

Minutes - Woodbury County Board of Adjustment Meeting April 1, 2013

The meeting convened on the 1st of April, 2013 at 6 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: Corey Meister, Robert Brouillette, JoAnn Sadler, Brian Crichton and Russell Walker. Zoning staff Peggy Napier was also in attendance. Also present were Mike Maas and Nick DeRoos representing CF Industries, L.L.C., Noah DeRoos and Doug Helvig.

2012 Chair, Brian Crichton, called the meeting to order at 6 PM.

Mr. Brouillette made a motion that 2012 chairperson, Brian Crichton, act as chair until new chair for 2013 is elected. Mr. Meister seconded motion; motion carried 4-0.

The first agenda item was election of 2013 Chairman and Vice-Chairman.

Mr. Crichton was voted 2013 chairperson with a vote of 5-0.

Mr. Meister was voted 2013 vice-chairperson with votes going to Meister and 1 vote to Mr. Brouillette.

The first agenda item was approval of the June 2, 2012 meeting minutes.

Mr. Meister made a motion to approve the minutes as written. Mr. Walker seconded the motion; motion carried 4-0.

The next agenda item is a public hearing and consideration of a Conditional Use Permit application for CF Industries Nitrogen LLC.

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.

Zoning District Considerations: The applied for uses are all conditionally permitted within the existing zoning district designation. All congruent and nearby zoning district designations are identical to those of the site; GI (General Industrial).

Occupied Structures: The closest occupied structure not owned or under the control of the applicant is approximately 5,900' to the northwest from the projected center point of the plant expansion proper.

Preliminary site plan: The applications' site plan meets all required dimensional standards within the County's zoning ordinances.

Driveway, parking and loading areas: Driveway, parking and loading area specifications will be enforced within the building permit application process and by standards established by the Woodbury County Engineer.

Current use of Parcels: The parcels current land use consists of chemical manufacturing, chemical bulk storage and agricultural production.

Existing Structures: The only structures within the project's site plan are:

- Those structures comprising or supporting the existing CF Industry plant;
- Structures to the east owned by Mr. Larry Eisenhower which are located within the Eisenhower easement area. Those structures will be removed/demolished to facilitate construction of a rail spur. As part of CF Industries agreement with Eisenhower a replacement structure may be constructed for Eisenhower on the same parcel but outside the easement area.

Grading and vegetation: The plant expansion site will include grading and elevation change will occur. We anticipate a grading plan will be submitted to Woodbury County prior to building permitting. As portions of the site plan are within flood hazard areas state and county review of the grading plan will be undertaken. Your Board is to note the placement of permanent structures, construction trailers, borrow areas, lay down/staging areas and related ancillary infrastructure are shown to lie outside of any of the Zone A/AE flood hazard areas (100 year floodplain).

Internal Drive and loading/unloading areas: The site plan does not provide internal driveway construction specifications. This information will be evaluated within the building permit application process by the Office of Planning and Zoning and the Woodbury County Engineer.

Hours of Operations:

24/7/365

Security: Due to the nature of the existing and proposed plant expansion security will be provided by perimeter and gated fencing. Security will be equal or exceed to that currently in existence for the existing plant. Security procedures will be in place preventing unauthorized entry.

Fire suppression: Fire suppression systems will be included within the plant expansion. Personnel will be trained and equipped in fire suppression related techniques. The Salix volunteer fire department provides primary firefighting services.

Lighting: Security lighting will be installed and will be reviewed within the building permit application process.

Signage: No signage is shown in the site plan. Any signage installation will be addressed within the building permit application and review process.

Soils: Due to the parcel's current industrial use the Assessor's records show no soil information for the plant expansion proper location. However adjacent parcels to the west and east exhibit the following soil types in various degrees:

- Blake Silty Clay Loam
- Hayne Silt Loam
- Modale Soils
- Onawa-Albaton Complex
- Percival Silty Clay
- Grable-Morconick Complex
- Scroll Silty Clay
- Morconick Fine Sandy Loam
- Sarpy Loam Fine Sand
- Fluvaquents
- Alberton Silty Clay

Corn Suitability Ratings (CSR) for these adjacent parcels average from 45.55 to 56.29.

Employees: Approximately 100 additional, full time, year round and permanent employees.

Well and Septic system: The site plan does not provide well or septic system installations. Multiple wells will be installed to support the manufacturing processes and for fire prevention. From preliminary information and discussion with the IDNR it is believed requested well locations will lay outside of any zone A/AE flood hazard areas. Septic system installation decisions await the outcome of discussions on potential sources for potable water.

Utilities: Utilities providers are:

- | | |
|---------------------------------|------------------------------|
| Electrical | MidAmerican Energy |
| Natural Gas | Northern Natural Gas Company |
| Telephone | Longlines |
| Water for manufacture processes | Multiple water wells |
| Water for fire suppression | water wells |

Potable water – Study and discussion continue for potential sources of potable water.

