

## **Minutes - Woodbury County Board of Adjustment Meeting September 12, 2016**

The meeting convened on the 12<sup>th</sup> of September, 2016 at 6:00 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: Robert Brouillette, JoAnn Sadler, Katie Colling, and Dwight Rorholm. Staff members John Pylelo and Peggy Napier were also in attendance. Present from the public were: Adapto Campos-Gomez, Jared McGrew, Ryan Ross, Larry Eisenhauer, Mike Maas, and Cody McCullough.

**The first agenda item was Any Citizen Wishing to be Heard on Non-Agenda Items.**  
No citizen made comment pertaining to this agenda item.

**The next agenda item was approval of minutes of July 11, 2016 meeting.**

Mrs. Sadler made a motion to approve the minutes as written. Mr. Rorholm seconded the motion subject to the following corrections;

- Pg 5 – Comment #7: from *“the water was coming from here for dust management”* to *“the water was coming from Garretson Ditch for dust management”*
- Pg 6 – Second paragraph from the bottom; 4<sup>th</sup> line: *“...demolition services and to construction projects.”* to *“...demolition services and to many future unknown construction projects.”*
- Pg 6 – motion carried 4-0; not 4-1
- Pg 7 – *The application requests permitting to stage and operate “a” permanent earthen borrow facility*
- Pg 13 – Under “Discussion;” paragraph 4: change from *“...it would have a safe effect,”* to *“...it would have the same effect.”*
- Pg 14 – two places change *“5-0”* to *“4-0.”*

Motion carried 4-0.

### **Agenda Item #3**

**The next agenda item is Public Hearing and Consideration of Conditional Use Permit Application by Property Owner – The State of Iowa and Applicant – Manatt’s, Inc. Re: The Staging and Operation of a Temporary Concrete Mixing Batch Plant; GIS Parcel 894234100012.**

The property owner, The State of Iowa, and the applicant, Manatt's Inc. of Brooklyn, Iowa wish to stage and operate a temporary concrete batch plant within the 6.45 acre portion of the referenced parcel. The batch plant's operations will provide concrete for a 4 mile segment of the Hwy 20 corridor expansion project. The site will be returned to its original pre-production state. It is anticipated the batch plant will be active through the 2017 construction season with decommissioning of the site anticipated to occur no later than December 31, 2017.

The impacted parcel is located within a portion of the SE ¼ of the NW ¼ of Section 34 of Union Township near Correctionville. The site abuts the west side of L36 and the north side of Hwy 20.

The rock component for the concrete will originate from LG Everist's Crocker Pit near the Plymouth/Woodbury county line and will be transported to the site on Hwy 31. The sand component for the concrete will originate from Hallet Material's Anthon Pit and will also be transported along Hwy 31. The anticipated mixed concrete haul route would impact less than a 0.1 mile segment of L36 from the batch plant location before reaching the Hwy 20 corridor.

The project will require 40,000y<sup>3</sup> of concrete equating to 36,000 tons of rock and 26,000 tons of sand. Half of the input materials and the finished concrete will be hauled in 2016; the remaining half in 2017.

The site plan provides for multiple driveway installations along L36 and a single driveway location on Hwy 20.

Woodbury County zoning ordinance (Section 3.03:4 - Page 37) provides that *Temporary heavy construction services - Concrete mixing (temporary)* requires CUP approval by the county's Board of Adjustment with Section 2.02:9.F standard review and recommendation by the Zoning Commission.

The parcel is zoned AP (Agricultural Preservation) which allows the applied for conditional use. The parcel does not lie within any rural drainage district. The entire 6.45 acre site is located in within a zone AE special flood hazard area known as the 100 year flood plain. A flood plain development permit application will be required.

The average corn suitability rating (CSR2) for parcel is not available. However, the CSR2 for adjacent parcels to the west and south range from 51.38 to 69.92.

Find attached the following documentation to assist in your review:

- Woodbury Township TAM Mapping showing location
- The CUP application
- Aerial with drive locations and site plan dimensions
- Photos of similar Manatts' Concrete Batch Plant (2)
- Aerial with structure placement locations
- Beacon Parcel Information with Site Plan location noted
- Pictometry Aerial with elevation contours
- Beacon Parcel Information
- Aerial Mapping of parcel with Zoning Layer
- Aerial Mapping of parcel with Soil Type Layer
- Aerial Mapping of parcel with Flood Plain Layer
- Letter from the Chairman of the Woodbury County Zoning Commission providing the required Section 2.02-9.E findings and Commission recommendation

Written notices of the September 12, 2016 public hearing were mailed to the six (6) property owners within 500' of the impacted parcel. To date the Planning and Zoning office has not received contact from any party receiving the written notice.

