

A meeting of the Jasper County Plan Commission was held Monday, May 20, 2024 at 7:15 pm. at the Annex Meeting Room at 910S. Sparling Avenue, Rensselaer, Indiana. Members present: Dave Webb, Steve Jordan, Kent Korniak, Lana Olson, Jim Walstra, Vince Urbano, Summer Brown and Scott Bachert. Also present: William T. Sammons, Law Offices of William T. Sammons P.C., Mary Scheurich, Director and Kelli Standish, Secretary. Absent was: Justin Rodibaugh and Todd Peterson.

Meeting was called to order by Board President Kent Korniak. The first order of business was the call for approval of the March 2024 minutes.

Dave Webb made the motion to approve the March 2024 minutes. Motion was seconded by Jim Walstra and carried unanimously.

Rezone

Cause#PC-7-24

Applicant: John Baker, et al.

Landowner: Marion & Deloris Knight

Location: Sec.7-31-7 – Keener Twp. – 1200W. N. of St.Rd. 10 E-side

Use: Rezone R1 to A1

Public hearing held pursuant to notice published May 2, 2024 in the Rensselaer Republican, a newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners. All as shown by the affidavit of Janet Echlin, Clerk of the Rensselaer Republican.

Attorney Don Shelmon was present and stated that he is representing the applicants which are John Baker, Erin Baker, Brendan Baker and Stephanie Barcelona. They are all parties to a purchase agreement of the proposed property that is owned by Marion & Deloris Knight. He has presented pictures of the property that shows that there is a subdivision that adjoins the property along with other views of the property. The property is zoned R1 (8.666 acres) and has been utilized for the past 25 years as a horse facility (horse training/sales). There is an existing residence, large barn and storage shed. They are requesting to rezone the property from R1 to A1 to conform with the existing use of the property and this will allow the applicants to move forward with their proposed use of the property. The proposed buyers would like to have classes on several different types of animals, that would be held at schools, the Public Libraries and classes for adults. They would have these animals at their residence and have the classes onsite or offsite. They will have horses, goats, chickens, cows (all kinds of Hobby farm animals) and reptiles. They have been working with these kinds of animals for many years.

Lana Olson asked how many horses do they plan on having? Since you do adjoin a subdivision will the horses be the largest animal you have there?

Stephanie Barcelona replied that they currently only have 2 horses and they do not feel they will expand that anytime soon. The existing barn does have 6 stalls and they may at some time end up with a max of 4 horses. The horses will be the largest animals they have on the property any other animals will be mini animals.

Kent Korniak asked what kind of reptiles will you have?

Brendan Baker replied that the reptiles they will have include snakes, lizards and turtles. He does a traveling reptile show throughout the Chicagoland area and he does educational classes with monitor lizards, python's, gecko's, nonvenomous and noncrocodilians reptiles. Crocodilians are alligators and crocodiles which they will not have, but will have snakes, lizards and turtles for the majority of the show.

Kent Korniak asked if there is any licensing you need to have?

Brendan Baker replied that the only license someone would need is if you had crocodilians in Indiana and also for large endangered specie's of snakes including Burmese python and Reticulated pythons. If we were bringing the Reticulated python that we do use for shows we would be getting the permitting for ? pythons. The DNR Fish & Wildlife would be who the licensing is through.

Lana Olson asked if this is personal names or will you have an LLC that would be advertised on the proposed property.

Stephanie Barcelona replied that they will be creating an LLC under the name Runnin' Amuck Acres. They will have advertisement signs on their property.

Kent Korniak asked if anyone present had any opposition to the application.

Michelle Hoffman was present and wanted to know what size of pasture will they have for their horses and if the horses will be mainly in the pasture and stalled at night.

Attorney Shelmon replied that the pasture size is approximately 7 acres in size.

Eugene Roy was present and stated that he lives at 9850 Candlewick Road, DeMotte, he owns Lot 94 Candlewood Sub'd. He adjoins to the proposed property. He wanted to know what this will do with the easements he has for Drainage and Utilities.

Attorney Shelmon replied that all the easements of record remain the same. The rezoning request does not impact the easements at all nor the building Mr. Roy has on his property.

Jane Duttlinger was present and stated that she lives at 718 11th Place SW, DeMotte. Are they breeding/selling reptiles? She is concerned if the snakes get loose.

