

Minutes - Woodbury County Zoning Commission Meeting April 27, 2015

The meeting convened on the 27th of April, 2015 at 6:01 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 – Tom Bride, Bruce Garbe, David McWilliams, Barb Parker and Christine Zelmer Zant. Zoning Staff Present: John Pylelo and Peggy Napier. Supervisor Jeremy Taylor also attended the meeting. Present from the public were Thomas and Rachelle Bisek, Elaine Knudson, Jennifer Boyle, Christine Evans, Steve Smith, Brian Krogh, Gary Winters, Leary Smith, Kenneth Stanly, Bruce and Anne Morrison, Jon Winkel, Dave Christensen, William and Amy Cadwallader, Jenna Wilson, Dan Hunt, Carl Kneifl, Jeff Pedersen, Curt Friedrichsen, and Liz Cross.

The first agenda item is any citizen wishing to be heard.

There were no citizens with issues other than what is on the agenda to be heard.

The next agenda item is the approval of minutes from your Commission's March 23, 2015 meeting.

A motion was made by Mr. McWilliams to approve the minutes. Mr. Garbe seconded the motion; motion carried 5-0.

The next agenda is a Zoning Ordinance Section 2.02:9.E Review and Recommendation to the Board of Adjustment. Re: Conditional Use Permit Applicant's Dale and Sheila Gernhart and Lessee K&L Construction, Inc. for the Staging and Operation of an Earthen Borrow Area.

Woodbury County property owners Dale and Sheila Gernhart (Gernharts) have entered into a lease agreement with K&L Contracting, Inc. (K&L) to stage and operate an earthen borrow area. The Gernharts desire the removal of storm damaged timber, an alternative building site location and to decrease the rate of slope of a portion of the driveway to their residence on an adjacent parcel. The Gernharts believe each of these goals will be accomplished at minimal or no cost other than providing the earthen material as stated under the lease agreement with K&L.

K&L has entered into construction agreement with the Iowa Department of Transportation (IDOT) serving as a subcontractor to provide earthen borrow to right of way improvements along Interstate at or near the Sergeant Bluff I-29 exit. K&L attempts to find borrow at a location or locations meeting approved soil specifications; in required quantities and in proximity to the borrow delivery location. Haul road availability, road specifications and route distances between the borrow area(s) and delivery location(s) are also criteria for the contractor in selecting suitable borrow locations.

The Gernhart parcel's borrow area is represented to be approximately 330' by 375' in size; or a 2.84 acre rectangular portion of the 9.24 acre parcel. The application requests approval for the removal of up to 95,326 cubic yards of earthen material from this borrow area. The project has been described as a "removal of the top from the existing hill"

The drive servicing the borrow parcel is addressed 2071 Glen Ellen Rd., Sergeant Bluff. A temporary drive between addressed drives 2069 and 2071 Glen Ellen Rd. has been installed by K&L and is currently undergoing permitting.

The general area around the borrow area's parcel is AP (Agricultural Preservation) and AE (Agricultural Estate) zoning. The parcel on which the borrow area will be located is zoned AE and has an existing rental dwelling. The dozing and mulching of storm damaged timber has already occurred. A mulch pile currently exists on the parcel and will be removed by K&L and used by the company.

The use as a borrow area is best described on page 37 of the zoning ordinance's *Land Use Summary Table* within the category and sub-categories of:

- *Resource Extraction:*
 - *Borrow Pits for earth materials*

This use is approved as a conditionally permitted use in selected zoning districts. The use as a borrow pit for earth materials is only allowed as a conditionally permitted use (CUP) within the AP and GI (General Industrial) zoning districts. Although the Gernhart parcel is congruent to AP parcels to the south the parcel is not within a conditionally approved zoning district classification for the requested use.

In 2008 at this location the area south of Sioux City and north of Glen Ellen Rd. was re-zoned from Agricultural to Agricultural Estates to support then perceived residential development density potential of the area.

The permit application shows a haul route using the following described rural Woodbury County, City of Sioux City or Sergeant Bluff roadway right of way:

From 2071 Glen Ellen Rd. westerly to Old Lakeport Rd.;
Then northwesterly on Old Lakeport Rd. to S. Ridge Rd.;
Then westerly on S. Ridge Rd. to S. Lewis Blvd.;
Then north on S. Lewis Blvd. to 8th St.;
Then west on 8th St. to Harbor Dr.;
Then south on Harbor Dr. to Iowa Department of Transportation I-29 right-of-way lying east of the 6100 block of Harbor Dr.