Staff Recommendation:

Staff recommends approval of the requested use permitting subject to conditions recommended by the Zoning Commission.

**Your Board is tasked with holding a public hearing on this matter and accepting public testimony; to then deliberate on the permit approval; and then vote on approval of the requested conditional use permit. Zoning ordinances allow your Board to approve, approve with conditions or deny the requested permitting.**

Comments:

Mr. Rorholm asked if the access point located on Osceola Ave. would be temporary or permanent.

Jared McGrew from Manatt's said any new access areas will be intended to be temporary.

Mr. Pylelo explained Planning and Zoning will defer to the County Engineer in deciding how long new driveways will remain.

Mr. McGrew said the driveway on Hwy 20 will most likely be removed.

Mr. Pylelo reminded the board the whole site was understood to be temporary and was to be returned to its original condition.

Mr. McGrew said this is Manatt's only project in Woodbury County.

**Mrs. Colling made a motion to close the public hearing. Mrs. Sadler seconded the motion; motion carried 4-0.**

Discussion:

Chairman Brouillette said everything looked agreeable.

Mrs. Sadler asked if the batch plant would continue through 2018.

Mr. Pylelo said if approved the batch plant would exist until the end of 2017.

Mr. Brouillette asked if any conditions would be added.

Mr. Pylelo said it is considered standard operating procedure with the County Engineer with the standard statements of county and state permitting.

**A motion was made by Mrs. Collings to recommend approval of a temporary batch plant subject to:**

- **1-4 All four conditions within ZC Recommendation and**
- **5 All Federal State and Local permitting shall be obtained**

**Mrs. Sadler seconded the motion; motion carried 4-0.**

**Agenda Item #4**

**The next Agenda item is Public Hearing and Consideration of Conditional Use Permit Application by Property Owners - Stoney and Marcia Cobb and Applicant - Manatt's, Inc. Re: The Staging and Operation of a Temporary Concrete Mixing Batch Plant; GIS Parcel #894235100008.**

Property owners Stoney and Marcia Cobb propose to lease a 400' by 400' site to Manatt's, Inc. of Brooklyn, Iowa. Manatt's Inc. wishes to stage and operate a temporary concrete batch plant within the 3.67 acre portion of the 33.75 acre parcel. Batch plant operations are intended to provide concrete for a 4 mile segment of the Hwy 20 corridor expansion project. The site will be returned to its original pre-production state. It is anticipated the batch plant will be active through the 2017 construction season with decommissioning of the site anticipated to occur no later than December 31, 2017.

The impacted parcel is located within a portion of the NE ¼ of the NW ¼ of Section 35, Union Township and approximately 1,600' northeast of Correctionville. The site abuts the north side of Hwy 31 approximately 325 to 725 feet east of the driveway addressed 1549 Hwy 31, Correctionville, Iowa. Gravel earthen material will be hauled to the batch plant from Hallet Material gravel pit location in the Anthon area and from the LG Everest pit near the Woodbury/Plymouth county line. The anticipated mixed concrete haul route would impact a 0.8 mile segment of Hwy 31 before reaching the Hwy 20 corridor.

The rock component for the concrete will originate from LG Everist's Crocker Pit near the Plymouth/Woodbury county line and will be transported to the site on Hwy 31. The sand component for the concrete will originate from Hallet Material's Anthon Pit and will also be transported along Hwy 31. The anticipated mixed concrete haul route would impact less than a 0.1 mile segment of L36 from the batch plant location before reaching the Hwy 20 corridor.

The project will require 40,000y<sup>3</sup> of concrete equating to 36,000 tons of rock and 26,000 tons of sand. Half of the input materials and the finished concrete will be hauled in 2016; the remaining half in 2017.

The site plan provides for multiple driveway installations the north side of Hwy 31.

Woodbury County zoning ordinance (Section 3.03:4 - Page 37) provides that *Temporary heavy construction services- Concrete mixing (temporary)* requires CUP approval by the county's Board of Adjustment with Section 2.02:9.F standard review and recommendation by the Zoning Commission.