Brendan Baker replied that there are no plans of breeding reptiles for sale at any point, that is not one of their goals that they want to do with the reptiles. All the reptiles will be housed inside either the house or a separate building that they will put up. The reptiles will be double secured and will have locks on them. In the many years he has worked with reptiles, he has not had any issues with them escaping. The animals are not native species so they would not be able to survive a winter or fall here in Indiana.

Kent Korniak asked if the DNR comes on site to do inspection for the cages.

Brendan Baker replied affirmatively. If the DNR is the same way in Indiana as it is in Illinois they do a regular check up on the animals/cages.

Lana Olson stated that the current owners have a sales facility. Do the future homeowners plan to have any sales on the property?

Brendan Baker replied that we do not have any locked in plans of selling anything on site. They may look into doing something like that at a later date.

Lana Olson made the motion to recommend approval of the rezoning from R1 to A1 to the Board of County Commissioners. Motion was seconded by Vince Urbano and carried unanimously.

Commercial Solar &
Battery Energy Storage System

Cause#PC-8-24

Amendment to the Jasper County UDO: Section 20.20.350, 20.20.370, and 20.20.390 –
Commercial Solar Energy Systems

Public hearing held pursuant to notice published May 2, 2024 in the Rensselaer Republican, a newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners. All as shown by the affidavit of Janet Echlin, Clerk of the Rensselaer Republican.

Mary Scheurich stated that there are some changes that are being made to the existing Solar Ordinance. In the current ordinance it allowed for solar to be a permitted uses in the Industrial and High Intensity District which has been removed and is now a Special Exception regardless. There was a lot of discussion on the set-backs. The proposed set-back is 300ft. from any adjoining property line. The Battery Energy Storage System has been added to the Ordinance. The language that is in the ordinance that addresses the solar also addresses the Battery storage. We do not have an ordinance on the Battery Energy Storage Systems. There is a set-back waiver that can be waived if you are participating or non-participating if they choose to do that and that needs to be recorded. Battery storage that is in a floodplain has to be built 2ft above the base flood elevations just like any other structure that goes in a floodplain. Set-backs for the battery equipment shall be a minimum of 900ft. and 1320ft from any non-participating land owners parcels. The height is 20ft for any solar or battery system. The lot size for solar is a minimum of 10 acres and the lot size for a battery storage is a maximum of 10 acres. Unless it is for the R M Schahfer Generating Station. The noise limit was at 55 dba and is changed to 50 dba. The Wildlife Corridors shall be utilized and may be determined during County Technical Review process and Board of Zoning Appeals. The Landscape Buffer was a pretty good change. The tree planting did not work, so they went to Buffer yard landscaping standards, shall not apply to any CSES (Commercial Solar) or BESS (Battery storage). Any CSES shall be naturally buffered by the planting and farming of crops for production agriculture and maintained in good husbandry, and existing woods and vegetation. Any BESS additionally shall be buffered by a berm a minimum of three (3) feet in height at a 3:1 slope and not within any local, county, or state highway right of

way. The berm shall be planted with grasses and/or trees and shrubbery approved by the Board of Zoning Appeals and shall be included on the developer's drainage plan. The Application Procedure, any commercial solar or battery system will have to have a Special Exception with the Board of Zoning Appeals. They would still have language for a Technical Advisory Committee giving not less than 90 days to give us time to go over these applications. Construction of a CSES/BESS shall begin within three (3) years of BZA approval. The Improvement Location Permit has a lot of criteria that need to be met, 1. Economic Development Agreement, 2. Road use and repair and traffic management agreement.

Steve Jordan stated that on the last sentence on the Economic Development Agreement states the word "may", so does that mean they do not have to because "may" is not a definite. He feels like the word "should" be in place of the word "may." The board members agreed that the word should be changed to "shall" instead of "may."

Mary Scheurich continued to read the proposed Ordinance (see copy in the file). There were some changes made to the Fencing part of the Ordinance and that is as follows: All ground-mounted electrical and control equipment for CSES shall be fence and labeled or secured to prevent unauthorized access. The solar array and/or modules shall be designed and installed to prevent access by the public, and access to same shall be through a locked gate. 1. Fences are required around the perimeter of a CSES/BESS project area and are subject to setback requirements. 2. Chain link fences shall have a minimum height limit of 8 feet. 3. Razor wire and/or electric fences shall be prohibited. 4. Fence weave is strongly recommended in chain link fencing where residences are in close proximity. This fence weave will be maintained by the Solar owner. 5. Fences shall not obstruct wildlife corridors.

