

Minutes - Woodbury County Board of Adjustment Meeting July 11, 2016

The meeting convened on the 6th of June, 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:

Jerry & Donna Woolridge	Amber Widman	Wendell & Becky Hubert
Randy Hunt	Jim Heck	Cheryl Watterson
Larry Hunt	Walter Bernhart	Sandra Baker
Don Groves	Nick Lahrs	Melanee Hardy
Daron Petersen	Kathie Pfaffle	Debra Muff
Dave Amick	Maria Rundquist	Pat Wordekemper
Gary Walters	Bryan Waddell	Chris French
Sandra Wendel	Ed Beacom	Jason Garnand
Peter Wilkenson	Lee Brennan	Doug Williams
Sara Brown	Paul Snyder	Graham McGaffin
Randal Brouwer	Gene Kollbaum	Cindy Bowman
Greg Trucke	Kevin Kay	Rodney Lieber
Elizabeth Widman	Alvin Kay	Ryan Callaghan

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 June 6, 2016 meeting.

Mrs. Colling made a motion to approve the minutes subject to;

- Changing “DNA” to “DNR” in the last paragraph on page 9.
- Correcting the misspellings of JoAnn Sadler’s last name

Mrs. Sadler seconded the motion. Motion carried 4-0.

Staff Comments to Board of Adjustment Members:

The next two agenda items (Items 3 and 4) include public hearings followed by consideration of conditional use permit applications. In both cases the applied for uses include resource extraction for earthen borrow areas. The first application is for staging and operation of a temporary borrow project. The second application is for staging and

operation of a permanent borrow project and includes crushing operation and the storage of earthen resource materials.

All uses can be approved as a conditionally permitted use in only selected zoning districts. In both the applications the land use summary table allows the use as a conditionally permitted use. For each of the applications a copy of the application and supporting documentation has been provided.

The conditional use permitting process includes a public hearing held by the Woodbury County Board of Adjustment. The ordinances further require an independent Zoning Commission review the Conditional Use Permit application and a report of Commission findings with recommendation to the Board of Adjustment. The Commission's review is limited to a determination if each of the below standards found within ordinance subsection 2.02-9.F will be met. Please note that within both applications the applicant also has responded to each of the standards.

Within the public hearings before your Board staff will present a letter from the Zoning Commission's Chairman reporting the Commission's findings. In some cases the recommendation may include a request your Board consider placing certain conditions upon the CUP permit issuance.

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 next agenda item is a Public Hearing and Approval of a Conditional Use Permit for property owner Randy and Ronnie Hunt Partnership and applicant Holly A. Brown Construction, Inc. in Section 31 of Westfork Township Re: Resource Extraction temporary Borrow Pit for Earthen Materials.

Woodbury County has received a conditional use permit (CUP) application from Randy and Ronnie Hunt Partnership (Hunt) and applicant Holly A. Brown Construction, Inc. (Brown Construction). Brown Construction is contractor involved in the replacement of the 280th Street bridge over the Garretson Ditch.

The Hunt/Brown application requests permitting to stage and operate a temporary earthen borrow facility on a nearby Hunt parcel currently accessed by a drive addressed 2506 280th St. The drive also provides access a Hunt family residence located upon an adjacent parcel to the southeast.

The CUP application requests permitting for the staging and operations to excavate and remove up to 20,000 cubic yards of earthen material. Operations will be within an

approximate 6 acre portion of the 17.57 acre parcel known as GIS Parcel #874531400011.

It is anticipated borrow and haul operations will commence mid-July and will continue for approximately 30 days. During that time the significant majority of the requested borrow quantity will leave the site. An additional 60 day period has been requested to keep the borrow site operational should a remainder of the earthen material be needed. It is anticipated the temporary borrow area will be decommissioned no later than November 1, 2016.

The location of the requested use is located within part of the SE ¼ of the SE ¼ of Section 31 of Westfork Township. This location is at the southeast corner of 280th and Old Hwy 141 (Hwy D25).

The application provides for a new driveway installation on the east side of Old Highway 141 at the Hwy's intersection with 280th Street. A departure haul route is proposed from the drive west to the bridge project at the Garretson Ditch; a total haul route distance of approximately 0.8 miles.

Two return haul routes from the bridge project are proposed;

- 1.) The identical inverse route from the project site to the borrow site; and
- 2.) An alternative route east on 280th St; north on Old Hwy 141; east on 280th Street to an existing driveway addressed 2506 280th St. The alternative return haul route distance is approximately 1.0 miles.

Woodbury County zoning ordinance (Section 3.03:4 - Page 37) provides that *Resource Extraction - Borrow pits for earth material* requires CUP approval by the county's Board of Adjustment.

