

Minutes of the Marion County Zoning Commission Meeting
October 17, 2023

The Marion County Zoning Commission met on October 17, 2023, at 5:00p.m. 3014 East Main St., the Marion County Office Building.

The members present were Leslie Miller, Keith Davis, Sarah Treft, Joe Cunningham and Sandy Agan.

The public members present were Lucas Young, Marylin Rice, Fred Agan, Ryan Roberts, Jake Hughes, Caleb Knutson, Shane Mc Intyre.

The July 18, 2023, minutes were presented for approval. Chairman Davis called for a motion for approval. Miller made a motion to approve, Agan seconded the motion. A roll call vote was taken.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

The September 19, 2023, work session minutes were presented for approval. Chairman Davis called for a motion for approval. Cunningham made a motion to approve, Miller seconded the motion. A roll call vote was taken.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

Davis opened the public hearing for Petition 909 – A site plan is being presented for Nextlink on the property at 1175 Upton St., Columbia.

Nextlink has a tower and lease agreement with the Nicholas Martens to erect a 120' tower on the property addressed as 1175 Upton St., Columbia.

Marion County requirements for utilities defined as microwave, radio, television and cellular telephone communication towers are allowed in the A-1 zoning district as defined in 55.24 (2) as permitted restricted defined in 55.24 (J) as of 1-1-2023. A site plan must be submitted prior to a building permit in accordance to 55.30 Marion County site plan regulations.

55.24 (J) Restrictions

J. Microwave, radio, television, and cellular telephone communication towers but not utility poles.

All towers must have a fall zone. The minimum distance from the base of any new ground mounted communication tower to public right-of-way or any property line shall be: (1) A distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining property line.

(2) A distance equal to at least one hundred (100) feet or one hundred percent (100%) of the height

in the tower, whichever is greater, from any residential zoned district or residential use property line.

Nextlink representative Shane Mc Intyre explained the tower as shown was requested by the property owner Nicholas Martens for his use. Nextlink representative explained the tower is able to service neighboring property owner up to 10 miles by line of site. This is currently an area of the county with limited service.

The landowner has specified the site of the tower which lies directly beside his outbuilding and 69 feet from his house. A tower setback agreement is on file from the property acknowledging the setbacks. As you can see from the above restrictions nothing from Marion County Code defines or restricts this layout so long as the encroachment is on the subject parcel.

Poffenbarger explained there was no input from any of the notified property owners.

Davis called for a motion to close the public hearing. Miller made the motion and Agan seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

With no further questions on the Nextlink site plan Davis called for a vote. Agan made the motion. Miller seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

A public hearing for Petition 910 Rezoning from A-1; Agricultural to A-R; Ag Residential for the Marilyn Rice property (Parcel 0842200000). Property described as:

LEGAL DESCRIPTION Rice Subdivision is part of the Southwest Quarter of the Southeast Quarter of Section 34 - Township 75 North - Range 19 West of the 5th P.M., Marion County, Iowa, being more particularly described as follows: Beginning at the Northeast corner of said Southwest Quarter of the Southeast Quarter; thence South 00°06'50" East 1322.95 feet along the East line of said Northeast Quarter of the Southeast Quarter to the Southeast corner thereof; thence North 89°59'50" West 89.92 feet along the South line of said Northeast Quarter of the Southeast Quarter to the Southeast corner of that tract of land described in Book 2018 on Page 1033; thence North 00°26'50" East 33.00 feet along the East line of said tract; thence North 45°29'10" West 131.90 feet along the North line of said tract; thence North 87°27'10" West 237.80 feet along said North line; thence North 54°07'10" West 204.80 feet along the North line of said tract to the Northwest corner thereof; thence South 01°13'50" West 185.55 feet along the West line of said tract to the Northeasterly right-of-way line of Iowa Highway No. 5; thence Northwesterly 54.57 feet along said right-of-way line along a non-tangent 2898.00 foot

radius curve concave Southwesterly and having a chord which bears North 37°18'35" West 54.57 feet; thence North 37°51'00" West 1142.85 feet along said right-of-way line to the West line of said Southwest Quarter of the Southeast Quarter; thence North 00°03'25" West 308.27 feet along said West line to the Northwest corner of said Southwest Quarter of the Southeast Quarter; thence South 89°55'35" East 1323.20 feet along the North line of said Southwest Quarter of the Southeast Quarter to the Point of Beginning, containing 29.43 acres subject to 0.29 acres of County right-of-way Poffenbarger explained a subdivision is required as the number of lots will exceed 55.24 (6) bulk regulation, more than 4 lots per tract.

The land use is shown as Ag which allows for A-R; Ag Residential.

Poffenbarger received one phone call from a neighboring property owner; LMJ Farms. They are not in favor of the rezoning. There is an agreement in place regarding the sale of the property.

Poffenbarger explained to the Smiths and the commission this process of rezoning and subdivision is required to take place in order for the sale of any of the land unless sold as a whole tract.

There is currently three tracts and the proposed will be five. According to 55.24 (6) division to that level requires Ag Residential zoning.

