

Minutes - Woodbury County Zoning Commission Meeting December 28, 2015

The meeting convened on the 28th of December, 2015 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 – Tom Bride, Bruce Garbe, David McWilliams, Barbara Parker and Christine Zelmer Zant. Zoning Staff Present: John Pylelo and Dawn Norton. Present from the public were Terry & Barb Bradley, Carl Kniefl, Rene & Trace Pettigrew, Pat Kreisler, Ryan Callaghan, Rodney Lieber, Nikki Stokes, Brenda & Jason Waugh, David Stokes, Stacey Goldsmith, Amanda & LeRoy McRoberts,

The first agenda item is any citizen not on the agenda wishing to be heard.

The Planning and Zoning Office is not aware of any person intending to be present to be heard on a non-agenda matter.

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

Tom Bride made a motion to approve the November 23rd minutes. Mr. McWilliams seconded the motion; motion carried 5-0.

The next agenda item is a Zoning Ordinance Section 2.02:9.E Review and Recommendation to the Board of Adjustment; Re: Conditional Use Permit Application for Lieber Land Holdings, LLC for the staging operation of earthen resources storage; processing; and resource extraction - Borrow Pit.

The organizer of Lieber Land Holdings, LLC is Rodney D, Lieber. Mr. Lieber also owns other Iowa domestic corporations which provide excavation, grading and demolition services to construction projects. Those services include providing or removing earthen resource materials. Lieber searches for earthen materials at locations meeting approved soil specifications; in required quantities and in proximity to current or anticipated construction locations.

Haul road availability, road specifications and route distances between the storage/borrow sites and delivery locations are also criteria for Lieber in selecting any suitable storage/borrow location.

Recently Lieber Land Holdings, LLC (Lieber) purchased a rural Woodbury County parcel. Lieber's CUP application request is use of the parcel for:

- Material Storage,
- Sand Borrow,
- Concrete Crushing,
- On site Tree Clearing/Cleanup and
- Building Site Development

Woodbury County zoning ordinance (Section 3.03:4 - Page 37) provides that:

- Earthen Material Storage;
- *Resource Extraction - Borrow pits for earth materials operations; and*
- *Heavy Construction Services; Aggregate Crushing and Screening operations*

require CUP approval. Each of these uses requires CUP approval by the county's Board of Adjustment prior to the processing of a grading plan application for the project. The Lieber CUP application does not provide an ending date for any of the requested uses. As such application is being processed as a permanent permit application request.

The remaining requested uses of onsite tree clearing/cleanup and building site development (for qualified industrial development) are all permitted uses and do not requiring conditional permitting.

The location of the 18.5 acre (1,317' by 650') parcel lies within the S ½ of the SW ¼ of the SE ¼ of Section 01 of Liberty West Township and at the northwest corner of the intersection of 225th Street with Andrew Avenue. The parcel is known as GIS parcel #874801200004.

The referenced parcel is adjacent (to the east and south) to Sioux City's corporate limits. The parcel is zoned GI (General Industrial) which supports each of the applied for conditional uses. The parcel does not lie within any rural drainage district and is not within any designated special flood hazard area. The average corn suitability rating (CSR2) is 64.15.

The drive currently servicing the parcel provides access from the north side of 225th St. The site plan shows the current drive location be removed. A wider drive installed approximately 35 feet to the east and in alignment with the city of Sioux City water treatment plant driveway will be requested. Independent permitting will be required from the Woodbury County Secondary Road Department for any driveway re-location.

The proposed haul route from the parcel uses a hard surfaced portion of 225th Street roadway right-of-way abutting the south perimeter of the parcel. Traveling east alternative haul route options occur at the intersection of 225th St. with paved

Southbridge Drive and again at 225th St. with paved Port Neal Road. These intersections would allow haul road options to the north toward Sioux City and to the South toward the Port Neal Industrial Complex. Both north and south routes provide paved access to the Interstate 29 corridor which includes the Hwy 20 and Highway 75 bypasses.

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. Per the ordinances 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.*
 - (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.*
 - (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.*
 - (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.*
 - (e) *Essential public facilities and services will adequately serve the proposed use or development.*
 - (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.*

(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.*

The applicant has been represented in the matter by Ryan Callaghan, P.E., of Civil Engineers and Constructors, LLC. (CEC). CEC has offices in Dakota Dunes, SD. CEC staff are licensed as professional engineers in the states of Iowa, Nebraska and South Dakota.