The conditional use permitting process includes a public hearing held by the Woodbury County Board of Adjustment. The ordinances further require your Commission review the Conditional Use Permit application and report its findings with recommendation to the Board of Adjustment.

By ordinance your recommendation is limited to a determination if each of the below standards found within ordinance subsection 2.02-9.F will be met.

Section 2.02-9.F

(1) In order to grant a conditional use the Board of Adjustment must determine that:

- a) *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.* (Although adjacent to, parcel is not properly zoned AE. It is suspected written comment will be permitted or permitting will be changed.)
- b) *The proposed use and development will be in harmony with the general purpose and intent of this ordinance and the goals, objectives and standards of the general plan.* (From the Gernhart's perspective it will improve the value of the parcel. Looking at the greater good of the county, try to make as least impactful as possible. Borrow pits have to come from somewhere; at least try to not to make them an eyesore.)
- c) *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.* (They want to be able to use borrow pit as loss as it is needed as it is needed and useful and as long as it is not having a negative impact.)
- d) *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.* (Noise and dust will be kept to a minimum. These issues are already monitored by the DOT since the issue already exists with school busses on Glen Ellen. There will be negative impacts and follow-up on any complaints. Although loads are expected to be covered, other mitigation factors will follow.)
- e) *Essential public facilities and services will adequately serve the proposed use or development.* (Gravel roads are needed and preferred and utility poles are expected there. Burying the utility lines would be preferred.)
- f) *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.* (Protection of Loess Hills Land Mass may be a requirement for archeological assessment but they aren't needed as far as the DOT is concerned. The rate of drainage outflow can't be any greater than it was prior to the beginning of the project.)

(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.* (This is not pertinent to a borrow area. They intend to return soil to what it was like

before the project or repair to good condition. It needs to be done before Thanksgiving. The start date is 5/5/2015.)

Staff Recommendation:

At the Commission's request and after the close of the public hearing the Planning and Zoning Office staff can present its evaluation if the standards are met within the application are or can be met.

See the attached documentation which provides additional information on the conditional use application:

1. The Conditional Use Permit Application Submitted by the Applicants
2. Location within Woodbury Township TAM Mapping
3. Aerial Mapping
4. Borrow Location with Nearby Parcel Ownership Mapping
5. Area's Zoning District Mapping
6. Areas Soil Mapping
7. Borrow Location Soil Mapping
8. Land Use release Form Dated Dec 22, 2014
9. Borrow Agreement Dated March 5, 2015
10. Parcel Information GIS #8847 21 351 002
11. Application Proposed Haul Route
12. The Areas Flood Plain Mapping
13. Onsite Photographs.
14. Agency/Department Letter Requesting Comment
15. Storm Water Discharge Permit Notice From IDNR
16. Storm Water Discharge NPDES Permit #2
17. Storm Water Pollution Prevention Plan
18. Silt Fence/Wattle Addendum Aerial

Please note that within item #1 above the applicant has responded to each of the Standards listed within ordinance subsection 2.02-9.F

Your Commission is tasked with reviewing the Conditional Use Permit application. Then provide your Commission's recommendation to the Woodbury County Board of Adjustment if each of the standards found within ordinance subsection 2.02-9.F will be met. You are further asked to authorize your Chairman to provide your recommendation in writing to the Chairperson of the Woodbury County Board of Adjustment.

Discussion

Staff will address letter to Board of Adjustment.

Some adverse reactions are to be expected.

The Board of Adjustment at their Wednesday meeting will comment on the possible issue of erosion control in the location of the North side terrace.

There will be cars on the site for an on-site inspection Wednesday.

The Zoning Commission realizes they must get borrow from somewhere. The length of the project and other issues may factor into positive and negative effects for the project.

The possibility of stockpiling the dirt was discussed and eventually discarded.

The letter needs to be signed tomorrow.

Mr. Bride made a motion for Ms. Zellmer Zant to draft letter and sign it for the Zoning Commission tomorrow. Ms. Parker seconded the motion; motion carried 5-0.

The meeting was adjourned at 6:30 PM by Mr. McWilliams and seconded by Mr. Bride.

Next meeting will be Tuesday, May 26; one day after Memorial Day at 6 PM.

Mr. McWilliams seconded the motion; motion carried 5-0.

Board of Adjustment hearing will be on April 6th at 6 PM.

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.

Mr. McWilliams made a motion to adjourn. Mr. Garbe seconded the motion; motion carried 5-0.

Meeting adjourned at 6:30 PM. Monday, the 25th is Memorial Day. Consequently the next scheduled meeting will be Tuesday, May 26, 2015.