Mrs. Rice needs to divide the land to sell off the farm ground in order to stay in her home.

Through administrative review approval was given by Marion County Road Department and Environmental Health.

Davis called for a motion to close the public hearing. Miller made the motion and Cunningham seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

With no further discussion Davis called for a vote to approve the rezoning of 0842200000 from A-1 to A-R. Miller made the motion and Agan seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

Part 2 of Petition 910 is Rice's Minor Subdivision. A three-lot subdivision of Parcel 0842200000.

The subdivision accesses have been approved by the Marion County Engineer on 165th Ave. Any access off of Hwy 5 would have to be approved through the Iowa D.OT.

Lot 1 – 19.64 acre
Lot 2- 6.50 acres
Lot 3 – 3 acres
Parcel 0842200000 is a total of 29.14 acres.

Poffenbarger explained the subdivision meets the minimum standards of Marion County’s Subdivision Ordinance and the Marion County Zoning Ordinance.

Davis called for a motion to close the public hearing. Cunningham made the motion and Miller seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

With no further questions on Rice’s Minor Subdivision Davis called for a vote. Miller made the motion. Cunningham seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

The public hearing was opened up on the changes being made to Chapter 55- Marion County Zoning Ordinance.

A brief summary:

- 55.03- The ag exemption in Iowa Code does not permit a minimum size.
- 55.04 (3) and 55.04 (3E)- Removed reference to male/female.
- 55.04 (112)- Removed portion of definition to ensure no conflict with 55.14.
- 55.14.- Made edits to ensure concise and consistent language.
- 55.17 and 55.18- Combined 55.17 and 55.18 to make simplify language and to conform to state code.
- 55.19- Added the word inoperable to better align with the definitions.
- 55.24 (2 table)- Added agricultural experience as a principal permitted use in A-1 and C-A.
- 55.24 (5D)- Removed reference to deleted section.
- 55.24 (5K)- Removed conflicting text.
- 55.27 (3A3f)- Removed reference to male/female
- 55.30 (3D)- Removed language that unduly limits the zoning commission.

Lucas Young, MIPA consultant went through the changes.

Several of these changes concerning adult entertainment came at the recommendation of the County Attorney.

Home occupation and Ag experiences changes are as a result of the State Code changing.

Young explained the change proposed per battery storage was being removed at this time.

With no further discussion Davis called for a vote to approve closing the public hearing on the changes to Chapter 55. Miller made the motion and Treft seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

With no further discussion Davis called for a vote to approve the changes to Chapter 55. Treft made the motion and Cunningham seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

The public hearing was opened up on the changes being made to Chapter 56- Marion County Subdivision Ordinance.

A brief summary:

56.02- 6 Changed "Lots" to "parcels"

55.03 Added definition (26), updated zoning code references, reworded definitions 45, and 46 renumbered definitions.

56.05 deleted all "plat of", & changed number of copies required throughout, added in multiple places "the owner will have to complete the process over again, after the year has passed if they do not record, including subdivision." Replaced zoning commission study with "review in accordance with Marion County Ordinances"

56.06 Update language "the provisions of Section 354.9 Code of Iowa, or current 28E agreements with the individual municipality"

56.7.- Rearranged into General Requirements, and The Streets and Engineering Requirements. 3 C reworded to reflect best practices

56.08- Updated number of copies. Deleted scale 1"-100', changed "address" to "contact information"

56.09 Decreased copies required throughout for standardized number. Deleted scale 1"-100', simplified 2 E, in F deleted "reproducible mylar",

56.11 Simplified 4 B

56.13 Included reference to Iowa Supreme Court Case Early v Bd of Adjustment of Cerro Cordo County.

Miller pointed out a typo throughout the chapter carried forward from the last update.

Caleb Knutson, MIPA presented the changes.

Knutson presented the public comments received from Tyler Christian, County Engineer.

My comments are for the Street and Engineering Requirements: D. Cul-de-sacs.

It says 150' property line diameter. We have a lot of 100' currently, which is too small when using SUDAS pavement radii of 48-50', which we should do. City of Pella is using 110' or 130'. With 150' that is 25' of ROW outside the pavement edge, where we only have 17.5' in a 66' ROW. I guess I would say the min. should be 135' which would match the 17.5' of ROW. Thoughts?

Also, can we say the 50-75' for the radius of the property line intersection of the turnaround.

Unfortunately, this makes reference to the Policy of the Road Departments that are in major need of updating.

The ordinance will be updated to reflect the comments.

With no further discussion Davis called for a vote to approve closing the public hearing on the changes to Chapter 56. Treft made the motion and Miller seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

With no further discussion Davis called for a vote to approve the changes to Chapter 56. Miller made the motion to approve with corrections and additions per public input. Cunningham seconded the motion.

Davis	aye
Miller	aye
Agan	aye
Treft	aye
Cunningham	aye

Davis called for a motion to adjourn Treft made the motion and Miller seconded the motion. All in favor.

Minutes by Melissa Poffenbarger