Attached within your meeting packets is the following documentation which provides additional information for your review of Section 2.02-9.F compliance:

1. The Lieber Conditional Use Permit Application received 12/01/2015. which includes:
 - A letter from professional engineer Ryan Callaghan of Civil Engineers and Constructors, Inc. (CEC) dated November 30, 2015. The letter provides information requested by the Planning and Zoning office staff and states why the applicant believes section 2.02-9F standards have been met.
 - Site Plan aerial with notes; CEC - Drawing C050 dated 12/01/2015.
 - Grading Plan aerial with notes; CEC - Drawing C100 dated 12/01/2015.
 - Grading Plan aerial with notes; CEC - Drawing C100 dated 12/01/2015 with proposed driveway relocation layer shown.
 - Storm Water Pollution Prevention Plan (SWPPP) Aerial with notes; CEC - Drawing C110 dated 12/01/2015.
 - SWPPP Basin Section Drawing; CEC drawing C111 with notes dated 12/01/2015.
 - Aerial Mapping of haul routes; CEC prepared (undated).
2. Location within Woodbury Township TAM Mapping
3. Conditional Use Permit Application
4. Aerial Mapping of parcel
5. Aerial Mapping of building site

6. Area's Zoning District Mapping
7. Areas Soil Mapping
8. Borrow Location's Soil Mapping
9. CSR2 Report; Corn Suitability Rating
10. Parcel Information for GIS #8847 21 351 002
11. Portion of ordinance's Land Use Summary Table (Page 37 of ordinances)
12. Title opinion sated December 1, 2015 by Robert Rehan
13. Onsite Photographs
14. An e-mail dated December 18, 2015 from Grady Marx on behalf of his father Robert Marx, of Marx Development Company, LLC. Within the e-mail Mr. Marx raises economic development, water table, drainage, and fugitive dust and ROW impact issues.

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

Discussion:

Mr. Pylelo stated from staff review this project and location meet the standards for recommendation to the Board of Adjustment for a Conditional Use Permit, subject to public testimony with possible restrictions. This would be a permanent application request.

Mr. Lieber is aware of a letter from Sioux City Mayor; Bob Scott stating this project possibly could prohibit potential growth in the area because of its operations and appearance but stated the property had been available for sale for several years for other development. The area works well for his intended purposes, with close proximity to I-29 for possible roadway crushing and recycling, as well as other purposes. He would check with the City of Sioux City to see if he could have a meter installed onto a hydrant for water to control dust, if necessary. Mr. Lieber also noted that, should the possibility of another potential business considering locating into the area, but concerned with his operation, he would be willing to work with the City of Sioux City in regards to selling his property to promote possible other economic development.

Mr. Pylelo also stated nearby landowner, Mr. Shots, had no objection to the project.

Mr. Lieber stated he would voluntarily do water samples prior to the January 4th Board of Adjustment meeting.

An email received from Mr. Grady Marx, on behalf of Robert Marx, sent to Mr. Pylelo was read into record. The email stated this operation would discourage commercial

growth, and mentioned shallow water table and poor drainage, as well as dust issues and possible damage to paved roads from truck traffic.

Mr. Rodney Lieber, representing - Lieber Construction - 2024 120th St. Mr. Ryan Callaghan, from Civil Engineers & Constructors, LLC, business address - 701 Pierce St, Ste 405, Sioux City, IA.

Mr. Pylelo stated for the record Lieber Construction has sub-contracted a project for him.

Staff Recommendation:

At the Commission's request 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:

Attached within your meeting packets is the following documentation which provides additional information for your review of Section 2.02-9.F compliance:

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 - A letter from professional engineer Ryan Callaghan of Civil Engineers and Constructors, Inc. (CEC) dated November 30, 2015. The letter provides information requested by the Planning and Zoning office staff and states why the applicant believes section 2.02-9F standards have been met.
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It is the opinion of the County's Director of Planning and Zoning and the Woodbury County Engineer that the CUP application process applies.

The Zoning Commission gives the benefit of the doubt to the applicant and believes they will make the correct decisions in the Board of Adjustment meeting.