The parcel is zoned AP (Agricultural Preservation) which supports the applied for conditional use. 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) for the 17 acre parcel is 31.72.

Written notices of your Board's public hearing were mailed to the eight (8) owners of property within 500' of the parcel on which the conditional use permit is applied for. To date the Planning and Zoning office has not received citizen inquiry on this application.

Attached within your meeting packets is the following documentation which provides additional information for your review:

- Woodbury Township TAM Mapping showing location
- The applicant's CUP application form.
- A letter from Holly Brown, President of Holly A. Brown Construction, Inc. dated May 18, 2016. 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.
- Aerial with site location and Haul Routes
- Grading Plan with pre and post excavation contours with elevations.
- 2 -Grading Profile/Cross Section Drawings
- Storm Water Discharge Notice Published May 27, 2016 in Sioux City Journal.
- IDNR Notice of Intent filed with IDNR on May 25, 2016.
- Beacon Parcel Information with Borrow Site location noted.
- Pictometry Aerial with Detailed Site Plan, Property Ownership and Haul Routes noted.
- Beacon Parcel Information.
- Aerial Mapping of parcel with Zoning Layer.
- Aerial Mapping of parcel with Soil Type Layer.
- Corn Suitability Rating (CSR2) Report for Parcels.
- Aerial Mapping of parcel with Flood Plain Layer.
- Photos of the Borrow Site, Bridge Project and Haul Routes.
- A letter from the Chairman of the Woodbury County Zoning Commission reporting the Section 2.02-9-F findings will be presented to your Board at the public hearing.

Your Board is tasked with holding the required public hearing; then to deliberate upon the approval of a Conditional Use Permit for property owner Randy and Ronnie Hunt Partnership and applicant Holly A. Brown Construction, Inc. in Section 31 of Westfork Township Re: Resource Extraction Temporary Borrow Pit for Earthen Materials.

You are then to vote either upon permit approval or denial. For any approved permit the ordinances allow placement of those conditions which your Board feels:

- 1. Further the goals of Woodbury County's General Development Plan;**
- 2. Provides that the standards within Ordinance section 2.02-9.F are met;
or**
- 3. Protects the health, safety and welfare of Woodbury County citizens.**

Comment:

Mr. Rorholm asked if the property will remain the property of current owner. Will the Contractor put the acres back to grass when they are finished with it?

Randy Hunt replied the land will be seeded with grass.

Mrs. Colling asked if the new driveway will be temporary. Mr. Ronnie Hunt said the new driveway will be permanent.

Mr. Pylelo said slopes will be dealt with should the road be permanent so no dirt flows over onto Old Hwy 141.

Mr. Rorholm said the land will be graded to what is desirable for the property owner.

Mrs. Collings asked where the fill was going. Mr. Ronnie Hunt said it was going directly to build up the approaches to the bridge.

Mr. Pylelo said the water was coming from Garretson Ditch for dust management. The county engineer will follow the standards for this operation.

Corey Smith from Albrecht's Bikes said he likes the beautiful scenery and this area is a cyclist's trail foundation.

Mr. Pylelo said they talked about right-of-way safety.

Mr. Smith was concerned about trucks on the road which aren't usually there.

Mr. Pylelo said the initial impact will be thirty (30) days after which the trucks will be intermittent.

Mrs. Sadler made a motion to close the public meeting. Mr. Rorholm seconded the motion; motion carried 4-0.

Discussion:

No discussion.

Mr. Rorholm made a motion to approve borrow subject to conditions below;

- 1) No fugitive dust is to leave the parcel or trucks.**
- 2) Traffic control plan by county engineer if he approves permanent second drive.**
- 3) Adequate signage for cyclists and motorcycles by Gary Brown.**

Mrs. Colling seconded the motion; motion carried 4-0.

The next agenda was a Public Hearing and Approval of a Conditional Use Permit for current property owner Wendel Real Estate, LLC and applicant Lieber Land Holdings, LLC in Section 25 of Woodbury Township Re: Resource Extraction Permanent Borrow Pit for Earthen Materials; Concrete Crushing; and Earthen Material Storage.

Woodbury County has received a conditional use permit (CUP) application from Lieber Land Holdings, LLC (Lieber). The organizer of Lieber Land Holdings, LLC is Rodney D. Lieber. Mr. Lieber also owns other Iowa corporations which provide excavation, grading, demolition services and many future unknown construction projects. Those services include providing, removing, storing, or processing 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.

