35 feet. This would allow a front yard with a minimum of 25 feet.

Property owners present asked questions about current uses, septics and taxes. Poffenbarger explained that zoning does not change the septic requirements. Poffenbarger also explained that the taxes are based on the taxation classification not the zoning Poffenbarger assured the property owners zoning will not raise their taxes.

The allowance for pets such as horses was discussed. Poffenbarger explained some ag uses are allowed in R-1 zoning. Ag production so the breeding and raising is not allowed in R-1.

Poffenbarger then turned it over to Lucas Young from DM MPO to present the other ordinance changes proposed. The proposed changes include definition changes for clarification.

16. **ADDITION** - Build-to line” is a line created by existing principal building lines of neighboring properties”.

22. **CHANGE** - Cabin” means a dwelling that is utilized primarily for recreational purposes. Such structure is not to be utilized as a primary residence nor will it be occupied for more than 182 days in a calendar year.”

37. **ADDITION** - “Concentrating solar power system (CSP)” means an energy system that use lenses/mirrors and tracking systems to focus or reflect a large area of sunlight onto a small area. The concentrated energy is absorbed by a thermal medium, such as water, salt, or a permanently gaseous fluid, and used as a heat source for a conventional power plant, such as a steam power plant, or for a power conversion unit, such as a sterling engine. Although several concentrating solar technologies exist, the most common types are the solar trough, parabolic dish and solar power tower. Energy storage technologies used by concentrating solar thermal devices (e.g. molten salt storage) are also included within this definition.

52. **CHANGE** -"Dwelling" a structure or portion thereof that is used exclusively for human habitation.

63. **CHANGE** - "Fall zone" means the area of land centered beneath the tower and circumscribed by a circle with a radius equal to a length of one foot (1') for every ten feet (10') of tower structure height. No structures other than fences shall be constructed or permitted with any required fall zone. The area within any required fall zone shall be owned, leased, or in an easement running to the benefit of the tower owner.

75. **CHANGE**- "Foundation" means the part of the structure that supports the weight and transfers the load to the underlying soil or rock.

164. **ADDITION** - “Shipping Container” means a metal sided container typically used for multimodal shipping, not placed on a foundation. Shipping containers shall also include portions or enclosures removed from a chassis and no longer with wheels or axels like a semi-trailer box, panel truck enclosure, or box trailer. Defined in the allowed zoning districts and number allowed.

180. **CHANGE** - “Sign, highway” interstate high rise” means an on-premises pole sign which is constructed to attract the attention of highway interstate travelers and is located within one thousand two hundred (1,200) feet of a state or county highway.

199. **ADDITION** “Small wireless facility” means a wireless facility that meets the following requirements: (1) Each antenna is no more than six cubic feet in volume. And (2) All other equipment associated with the small wireless facility is cumulatively no more than twenty-eight cubic feet in volume. For purposes of this definition, volume shall

be measured by the external displacement of the primary equipment enclosure, not the internal volume of such enclosure. An associated electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switch, cutoff switch, cable, conduit, and any equipment that is concealed from public view within or behind an existing structure or concealment may be located outside of the primary equipment enclosure and shall not be included in the calculation of the equipment volume. Small wireless facility does not include any structure that supports or houses equipment described in this definition.

200. **ADDITION** - “Solar Array” means a grouping of photovoltaic solar panels and any necessary hardware used to assemble and connect them. This definition encompasses all styles installation including but not limited to structure mounted, ground mounted, or integrated as a mechanical or structural component of a structure.

201. **ADDITION** - “Solar Energy System, Private” means an energy system that uses one or more solar arrays to convert energy for immediate onsite use and/or storage or to be fed back to the electrical grid. Private solar energy systems are an accessory use on the lot or parcel.

202. **ADDITION** - “Solar Energy System, Utility Scale” means an energy system, commonly referred to as a solar farm, which uses one or more solar arrays to convert energy for transmission through the electrical grid for offsite use or wholesale and/or retail sale. Utility scale solar energy systems are the principal use on the lot or parcel.

222. **ADDITION** - “Utility pole” means a pole or similar structure owned or utilized in whole or in part by a public utility, municipality, wireless service provider, or electric utility that is designed specifically for and used to carry lines, cable, transmission equipment, or wires for telephone, wireless service, cable television, or electricity service, or for lighting, the vertical portion of support structures for traffic control signals or devices, signage, information kiosks, or other similar functions.”

Omittance of 55.29 Small Scale Solar chapter. Small scale solar added to each allowed zoning district with updated requirements.

UPDATES TO EXISTING ORDINANCES

55.10 Non-conforming Lot of Record language clarification

55.14 Corner Lot language clarification

55.20 Sign Regulations addition for miscellaneous signs

55.22 Off Street Parking Area requirement updates

55.24 Agricultural Zoning District Regulation A-1; C-A; A-R changes

- Recreation – Public and Private event centers allowance for cabins
- Mini indoor storage units as an accessory use in Commercial Ag
- Utility- Small wireless
- Utilities – Substation, telephone, sanitary, lagoons, well water, gas
- Utilities – Microwave, radio, television and cell towers
- Utility Scale Solar
- Other retail businesses or service establishments determined by the zoning administrator to be equivalent to others permitted

55.24 Bulk regulation changes

- 4 buildable parcels replacing 4 dwellings
- C-A zoning will now require 1 acre
- Foundation for dwelling shall now be defined as permanent foundation.

55.25 Residential Zoning District Regulations

- Pursuant to the Marion County Board of Supervisors resolution adopted 9/28/2021 unincorporated Marion County land located within the unincorporated town of Pershing, as identified on the Official Zoning Map of Marion County, Iowa, shall now be zoned R-1; Single Family Residential under the Marion County zoning regulations. Any structures in existence prior to the adoption of the ordinance change January 1, 2023, shall be considered a non-conforming use as defined in section 55.10 of this Zoning Code.
- Utility pole mounted small wireless
- Foundation for dwelling shall now be defined as permanent foundation.

55.26

- Utility pole mounted small wireless
- Additional allowance for Microwave, radio, television and cell in C-1 zoning

55.26 Bulk Regulations

- C-1 lot size 1 acre
- C-2 lot size 1 acre
- Foundation for dwelling shall now be defined as permanent foundation.

55.27 Industrial Zoning District

- Utility pole mounted small wireless
- Utility Scale Solar
- Wind Energy Conversion Systems

55.26 Bulk Regulations

- M-1 lot size 1 acre
- M-2 lot size 1 acre
- Foundation for dwelling shall now be defined as permanent foundation.

55.30 Site Plan Regulations updates

Callendar asked questions about restricting the number of cabins in C-A zoning for event centers.

Callendar also questioned review of road impact on all rezonings.

Mobile home foundations were discussed. Poffenbarger and Young explained State code requires pier foundation systems for mobile homes and that won't change. That is considered a permanent foundation.

Rice asked about private solar panels.

With no further question Davis called for a motion to close the public hearing on the ordinance updates. Agan made the motion and De Zwarte seconded the motion.

Davis	aye
De Zwarte	aye
Miller	aye
Agan	aye

With no further questions Davis asked for a motion on the ordinance updates. Miller made a motion to approve with Agan seconding the motion. Poffenbarger explains with no rezoning requirements the subdivision will go to the BOS on November 22, 2022. Three readings will be required with the final reading scheduled for December 22, 2022 and an effective date of January 1, 2023.

Davis	aye
De Zwarte	aye
Miller	aye
Agan	aye

Davis called for a motion to adjourn. Miller made the motion and De Zwarte seconded the motion to adjourn, all ayes.

Minutes by Melissa Poffenbarger