

Minutes - Woodbury County Zoning Commission Meeting March 25, 2013

The meeting convened on the 25th of March, 2013 at 6:00 PM in the Board of Supervisor's meeting room on the first floor of the Court House, Downtown, Sioux City, Iowa. Present were the following Commission members – Chairman Grady Marx, Christine Zellmer Zant, Tom Bride, Mike Knight and David McWilliams. Zoning Staff Present: John Pylelo and Peggy Napier. From the public were Kim Lakes, Douglas Mordhorst, and Nick DeRoos and Kim Mathers representing CF Industries.

The next agenda item was approval of Commission Minutes from meeting of January 28, 2013.

Ms. Zellmer Zant made a motion to accept the minutes as read. Mr. McWilliams seconded the motion; motion carried 4-0.

The next agenda item was Public Hearing and Recommendation Re: Lakeland Acres Addition – a Minor Subdivision.

On February 28, 2013 the Woodbury County Office of Planning and Zoning received a petition for subdividing a parcel. The applicants are Trevor J. and Kimberly L. Lakes. The applicants wish to divide an existing 20.093 acre parcel into two lots in order the existing homestead site and farm ground can be sold independently. No additional residential development is proposed. The party purchasing Lot 1 intends to use the lot for agricultural production. However the AE (Agricultural Estates) zoning designation for the existing parcel would allow Lot 1 to be residentially developed. There are no floodplain issues related to the proposed subdivision. The average CSR is 50.11.

The homestead site and farm ground will continue to be serviced by the existing driveway addressed 1611 120th St. The AE (Agricultural Estates) allows the proposed uses and any potential residential density.

The property is located in the W ½ of the SW of Section 9, Concord Township approximately 2.1 miles east of Sioux City on the north side of 120th St.

The existing lot is flag shaped in dimensions with 50' of frontage along 120th St. The fifteen (15) property owners within 1000' of the proposed subdivision were notified by letter of the public hearing. As of March 20, 2013 no comments have been received.

Notices requesting comment were also sent to each of the following Agencies or Institutions with responses as of March 21, 2013 noted.

County Engineer:

Mark J. Nahra, County Engineer
March 22, 2013
Re: Lakeland Acres Subdivision

The Secondary Road Department has reviewed the final plat for the above referenced subdivision forwarded with your memo dated February 28, 2013.

I am offering the following comments for your consideration.

- We checked the closure on the plat and found it in compliance with the requirements for the full subdivision of 1 in 10,000 and 1 in 5,000 for each lot as required by Section 355.8 of the Code of Iowa.
- I reviewed driveway location and easement for the lots. The existing driveway has adequate sight distance to the east, but is marginal to the west and near minimum as required by standard. It is adequate in place for one lot home access and farm access. If more than one additional home is built here, access will have to be reviewed prior to approval of a building permit for more than a second home within the subdivision.
- I have no other concerns or issues with this subdivision.

If there are any more questions or issues that arise later, please contact this office.

Mark Nahra
County Engineer

Department of Natural Resources: On March 21, 2013 DNR advised by email it had no formal comment to make upon the permit application.

Century Link: No Response Received

Woodbury County REC: No Response Received

Siouxland District Health Department: No Response Received

Acounty Assessor: No Response Received

County Emergency Services: No Response Received

County Real Estate Department: Subdivision name is available for use

Board of Supervisors: No Response Received

Citibank Federal Savings Bank: No Response Received

CitiMortgage Inc: No Response Received

Kaneb Pipeline Operating Partnership, L.P.: No Response Received

Bacon Creek Watershed Subdistrict: No Response Received

Soil and Water Resource Conservation Service: No Response Received

For your review find attached:

- Location and parcel information
- Pictures of the site
- Final Platting
- Topographical platting

Staff Recommendation:

Subject to public hearing testimony the Planning and Zoning Office offers a recommendation of final plat approval subject to:

- The recording of a Paving Agreement pursuant to county paving policy; and
- The recording of an easement provide adequate ingress, egress and utility services through proposed Lot 2 to Lot 1.
- If more than one additional home is built here, access will have to be reviewed by Secondary Road Department prior to approval of a building permit for more than a second home within the subdivision.

Your Commission is asked to hold the required public hearing on this matter; then consider the final platting voting to make a recommendation to the Woodbury County Board of Supervisors.

Commissioner Bride asked if the general requirements in lot regulations for easement being at least 60' and the plat showing the easement being 40' would be an issue. Mr. Pylelo said he would not hold the Lakes to a higher standard than they were capable of, but would defer to Mr. Mordhorst's judgement who is the surveyor for the subdivision. Mordhorst affirmed Pylelo's assessment.