Vince Urbano stated that under the Road Use and Repair and Traffic Management Traffic #4 Agreement for Reimbursement of the County's costs to retain consultants for permit review and or construction compliance monitoring, he feels we need to include "all legal services that might be conducted by the county." Also under the Landscape Buffer section it states there will be a 3 foot berm around the BESS (Batter Energy Storage Systems), but it doesn't say anything about liners to keep all the contaminates in place, so it doesn't leak out. He then read what the concerns were from Todd Peterson who couldn't be here tonight. 1. The Solar Companies should be required to pay for all the County legal fee's relating to the negotiating. 2. Property value agreement should be mandatory not optional and 3. The solar company needs to provide monthly power production data by parcel to the County so the decommissioning clauses in the ordinance can be enforceable. If we don't know when they aren't generating power we can't enforce the rules. He is also concerned with the proposed set-back for a BESS of 900ft. from any adjoining property line is not adequate enough. If they would catch on fire there is no way of putting them out, you have to let them burn out and leave them alone. He is not sure what the correct distance would be but he does feel 900ft. is pretty close to a property line.

Steve Jordan asked where did we come up with the insurance requirements amount from?

Mary Scheurich replied that we did go by what other counties had in their ordinance.

Kent Korniak asked if anyone present had any opposition to the proposed ordinance.

Heather Vandemark was present and stated that she lives at 1615 E. McCoysburg Road, Rensselaer. She was on the committee that put the proposed ordinance together. Under the Noise Limit the current ordinance states 45 dba, she is not sure why it was changed to 50 dba. She also agrees about the word saying “shall” not “may.” She also said the fence weave needs to be required if requested by a nonparticipating landowner. Strongly recommending it sounds great but if she has to live by it and if she would prefer to have the weave fencing then she feels the company should be the one to pay for it. As for as the BESS set-back, she has read where they have evacuated up to a mile, which she knows is a large set-back.

Becky Deardorff was present and stated that she lives at 13951N. 500E., San Pierre. Since the purpose for the proposed Ordinance is to protect the prime farmland, what is the definition of prime farmland and who decides what is prime farmland? Under the fencing part it states Wildlife Corridors, what does the Wildlife Corridor mean? She also stated that it was mention that the Ordinance is to protect the property values. How do you determine that the property value is down other than determining it is the fault of the solar project?

Vince Urbano replied that he knows the USDA comes out and does some labeling.

Mary Scheurich replied that the UDO is designed to protect farmland. We are an agricultural county so our zoning and the UDO has been based on protecting the farmland.

Vince Urbano replied that he was thinking this had been discussed with a couple different companies and what the companies were thinking was since deer have been able to get into the fenced area but cannot get out, that there is some type of gate that has a moving flap that they would be able to get out and there will be a few of these throughout the area.

Summer Brown stated that she found a definition from the Purdue Extension on what Prime farmland is; “Prime farmland is that land best suited for producing food, feed, forage, fiber and oilseed crops, and also available for these uses.” She also said that Wildlife Corridors is a basic term and is open land that they use to travel between different habitats.

Becky Deardorff replied that she wouldn’t think their sand in the North end of the County would be considered prime farmland. She also stated that she feels the 300ft. set-back is a good distance to a property line.

Barb Neihouser was present and stated that she lives at 4946 E. St.Rd. 14,

Francesville. She feels the farmland and prime farmland definition need to be explained a little more.

Steve Jordan asked in the reference to protecting the prime farmland there is nothing in the proposed ordinance different for prime farmland and farmland, it is more of a general statement that this is what this is to do. There is nothing in there that specifies the particular difference in any type of farmland, it will all be treated the same.

Kent Korniak stated that there was language in a draft regarding this but he is not sure if it is in the proposed ordinance or not.