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

Motion by Mr. McWilliams to accept the application made by Lieber Land Holdings, LLC; motion seconded by Barb Parker. Motion carried 5-0.

Your next agenda item is a work session related to review of county zoning ordinances regulating the operation of "Truck Terminals" in rural Woodbury County under the ordinance's home occupation use ordinance restrictions.

At multiple Board of Supervisor meetings several rural residents have expressed their point of view on the operation of over the road trucking operations within an existing rural Woodbury County subdivision. The Supervisors at their November 10, 2015 meeting tasked the county's Zoning Director to initiate a method of review of zoning ordinances. The goal being a determination if small over the road trucking companies should be allowed to operate within the county outside the constraints of certain of the home occupation use limitations. If so, what ordinance language changes would the Commission propose.

The goals of this agenda item are:

- A. To review the facts within the current rural example.

- B. To determine how Woodbury County might best address the facts in light of recent citizen input.
- C. If ordinance amendment is the selected route to follow to determine the mechanism which best balances the issue of property right protection vs. adverse neighborhood impact.
- D. To draft a recommendation to the Board of Supervisors. Should the method of choice be zoning ordinance change, to provide proposed ordinance language for Supervisor consideration.

Hand out materials for this agenda item were made available at the meeting.

At the Zoning Commission meeting of November 23rd, 2015 zoning staff was asked to provide multiple samples of ordinance language changes which could be reviewed at this meeting.

The situation initiating this work session was a failure to avoid vehicles and equipment being seen from the county right-of-way and/or other parcels.

Neighbors came to a Board of Supervisor's meeting and one neighbor wrote the Planning and Zoning office in support of the over-the-road trucking business as a Home Occupation Business.

Mr. Pylelo compared Woodbury County's Home Occupation rules to other counties.' He asked for other Zoning Commission members' opinions.

The home occupation occurs on 210th St, a paved road with AE residential density.

The complainant can see the business. There are too many tractors, trailers, and employees' cars visible.

The question appears to be should new language be designed for small trucking companies or should the ordinances simply be enforced as written?

Staff believes three options are available to the Commission. Two of the options would provide relief to that segment of the trucking industry wishing to operate under home occupation use rules.

Mr. Pylelo read the following options.

Option 1:

Decision #1: Determine all trucking operations, no matter type or size, do not belong in any of the residential zoned districts unless all the currently existing home occupation tests are met. Should the Commission determine small home occupation truck terminal operations **should not in any way be visible** in any rural residentially zoned area - the outcome would be as follows:

Outcome #1: Zoning Commission recommends to Supervisors that no changes be made to the ordinances.

Option 2:

Decision #2: Amend the home occupation testing language adding an exemption to the test within section 4.14:4. The language would exempt those trucking operations meeting each of the remaining tests; AND Insert language within the ordinance definitions defining a “trucking operation – home occupation use qualified.” Should the Commission determine accommodation should be made for allowing small home occupation truck terminal operations to be visible in all rural residentially zoned areas via making ordinance language additions within the home occupation ordinances - the outcome would be as follows:

Outcome #2: Zoning Commission recommends the proposed following language be added to subsection 4.14:4 “*For a business meeting the definition of a truck terminal operation (Home Occupation) and otherwise meeting all the remaining home occupation tests a maximum of ____ over the road tractors; _____ over the road trailers and _____ employee vehicles may be viewed from a public or private road or from an adjacent property.*” AND the following language for Truck terminal (Home Occupation) definition be added to the ordinances. “***Truck Terminal Operation (Home Occupation Use).*** *A truck terminal operation meeting all Section 4.14 Home occupation use tests except the test listed at sub-section 4.14:4 stating home occupation and employee vehicles shall be stored either in a building or screened from a public or private road or from an adjacent property.*”

Option 3:

Decision #3: Adding an additional entry to the Land Use Summary Table. Should the Commission determine accommodation should be made for allowing small home occupation truck terminal operations to be visible within all; or selected residentially zoned areas; only by a conditional use permit issuance by the Board of Adjustment. The outcome would be as follows:

Outcome #3: Zoning Commission recommends the proposed attached line item for Truck terminal (Home Occupation) land use be added to the Land Use Summary Table selecting those residentially zoned districts where it believes the accommodation should be provided, selecting the use be conditionally permitted with in selected zoning districts of AP and AE; AND the following language for Truck terminal (Home Occupation) definition be added to the ordinances: “***Truck Terminal Operation (Home Occupation Use).*** *A truck terminal operation meeting all Section 4.14 Home occupation use tests except the test listed at sub-section 4.14:4 stating home occupation and employee vehicles shall be stored either in a building or screened from a public or private road or from an adjacent property.*” AND inserting language within the ordinance definitions defining a “trucking operation – home occupation qualified.”