The parcel is zoned AP (Agricultural Preservation) which allows the applied for conditional use. The parcel does not lie within any rural drainage district. A portion of

the 3.67 acre site is located in within a Zone A special flood hazard area known as the 100 year flood plain. A flood plain development permit will be required.

The average corn suitability rating (CSR2) for the parcel is 42.67.

Find attached the following documentation to assist in your review:

- Woodbury Township TAM Mapping showing location within Township
- The CUP application
- Aerial with drive locations and site plan dimensions
- Photos of similar Manatts' Concrete Batch Plant (2)
- Beacon Aerial
- Beacon Parcel Information
- Pictometry Aerial with elevation contours
- Aerial Mapping of parcel with Zoning Layer
- Aerial Mapping of parcel with Soil Type Layer
- CSR2 Verification
- Aerial Mapping of parcel with Flood Plain Layer
- Letter from the Chairman of the Woodbury County Zoning Commission providing the required Section 2.02-9.E findings and Commission recommendation.

Written notices of the September 12, 2016 public hearing were mailed to the twelve (12) property owners within 500' of the impacted parcel. To date the Planning and Zoning office has not received contact from any party receiving the written notice.

Staff Recommendation:

Staff recommends approval of the requested use permitting subject to conditions recommended by the Zoning Commission.

**Your Board is tasked with holding a public hearing on this matter and accepting public testimony; to then deliberate on the permit approval; and then vote on approval of the requested conditional use permit. Zoning ordinances allow your Board to approve, approve with conditions or deny the requested permitting.**

Comments:

The letter from the Zoning Commission's Chairman was presented to the Board.

Jared McGrew stated this was considered "Plan B" if the plant on Hwy 20 and Osceola Ave. was not approved. Since that one was approved, he chose to rescind the application for the temporary batch plant on Stoney and Marcia Cobb's property.

**Mrs. Sadler made a motion to accept the rescind of agenda Item #4. Mr. Rorholm seconded the motion; motion carried 4-0.**

**Mrs. Colling made a motion to adjourn the meeting for five (5) minutes while staff tried to locate batteries for the wireless keyboard mouse.**

**Mrs. Sadler seconded the motion; motion carried 4-0.**

**Mrs. Colling made a motion to open the meeting after the batteries were located.**

**Mrs. Sadler seconded the motion; motion carried 4-0.**

**Agenda Item #5**

**Public Hearing and Consideration of Conditional Use Permit Application Chair by Applicant and Property Owner Larry Eisenhower Re: Conditional Use Permit for the Staging and Operation of Waste Processing and Transfer - Waste Composting; GIS Parcel #874719200009.**

Property owner, Larry Eisenhower, filed a Conditional Use Permit (CUP) application with Woodbury County, Iowa requesting the permanent staging and operation of a Waste Composting Facility

The application proposes a business use including the storage of tree waste with periodic conversion of the tree waste to wood chips. The wood chips will subsequently be removed from the parcel and marketed as livestock bedding.

Woodbury County zoning ordinance (Section 3.03:4 - Page 38) provides that Waste Processing and Transfer – Waste Composting requires CUP approval by the county's

Board of Adjustment with Section 2.02:9.F standard review and recommendation by the Zoning Commission.

The location of the requested conditional use is within a portion of portions of a 98.7 acre parcel within the Northeast quarter of Section 19 of Liberty Township, Woodbury County, Iowa. The driveway currently servicing the parcel provides access from the north side of 255<sup>th</sup> St. which is a hard surfaced, county maintained roadway. Eisenhauer has conveyed an easement to CF Industries (CF) along the southern perimeter of the parcel. CF has constructed a rail spur within the easement area which provides permanent rail access to the company's Port Neal Industrial Complex facilities. The terms of the easement agreement allows Eisenhauer permanent access and egress through the easement area including the crossing of the rail spur to access the remainder of the Eisenhauer parcel to the north.

The referenced parcel is zoned GI (General Industrial) which allows the amended applied for use to be conditionally permitted. The parcel does not lie within any rural drainage district but a significant portion of the parcel is located within a Zone AE special flood hazard area (SFHA) more commonly referred to as the 100 year flood plain. Minor portions of the parcel are within the 500 year flood plain.