Mr. McWilliams made a motion to close the public hearing. Ms. Zellmer Zant seconded the motion; motion carried 4-0.

Discussion:

Discussion ensued regarding assurance Lot 2 would not be used for residential development. Kim Lake stated, as the seller, that the purchaser of Lot 2 would be John Mrla, Jr. who lives on Buchanan and he will farm Lot 2.

Ms. Zellmer Zant made a motion to approve the Lake's minor subdivision subject to the following conditions;

1. The recording of a Paving Agreement pursuant to county paving policy; and
2. The recording of an easement provide adequate ingress, egress and utility services through proposed Lot 2 to Lot 1.
3. If more than one additional home is built here, access will have to be reviewed by Secondary Road Department prior to approval of a building permit for more than a second home within the subdivision.

Mr. McWilliams seconded the motion; motion carried 4-0.

The next agenda item is recommendation to the Woodbury County Board of Adjustment on a Conditional Use Permit (CUP) application from property owners CF Industries Nitrogen LLC, MidAmerican Energy Company and Larry Eisenhauer.

Woodbury County property owner CF Industries Nitrogen LLC has applied, along with two nearby property owners, for a Conditional Use Permit to construct a Fertilizer Plant and rail spur within portions of eighteen (18) Woodbury County parcels. The parcels included within the application reflect the location of permanent structures for the plant and those areas where it is expected construction activity will take place. Included are parcels where construction trailers, construction access roads, barge layoff, haul roads, as well as borrow areas, lay down, staging areas and related ancillary infrastructure will be located. The parcels in question are located within a portion of sections 18 and 19 of Liberty Township; portions of Section 13 and 24 of Liberty West Township and a minor portion of nearby accretion ground adjacent to the Missouri River owned by the Department of Natural Resources. The accretion ground is a portion of what is commonly referred to as Mile Long Island. All parcels have a GI (General Industrial) zoning district designation.

CF Industries proposes to place the proposed plant expansion just north of the company's existing plant. Included within the project will be an extension of County roadway right of way from Port Neal Rd. westerly at approximately 259th St. Near this location a rail spur will be constructed from the existing Union Pacific rail line west to the new plant site. CF Industries continues to negotiate easements for those portions of the road and rail spur locations lying outside property the company currently owns. These easements have or will be obtained from MidAmerican Energy Company and Mr. Larry Eisenhauer.

Woodbury County's Secondary Road Department intends to make significant right-of-way improvements to support the planned plant expansion.

See attached the following which provide additional project information:

1. A document authored by the applicant entitled *CG Industries Port Neal Expansion Overview* which includes the following information:
 - Company Background
 - Corporate Values
 - Manufacturing and Distribution System
 - Port Neal Complex Overview
 - Safety Commitment
 - Port Neal Expansion Project
 - Port Neal Product Capacities – Current and Post Project Expansion
 - Construction Work Force Personnel
 - Site Plans – Current and Expansion

2. A document authored by the Woodbury County Engineer entitled *CF Industries RISE project* which provides a recap of four (4) anticipated sub-projects to improve roadway right-of-way supporting the company’s expansion.

3. Expanded Site Plan

When completed the plant expansion construction will meet the Woodbury County ordinance definition for the uses of “*chemical manufacturing*”, “*chemical bulk storage*” and “*rail line*”. Each of these uses are conditionally permitted uses within the GI (General Industrial) zoning district designation.

The conditional use permitting process includes a public hearing be held by the Woodbury County Board of Adjustment. Ordinances further require your commission review the Conditional Use Permit application and report its findings with recommendation to the Board of Adjustment. Your review is to include a determination in each of the below seven standards found within ordinance subsection 2.02-9.F will be met.

- (1) *The conditional use requested is authorized as a conditional use in the zoning district within which the property is located and that any specific conditions or standards described as part of that authorization have been or will be satisfied.*
 - a. *The proposed use development will be in harmony with the general purpose and intent of this ordinance and the goals, objectives and standards of the general plan.*
 - b. *The proposed use and development will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other factors affecting the public health, safety and general welfare.*
 - c. *The proposed use and development will be located, designed, constructed and operated in such a manner that it will be compatible with the immediate*

neighborhood and will not interfere with the orderly use, development and improvement of surrounding property.