Jane Duttlinger was present and stated that she lives at 718 11th Place SW, DeMotte. Does the proposed ordinance contain any language that limits the amount of solar? She would be in favor of us valuing all the working farm land rather than giving someone an opening to say that it is not really prime farmland. Is it in the proposed ordinance about if the solar equipment is damaged before being constructed that they do not want to pay the money to have it put together and then it is suddenly out of production. Is there something in the proposed ordinance that states that if you put the solar farm here you are required to maintain it and keep it fully operable while you have the lease?

Mary Scheurich replied in the negative, that the proposed ordinance does not have any language limiting how much solar can be in the county. She replied affirmatively and that is part of the decommissioning agreement and since there were no changes made she did not read that part of the existing ordinance.

Martha Merry was present and stated that she lives at 2267W. 1400N., Wheatfield. All of the farm ground that has the solar panels on it what is the zoning? Is it ag or did it get changed to commercial?

Mary Scheurich replied that it is zoned Agricultural, the zoning did not change.

Martha Merry replied that, that is wrong because it is being used as commercial and should be zoned as commercial. She is concerned if something happens to the battery storage do we have the sources to take care of this? Approximately a month ago a Tesla vehicle caught fire and burned and nothing has been done with it yet.

Jim Walstra replied that their taxes are now \$16,000.00 versus \$500.00.

Rein Bontreger Jasper County Commissioner was present and stated that our EMA was onsite with the Tesla accident which was a unique situation. The State Officials have not had a situation like this and treated it as a hazmat situation. He had heard that they were going to do some soil testing to see if anything did release into the ground. His understanding on the battery storage is there will be training from the fire departments. He has been told that the sealed units are designed to contain the liquids.

Mike Fleming was present and stated that he lives at 3123N. 450W., Rensselaer. His concern is if we/state didn't know how to handle the Tesla accident then how are they

going to handle the situation if something happens to the battery storage? If no one knows about this kind of stuff then why are we allowing it in our County? Even if you put the battery storage on the Shahafer Property and something happens to it, it still leaks into the ground.

Dave Webb stated that he feels the proposed changes to the Ordinance are more restrictive than what we have and there were a lot of good concerns brought up.

Dave Webb made a motion to forward the ordinance with a no recommendation to the Board of County Commissioners with a list of the concerns that have been stated by the Public. Motion was seconded by Vince Urbano and carried with a vote of 6 members in favor and Steve Jordan opposed.

Special Purpose Well

Cause#PC-9-24

Amendment to the Jasper County UDO: Chapter 20.50.960 SPW-01

Public hearing held pursuant to notice published May 6, 2024 in the Rensselaer Republican, a newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners. All as shown by the affidavit of Janet Echlin, Clerk of the Rensselaer Republican.

Mary Scheurich stated that we are putting together some language and starting with test wells because we are still working towards the possibility of injection wells. We are really addressing the Geological or structure test wells for the Carbon Sequestration. She then read the proposed ordinance (see copy in the file).

Jim Walstra stated that he feels the roads will need to be bonded.

Steve Jordan stated that he just wanted to make sure that our county does not have a current ordinance for these test wells (geological/structure test wells), is that correct? There is 1 well in the county as of now.

Mary Scheurich replied affirmatively, that we do not have a current ordinance for the test wells and that there is currently 1 well in the county.

Mike Davis was present and in the proposed ordinance it states the minimum of 10 acres, but there is no mention of a distance between wells.

Mary Scheurich replied that is correct and she has marked the “distance” part as a question to discuss that.

Mike Davis replied that he feels the requirement of 10 acres might not protect us because it can vary in how it is laid out.

Kent Korniak asked if we know what size these wells are.

Mary Scheurich replied that she knows they are not feet wide, but is not sure what

the sizes of the wells are. She does know they go very deep.

Rein Bontreger was present and stated that he thinks the wells are 8-10 inches wide and probably go 3,000-5,000 feet deep.

Vince Urbano stated that he would like to see the set-back distance be set at a big distance to make it hard for them to meet. There is a county that did put a 2 mile set-back in but he can not remember which one it was. He feels there is a lot of information that needs to be looked into before an Ordinance is approved.

Attorney Sammons replied that you can not zone them out of existence. You can not make rules knowing that it is impossible to meet.

Dave Webb stated that he has had people talk to him about the proposed wells and they do not want it in our county, why shouldn't the residence of the county be able to say no we don't want it?