Also, documentation titled “Decision/Outcome for Ordinance Adjustments Impacting Truck Terminal Operations which meet all Home Occupation Use tests Except Visibility (Section 4.14:4) dated 12/28/15 was presented to the public and Commission members.

NOTE: After the November Planning and Zoning meeting, staff received the following e-mails related to the issue. A copy of each e-mail including the staff's response was attached to Commission member packets.

December 3, 2015 e-mail from Patricia Kreisler.

December 3, 2015 e-mail from Terry and Barbara Bradley.

December 18, 2015 e-mail from Patricia Kreisler.

Discussion:

Several home/land owners in the area addressed the Commission with comments regarding the current operations of Mr. McRoberts trucking business. Brenda Waugh – 1459 210th St – stated she sees no problems with the current situation, she has lived there 3 years, and no concerns with the McRoberts business, has no complaints about traffic. Dave Stokes – 1482 210th St – stated the most he has seen is 3 trucks and 4 trailers. They are clean and he hears no noise. Carl Kniefl – South Ridge Rd (within City of Sioux City limits) supports the McRoberts business, stating they are 'show trucks' and the business promotes economic development in the county. Several residents stated they believe there is no negative result to their property value. Patricia Kriesler – 1444 210th St – stated her position is nothing personal, but current language in the Land Use Summary states that area does not allow truck terminals. She is against revising the tables and believes property values have and will be affected. She notices noise with truck traffic, including braking, and believes changing any language would set a precedence for others and possibly lead to the area turning into an industrial area. Stacy Goldsmith – 1478 210th St – no complaints at all with the current operation, states truck noise may be other trucks coming and going in the area. Commissioner Tom Bride noted the concerns, and stated more discussion needs to be done before Board of Adjustment to make a decision, also the definition of truck terminal needs to be determined. Barb Parker also stated she understands the concerns and believes there should be an avenue for interested parties to voice their opinions, also agrees this is a definition and zoning problem.

At this point, Mr. Pylelo read the 3 options individually, with discussion and voting.

Commissioner David McWilliams motioned to accept Option #3, Seconded by Barb Parker. Final vote 4-1, with Commissioner Bruce Garbe voting no.

It should be noted: By the Planning and Zoning Commission voting for this option is not actual approval of these additions and amendments, but recommendation that this option be presented to the Board of Adjustment and further discussion and public hearings follow. Also, the Woodbury County Board of Supervisors has the authority to deny or change language.

Option 3 reads as follows:

Option 3: Adding an additional entry to the Land Use Summary Table. The Commission determines accommodation should be made for allowing small home occupation truck terminal operations to be visible within all; or selected residentially zoned areas; only by a conditional use permit issuance by the Board of Adjustment. The outcome would be as follows:

Outcome #3: Zoning Commission recommends the proposed attached line item for Truck terminal (Home Occupation) land use be added to the Land Use Summary Table selecting those residentially zoned districts where it believes the accommodation should be provided, selecting the use be conditionally permitted with in selected zoning districts of AP and AE; AND the following language for Truck terminal (Home Occupation) definition be added to the ordinances: “***Truck Terminal Operation (Home Occupation Use).*** *A truck terminal operation meeting all Section 4.14 Home occupation use tests except the test listed at sub-section 4.14:4 stating home occupation and employee vehicles shall be stored either in a building or screened from a public or private road or from an adjacent property.*” AND inserting language within the ordinance definitions defining a “trucking operation – home occupation qualified.”

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

The Planning and Zoning Office is not aware of any person intending to be present to be heard on a non-agenda matter.

The meeting was adjourned at 8:15 PM by Ms. Parker; seconded by Ms. Zellmer-Zant and carried 5-0.

Next meeting will be 6:00 PM Monday, January 25, 2016.