- d. *Essential public facilities and services will adequately serve the proposed use or development.*
- e. *The proposed use or development will not result in unnecessary adverse effects upon any significant natural, scenic or historic features of the subject property or adjacent properties.*

(2) *Other considerations. In its review of conditional use requests, the Board of Adjustment shall consider whether, and to what extent:*

- a. *The proposed use or development, at the particular location is necessary or desirable to provide a service or facility that is in the public interest or will contribute to the general welfare of the neighborhood or community.*
- b. *All possible efforts, including building and site design, landscaping and screening have been undertaken to minimize any adverse effects of the proposed use or development.*

Your Commission is tasked with reviewing CF Industries Nitrogen LLC’s Conditional Use Permit application and provide your Commission’s findings and recommendation to the Woodbury County Board of Adjustment. You are further asked to authorize your Chairman provide your findings and recommendation in writing to the Woodbury County Board of Adjustment.

Mr. Pylelo asked to defer any staff recommendation until after any other testimony by third parties.

Rather than make any statements first, Ms. Mathers and Mr. DeRoos wanted to respond to any questions from the commission.

Mr. Pylelo made sure all seven standards were discussed and approved.

- c. CF is not currently using barge transportation but intends to set up a temporary jetty to transport larger objects to building sites. Pylelo stated “there are components of this construction that cannot get there any other way.”
- d. Road right-of-way improvements will be made for fire and emergency vehicles according to the local jurisdictions. The newly formed task force is set up to deal with these specific issues and others. There will be a subcommittee set up for safety concerns. CF will also have trained personnel

in place for rescue, safety and firefighting. They are currently working with Gary Brown of Woodbury County Emergency and Disaster Services.

Commissioner Knight asked about the security of the facility. He was concerned about existing chemicals created and stored there and the potential for terrorist activity. Mr. DeRoos explained homeland security's involvement and connection to the plant and the safety checks that will be in place.

- e. Regarding adverse effects; Mr. Pylelo has never seen a project have more agencies watching or environmental assessments done, more studies or permitting. The CUP (conditional use permit) will be null and void unless all conditions are met. Mr. DeRoos said they cannot do anything on site until air quality standards are met. DNR is very cooperative and have met with CF Industries. They are keeping all entities involved down to temporary trailers they will need, where they will be and how they will be held down. The project is estimated to take three (3) years or 2016.

2.)

- a. Mr. Pylelo stated the positive impacts CF Industries will have locally far outweigh any inconveniences.

Mr. Marx asked if the price of fertilizer for local farmers will be beneficial. Mr. DeRoos said global markets dictate prices.

- b. We are far from ready to issue building permits because of the nature of the building project which will be done in phases. There will more likely be grading permits issued before building permits. The nature of the project dictates the plant will be "ugly," but Mr. Pylelo cannot see it impacting anyone. Anything there is permitted because of the GI (general industrial) zoning and landscaping will be directed more for drainage than appearance. Mr. Bride noted there is already a buffer zone created.

Staff Recommendation:

The Planning and Zoning Office recommends a recommendation from the zoning commission that each of the seven (7) standards have been met or will be met and that you offer a favorable recommendation. This recommendation is conditioned upon them meeting all federal, state and local permitting requirements.

Mr. Pylelo added Planning and Zoning has been contacted by numerous people in regard to this project but not one has been a negative comment.

Mr. DeRoos added an engineer from Germany said we have the best EPA standards he has ever encountered.

Ms. Zellmer Zant made a motion the Board of Adjustment approve the CUP (conditional use permit) on the condition;

- **That the applicants obtain all required federal, state and local permitting**

Mr. McWilliams seconded the motion; motion carried 4-0.

4. Your next agenda item is hearing any citizen wishing to be heard.

The Planning and Zoning office is unaware of any person intending to be present to be heard on any other issue or matter.

5. Chairman Marx had issues with some ordinances he wanted to review.

Mr. Marx had a question of a property owner having junk car violation and other miscellaneous trash creating an eyesore. The owner was instructed to dispose of or otherwise store salvage cars and clean up trash. He chose to burn said trash. Mr. Marx feels he had the right to burn whatever he wanted to on his property.

A lengthy discussion ensued regarding State statute which had been adopted verbatim by the Board of Supervisors at an unknown time for an unknown reason but most likely had a specific origin. Violation steps were usually not taken unless a complaint was filed. Explanations were given regarding definitions of hazardous materials, what could be burned, what could be buried and what needed to be disposed of in other safe ways. The general consensus was there is a fine line between violations and civic responsibility. Mr. Pylelo offered to make state statutes available to anyone who wanted to study it.

Mr. McWilliams made a motion to adjourn. Mr. Marx seconded the motion; motion carried 4-0.

Meeting adjourned at 7:15 PM. Next meeting is scheduled for 6 PM, April 22, 2013.