Areas within the parcel include the former location of business operations of Mid-America Tanning (MAT) operated a now abandoned and demolished animal hide processing plant. The tanning facility was owned by various entities prior to MAT. Tanning operations included the fleshing, curing and trimming of animal hides. In 1989, due to elevated metal concentrations in the ground water, the Environmental Protection Agency placed the site on its National Priorities List. Remediation procedures included the immobilization of densely-contaminated sediments in the east and west aeration lagoons and in the northeast field; and the placement of soil-clay caps over the less densely-contaminated source areas.

The site plan does not provide for the conditional use within any area with a 100 year flood plain designation, areas within those areas determined to contain contaminated sediments, or contaminated source areas. A request for comment from the Iowa Department of Natural Resources has been requested.

The parcel has been the location of previous Woodbury County and Iowa Department of Natural Resources (IDNR) violations. On October 30, 2013 the Iowa Department of Natural Resources issued the applicant Administrative Order No. 2013-AG-28 and No. 2013-SW-24. The order included restrictions on open burning, the removal of solid waste and the payment of administrative penalties.

Chapter 105 of the Iowa Code defines *Organic Materials Composting Facilities*. The applicant legal counsel has stated the applicant's intent to apply for any state required permitting for the applied for use.



Find attached the following documentation to assist in your review:

- Woodbury Township TAM Mapping showing location within Township
- The CUP application including Business Plan
- Beacon Aerial with ROW Designations
- Beacon Parcel Information
- Aerial Mapping of parcel with Zoning Layer
- Aerial Mapping of parcel with Flood Plain Layer
- A copy of IDNR Administrative Order No. 2013-AQ-28 and No. 2013-SW-24
- A copy of Chapter 105 of the Iowa Code
- Parcel Site Plan Drawing by MLS & Assoc., P.L.C. (24" by 32")
- Parcel Site Plan Drawing with contours (11" by 17")
- Letter from the Chairman of the Woodbury County Zoning Commission providing the required Section 2.02-9.E findings and Commission recommendation.
- CF Industries Letter dated August 30, 2016
- Comment Letter from Iowa Department of Natural Resources Dated September 8, 2016
- E-mail from Woodbury County Engineer Dated September 9, 2016
- Twelve (12) on site photos

Written notices of the September 12, 2016 public hearing were mailed to the six (6) property owners within 500' of the impacted parcel. To date the Planning and Zoning office has received contact from the following property owners receiving the written notice:

- CF Industries, Inc,
- Gelita, Inc. f/n/a Knox Gelatine, Inc.

CF Industries, Inc has submitted the written comment previously referenced and is expected to be represented at the public hearing. Gelita's contact was by phone call from Mr. Bill Simpson requesting additional location information of the intended use.

Based upon the information provided by Mr. Simpson he indicated the location did not warrant any comment be offered by Gelita. It is not anticipated Gelita will be represented at the public hearing.

Written requests for comment were mailed to the following:

Barb Parker, Clerk - Liberty Township Trustees  
Kevin Grieme - Siouxland District Health Department  
Mark Nahra - Woodbury County, Iowa Engineer- *Comment Received*  
Michelle Skaff - Woodbury County Emergency Management  
Gary Brown - Woodbury County Emergency Services  
Sheriff David Drew - Woodbury County, Iowa  
Karen James - Woodbury County Board of Supervisors Office  
Julie Sievers - Iowa Department of Natural Resources – *DNR Comment R'cvd*  
Amie Davidson - Iowa Department of Natural Resources - *DNR Comment R'cvd*  
Rick Schneider – Woodbury County Conservation Service  
Justin Iverson – Fire Chief Salix, Iowa

Staff Recommendation:

Staff recommends approval of the requested use permitting subject to conditions recommended by:

- The Zoning Commission,
- The Woodbury County Engineer,
- The Iowa Department of Natural Resources,
- County Zoning Staff or
- Otherwise determined prudent by your Board from public hearing testimony or supported by the public record including citizen comment.

**Your Board is tasked with holding a public hearing on this matter and accepting public testimony; to then deliberate on the permit approval; and then vote on approval of the requested conditional use permit. Zoning ordinances allow your Board to approve, approve with conditions or deny the requested permitting.**

Comments:

Eisenhauer talked about the issue of the railroad. He had discussed it with the DNR four or five times and it was referenced in a letter from the DNR. The process hasn't changed and the DNR is comfortable with the current plan.