The application requests permitting to stage and operate permanent earthen borrow facility; concrete crushing operation; and earthen resources storage area. If approved for this location the permitting would allow earthen materials to be excavated, processed and be delivered to/from the site as needed. The application reflects the intention to export approximately 1.2 million cubic yards of earthen material from an approximate 101 acre area over an undertermined period of time.

Lieber has stated the intent to make an offer to the current property owner Wendel Real Estate, LLC to purchase portions or all of multiple rural parcels. The intent is conditioned upon Lieber being successful in the conditional use permittng effort.

The requested conditional uses will be located upon all or a portion of parcels within the S $\frac{1}{2}$ of the N $\frac{1}{2}$ of the NW $\frac{1}{4}$; Part of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$; Part of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$; Part of the S $\frac{1}{2}$ of the NE $\frac{1}{4}$; Part of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$; All within Section 25 of Woodbury Township.

Residential development up to a density of two (2) dwellings per quarter-quarter is a current permitted use. Any residential density beyond this limitation would require re-zoning of the impacted parcels.

A barn type structure exists at the southeast corner of the site. It is the applicant's intent the structure will remain with an independent 2 acre parcel to be established. A drive currently services this building site providing access from the west side of Old Highway 141. It is anticipated this driveway location will remain.

The analysis for an additional driveway location placement is underway. The application provides location information for the new drive and a potential bridge construction over Little Whiskey Creek. The new drive must be permitted by and constructed to specifications approved by the county's Secondary Roads Department. Elevation change or structure placement within any flood plain will require local flood plain development permitting.

The application shows multiple potential haul routes related to the borrow location's and the existing or proposed new Old Hwy 141 driveway:

- North on Old Hwy 141 (D25) to the Hwy 20 Bypass
- South on Old Hwy 141 (D25) to the intersection with 210th St. then west
- South on Old Hwy 141 (D25) to the intersection with K42 then east

These haul routes provide access to the I29 corridor, the Hwy 20 Bypass and Highway 75 Bypass.

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*

Each use requires CUP approval by the county's Board of Adjustment. The Lieber CUP application does not provide an ending date for any of the requested uses and as such the application is being processed as a permanent permit application request for each of the three uses.

All impacted parcels are zoned AP (Agricultural Preservation). This zoning district designation allows each of the applied for uses to be conditionally approved.

The parcel does not lie within any rural drainage district and no environmental or archeological issues are know. The average corn suitability rating (CSR2) for the impacted parcels range from 32.77 to 69.51.

Written notices of your Board's public hearing were mailed to the five (5) owners of property within 500' of the parcel on which the conditional use permit is applied for. To date the Planning and Zoning office has received citizen inquiry as follows:

- A telephone call from Mr. Brian Peterson who owns and farms parcels to the east. The inquiry was general in nature. Mr. Peterson owns property within 500 feet and was notified in writing of the pubic hearing.
- A July 5, 2016 e-mail from Ebert "EB" Baker of 1997 Carroll Avenue. The e-mail is attached and will become a part of the public record.
- On July 6, 2016 a visit to the Planning and Zoning Office from Mr. Peter Widman who resides at 1847 Old Hwy 141. Mr. Widman's inquiries were general in nature and he indicated his attendance at the July 11, 2016 public hearing to offer testimony.

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.

- Woodbury Township TAM Mapping showing location.
- The applicant's CUP application form.

- The letter from professional engineer Ryan Callaghan of Civil Engineers and Constructors, Inc. (CEC) dated June 1, 2016. The letter provides information requested by the Planning and Zoning office staff and states why the applicant believes section 2.02-9.F standards have been met.
- Two Pictometry aerials representing the west and east portions of the project.
- Current Existing Site Plan aerial; CEC – Drawing C050 dated June 1, 2016 showing the current pre-excavation contours.
- Proposed Site Plan aerial with notes; CEC – Drawing C100 dated June 1, 2016 showing anticipated post-excavation contours.
- Profile and Cross Section Drawings; CEC – Drawings C150, C200, C205 and C210 all dated June 1, 2016 showing pre and post excavation elevations.
- Two Haul Route Mapping Aerials (North and South Routes) providing anticipated haul routes from the proposed borrow site.
- Aerial Mapping of parcel with Zoning Layer.
- Aerial Mapping of parcel with Flood Plain Layer.
- Aerial Mapping of parcel with Soil Type Layer.
- Representative Parcel Soil Report.
- Corn Suitability Rating (CSR2) Report for Parcels.
- Photos of the project site.
- A letter from the Chairman of the Woodbury County Zoning Commission reporting the Section 2.02-9-F findings will be presented to your Board at the public hearing.