Notification: The sixteen (16) property owners within 500' of the parcel were notified by mail of the April 1, 2013 public hearing. As of March 28, 2013 no recipient has contacted the Zoning Office requesting additional information.

The Zoning Office also mailed notifications to the following departments or agencies requesting comment. As of March 28 responses were:

Sharon Tahtinen – Iowa Department of natural Resources: Received notification no comment on this application will be made from the various IDNR departments.

Bill Cappuccio of IDNR – FEMA Iowa Floodplain Coordinator: Received notification no comment this application will be made from IDNR department.

Mark Nahra – Woodbury County, Iowa Engineer: No comment received. We anticipate the County Engineer will be present at the public hearing.

Siouxland District Health Department: No comment received.

Justin Iverson - Fire Chief Salix, Iowa: No comment received.

Gary Brown - Woodbury County, Iowa Emergency Services: No comment received.

Barb Parker - Liberty and Liberty West Township Clerk: No comment received.

Barb Parker - City Clerk of Salix, Iowa: No comment received.

Lisa McCardle - City Clerk Sioux City, Iowa: No comment received.

Renee Fangman - City Clerk Sergeant Bluff: No comment received.

Sheriff David Drew - Woodbury County, Iowa: No comment received.

Iowa Department of Transportation: No comment received.

Woodbury County Iowa Conservation District: No comment received.

Jerry Sindt – Woodbury County Soil & Water Conservation District

Karen James - Woodbury County Board of Supervisors Office: No comment received.

Dwight Lang -Siouxland Interstate Metropolitan Planning Council: No comment received.

Ricky J. Mach – City of Sioux City Water Department: No comment received.

Doug Johnson - Federal Aviation Administration: No comment received.

After the issuance of your Board's narrative packets the following calls came into the Planning and Zoning Office:

On the morning of April 1, 2013 J. Robert Wardin called the Office of Planning and Zoning to inquire on the below issues. Mr. Warding owns approximately 314 acres in three parcels to the north and west.

- 1. Post-construction drainage from the site*
- 2. Air Quality Permitting*
- 3. Status of Northern Natural Gas Pipeline project*

As Mr. Wardin resides in North Oaks, MN he advised the Planning and Zoning Office he would be represented at the April 1, 2013 public hearing to address by either or both of:

- Doug Helvig*
- Frank Welte*

On the morning of April 1, 2013 Brian Krogh called the Office of Planning and Zoning to inquire on the below issues. Mr. Krogh owns approximately 263 acres in eight parcels to the northeast.

- 1. Why he received a public hearing letter*
- 2. What was the meeting about*

Mr. Krogh stated he likely would not be in attendance at the public hearing.

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.*

Zoning commission Recommendation:

On March 25, 2013 the Woodbury County Zoning Commission reviewed the conditional use application and related documentation provided by the Office of Planning and Zoning. Attending the Commission's meeting were CF Industry representatives Nick DeRoos and Kim Mathers who responded to Commission inquiry. The Commission reviewed each of the above seven standards with the Planning and Zoning Office providing comment upon each standard. **The Commission then deliberated finding each of the standards would be met and voted unanimously to recommend your Board approve the application with the following condition:**

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

Staff Recommendation: Staff is of the opinion the conditional use standards within Section 2.02(9) of the ordinances can be met along with the totality of all zoning and flood plain management ordinances. Staff is of the opinion conditions and permitting will be in place to mitigate any undue adverse impact on adjacent property or the environment. As the applied for use is general industrial (GI) in nature the application does meet the standards established with Woodbury County's 2005 General Development Plan and within the County's current zoning ordinances for the GI zoning district. Due to the location and buffer area under the control of the applicant staff cannot anticipate activity by the applicant operator which would create what could be considered a nuisance within this designated industrial zoned district.

The Office of Planning and Zoning supports the Zoning Commission's recommendation subject to the condition that all federal, state and local permitting be obtained.

Your Board is tasked with holding then closing the public hearing on the conditional use permit application; deliberating thereon; then voting on the application's approval.

In voting you are to consider any public hearing testimony offered; the Zoning Commission's recommendation; and the Office of Planning and Zoning's recommendation. You may place any conditions on approved permitting your Board may deem prudent.

Mr. DeRoos said he was at the meeting to support the conditional use permit and to answer any questions that might be asked. He added the expansion would have world-class emission control.

Mr. DeRoos is working with DGR (Dewild, Grant, Reckert & Associates surveyors and engineers) for floodplain issues. Mr. Brouillette and Mr. DeRoos talked about specialized training with the fire department in Salix to deal with issues for industrial situations. CF Industries has its own rescue and firefighting teams who are also training with Gary Brown for specialized, unique situations.

Discussion:

Mr. Brouillette made a motion to approve subject to the following conditions:

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

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

The next agenda item is any citizen wishing to be heard by the Board.

There were no longer any citizens present.

Mr. Brouillette made a motion to adjourn. Mr. Walker seconded the motion; motion carried 4-0.

Meeting was adjourned at 6:45 PM.

Next meeting is May 6, 2013