Attorney Sammons replied that your restrictions have to be reasonably related, it is called the exercise of the police power. The board can create reasonable restrictions and reasonable ordinances that are based on studies. The purpose of our UDO goes into some of these things.

Kent Korniak asked if anyone present had any opposition to the proposed ordinance.

Barb Neihouser was present and stated that she lives at 4946 E. St.Rd. 14, Francesville. She presented a handout from the Attorney General Todd Rokita. She then quoted a few sentences from the article, "General Todd Rokita and 24 other attorneys general this week took the next step in preventing the Biden administration's "Clean Power Plan 2.0" from imposing a stranglehold on the states and everyday Hoosiers as they cool, heat and light their homes. Attorney General Rokita's office is leading a motion to stay this intrusive new U.S. Environmental Protection Agency (EPA) rule that places absurd anti-coal & gas mandates on power plants." She asked if the Board has reached out to Attorney General Rokita's office and pleaded to him that Jasper County does not want this. We are not the only County that does not want the test wells.

Mary Scheurich replied that we have not talked with the Attorney General Rokita's office regarding this.

Craig Standish was present and stated that he lives at 214N. 100E., Rensselaer. What happens to the test wells once they have been tested? Are they capped off at the surface level? Would there be an opportunity for them to be used for anything else?

Mary Scheurich replied that they have to be filled in completely and they would not be able to be used for anything else. These are State rules that they have to abide by.

Vince Urbano asked how did the current test well get approved if we do not have an ordinance for them.

Steve Jordan replied that they obtained State permits and since we have nothing stating they can not do it, it was then permitted to do.

Michelle Hoffman was present and stated that she lives at 14225N. 200W., Wheatfield. She stated that she knows the test wells can be sold for water wells. She has records of two wells that have sold in the County. One well was done in 1947 and the other one was done in 1970.

Mary Scheurich replied that, that is not what the DNR permit states for the one well permits that she is aware of.

Michelle Hoffman replied that she knows for the test well that is located at IBEC their well can be tested through October 31, 2024 and can operate beyond October 31, 2024. They have to submit an application to conform the well, which means they can cap and temporarily abandon the well or orphan it and then come back once they get their permit changed.

Jane Duttlinger was present and stated that she lives at 718 11th Place SW, DeMotte. She is concerned that the county feels like they cannot say no to letting companies come into the County and doing what they want. The companies are not spending the money to dig wells for nothing and once they start doing these they will not stop. She is concerned that this will be pumping poison into our ground, then it is too late to do anything about it. She appreciates the board for putting together an ordinance since we do not have one in place.

Martha Merry was present and stated that she lives at 2267W. 1400N., Wheatfield. Her question is what kind of bond are they going to put up to supply us with water when they do contaminate our wells and we have no source of water?

Michael Todd was present and stated that he lives at 3811E. 400N., Rensselaer. He stated that they did seismic testing across the street from him. Under the public safety part of the proposed ordinance, he stated that a NPR article that came out in 2023 that talked about an explosion that was in Mississippi in 2020 that left the community useless and more than 200 people were evacuated. He is not sure if you are aware of the house bill 1209 was in active in 2022 and is specifically with the carbon capture. They only have to have 70% of the landowners approval and they can take the other 30% by eminent domain. He urges the board to put strict language in the proposed ordinance to help protect where we are at.

Rein Bontreger stated that this is just the beginning of us putting an ordinance together and appreciates all the input and concerns that have been brought up.

Vince Urbano stated that he feels we need to go over the language a little more to make it more sensible than what has been presented he would be in favor of that. He is not comfortable with the language that is in the proposed ordinance that has been

presented to the board tonight. These companies shouldn't be able to come in our county and do what they want, we should be able to put the teeth on them and stop them. He understands that there are State and Federal regulations that are being done.

Lana Olson stated that we have nothing to protect us from them doing what they want, so we need to get something on record and then there can be changes made later on.

Steve Jordan made the motion to recommend approval of the proposed ordinance to the Board of County Commissioners. Motion was seconded by Scott Bachert and carried with a vote of six members in favor and Vince Urbano opposed.

Upon motion duly made and seconded, meeting was adjourned.

A TRUE RECORD;

Kent Korniak, President