Mr. Rorholm asked if Planning and Zoning had a copy of the letter. Mr. Pylelo said there was a copy in the packet they had received. The letter referred to a change in use which would be less impactful and not biodegradable. DNR pointed out Eisenhauer's process was not composting but storage and shredding.

**Mrs. Collings made a motion to accept an amended application. Mr. Rorholm seconded the motion.**

Mr. Pylelo requested conditional uses with an amended application.

- No retail activity
- Use restriction to chipping only
- Vegetation brought to site to be chipped within\_\_\_\_days
- Chipped vegetation to be legally removed from site every\_\_\_\_days
- Wood waste material to be legally removed from site every\_\_\_\_days
- Landfill dumping records to be retained and provided Woodbury County upon request
- Log date and amount of vegetative material in and out be maintained with copy provided Woodbury County upon request
- All other required Federal, State and Local Permitting shall be obtained and renewed

Easement Areas:

No use of or development within any easement area unless provided for in easement agreement.

ROW:

1. Secured or covered loads in and out
2. Any on or off loading site is to occur outside of ROW
3. No parking or staging within the ROW
4. Site development shall include onsite staging and offloading areas
5. Debris spillage in ROW from trucks using the site will be site owners responsibility. Woodbury County reserves the right to bill the site owner for excessive cleanup expenses related to the site.

Mr. Pylelo stated the DNR has a right to approve any substantial change and will have its own conditions and monitoring.

Mr. Rorholm asked where in the letter the DNR talked about marking corners of area that can be worked in.

Mr. Ross said at this time the DNR aren't sure where the vents are.

Mr. Rorholm wanted to add;

1. No grading
2. No fill
3. No excavation

4. Surety Bond for violation compliance and cleanup
5. Any CUP permit issued shall have the use approved in writing by DNR under ICS 445B.430
6. Should any soil cap be compromised repairs will be immediate at owners expense
7. Should any soil cap be compromised a full groundwater investigation be required at owners expense
8. Actions performed onsite exacerbating environmental conditions shall cause the site owner to be the Responsible Party under CERCLA
9. Any nearby Zone A Special Flood Hazard Area will not be included within the site plan.
10. No new structures will be permitted or erected on the site.
11. No illegal open burning of off premise stored wood, wood waste or processed wood chips.
12. Boundaries of the South Part of the Polishing Basin, the East and West Aeration Lagoons and the North Pile be delineated and marked so to meet DNR recommendations
13. No open dumping of solid waste.

Mr. Brouillette suggested re-reading the letter from the DNR before adding potential conditions.

Discussion:

Mr. Brouillette said he would like to see a more detailed business plan before the board makes a decision. He asked Mr. Eisenhauer and his attorney Mr. Ross to bring any contracts and specifics to the next meeting for evaluation.

Mr. Mike Maas from CF said the new rail spur concern is regarding activity going on adjacent to that. With people coming and going day and night he would like Eisenhauer's site secured. CF would like to see their main entrance looking good for customers and clients and still allow Eisenhauer to conduct business.

Mr. Pyelo said there should be no activity or materials within 50' of the rail spur area.

Mr. Rorholm suggested fencing might be the way to protect a buffer area.

Mr. Pylelo commented on security. The right-of-way needs a more detailed site plan. He also brought up the state-wide quarantine on carrying wood products infected with insects such as ash boring gypsy moth from one area to another and causing outbreaks in new locations. He agreed it is a very cumbersome issue, but Planning and Zoning has to be aware of where chips are being transported.

Other security provisions might include;

1. 24/7 Video Surveillance
2. No Trespass Signage
3. Site Securing Gating at Fencing at the drive location acceptable to Woodbury County Engineer and, if impacting easement areas, CF Industries.
4. Dusk to Dawn Lighting at Drive

Mr. Ross said he is very grateful for all the work done by the Board of Adjustment and the Planning and Zoning office. He requested deferring this item to a future date.

**Mr. Rorholm made a motion to table Item #5 until November 7<sup>th</sup>, the first Monday of the month. Mrs. Sadler seconded the motion; motion carried 4-0.**

**6. 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 heard on any additional issue or matter.

**Mrs. Sadler made a motion to adjourn. Mrs. Colling seconded the motion; motion carried 4-0. Meeting adjourned at 8:05 pm.**

Next meeting is scheduled for Monday, October 3 at 6 PM.