Your Board is tasked with holding the required public hearing; then to deliberate upon the approval of a Conditional Use Permit for current property owner Wendel Real Estate, LLC and applicant Lieber Land Holdings, LLC in Section 25 of Woodbury Township Re: Resource Extraction Permanent Borrow Pit for Earthen Materials; Concrete Crushing; and Earthen Material Storage.

You are then to vote either upon permit approval or denial. For any approved permit the ordinances allow the placement of those condition which your Board feels:

- 1) Further the goals of Woodbury County's General Development Plan;**
- 2) Provides that the standards within Ordinance section 2.02-9.F are met; or**
- 3) Protects the health, safety and welfare of Woodbury County citizens.**

Comments:

Bill Widman approached the Board to tell them he lived three-fourths of a mile from the proposed site. He was concerned about the safety and quality of life for his children and wife. He has fifteen (15) acres and was concerned about the neighboring activity lowering his property value.

Numerous telephone calls, e-mails and other contacts came to the Office of Planning and Zoning asking for clarification and/or expressing negative reactions to the proposed borrow, crushing and storage facilities on the Wendel Real Estate, LLC property. The comments are attached with these minutes.

Mrs. Collings asked to refer to the future land use map.

Mr. Pylelo explained this was usually for re-zoning or subdivisions where CUPs were required and they were in areas already zoned GI (General Industrial) or AP (Agricultural Preservation). Concrete crushing will be located in the first two (2) places that are already zoned for it. Some have been approved and some denied usually where residential density is greater. There may also be a concern for recreational safety and maintaining the beauty of the Loess Hills.

Mr. Pylelo read County Engineer Mark Nahra's comments into the records. *(They are attached with the other comments.)* Nahra had no negative comments other than conditions regarding dust control on Carroll Ave.

Ryan Callaghan from CEC said the concrete crushing was a mistake and should be removed from the application. It need not even be considered.

The material storage will be for storing onsite material or material that needs to be stored from another parcel.

Ron Lieber commented they may need it and would like to leave it there to use as needed.

Mr. Lieber explained the borrow would be graded as needed, used, and restored to farm land or if needed it could be used for housing.

It may be a ten (10) year process. Much of the land along the highway will not be used at all and will remain grass.

A man identified as “Cody” asked who would be responsible for cleanup and other messes.

Mr. Pylelo explained other permits possibly from the DNR (Department of Natural Resources) or FPDP (Flood Plane Development Permit) will control other issues.

A man from 4110 Seger Ave. said his area is unique to the planet. He was concerned the borrow and everything associated with it would endanger the beauty and serenity of his and other surrounding properties.

Mrs. Beacom was concerned the bridge on Carroll Ave. would not be able to handle trucks.

Mr. Pylelo said Carroll Ave. was not intended to be used for a haul route.

Mr. Callaghan said they did not intend to use Carroll Ave.

Maria Rundquist owns property in Sloan and loves Hwy 141. She feels the county needs to preserve the Loess Hills. It’s a treasure, a tourist attraction, and a bird habitat.

Don Groves wants to preserve agriculture. He has lived on Hwy 141 for 35 years and knows what the typical traffic is like. According to Groves the road is too narrow and he has concerns for citizens who use that road.

Chris French does not want any borrow activity or any other kind of project to occur in the area of the proposed borrow.

Graham McGaffin talked about the geological significance of the Loess Hills area. He sees it as an excellent habitat for migrating birds and cattle grazing. Adding something like a borrow area could have potential negative impact.

Elizabeth Widman said her brother was killed on Hwy 141 partly because there is not enough of a shoulder.

Greg Trucke has safety concerns. There are multiple curves on Hwy 141 and an uphill grade. Passing is difficult at best. Hwy 141 was not made to service trucks. Close to Smithland there are cracks in the road with grass growing out of the cracks. Biking is dangerous because the shoulder drops off in places.

Wendel Hubert has the same concerns as the other citizens. He added there is runoff from the topsoil into Little Whisky Creek.

Mr. Callaghan said DNR did not require a silt fence for drainage ditches 1/10th of a mile.

Mr. Hubert replied a heavy rain will wash out a silt fence.

Mr. Callaghan said the borrow area will require maintenance. They do not intend to level the entire side of the hills. The darker lines on the grading plan will be used for borrow. The lighter lines will not be touched.

Dave Amick, Mayor of Bronson, said safety cannot be emphasized enough. The speed used to be 45 miles per hour and has increased to 50 miles per hour. The road cannot handle heavy traffic.

Kevin Kale also has safety concerns. Nobody drives 50. *(It is not clear if he means they drive faster or slower than 50 miles per hour.)* There are school buses and bikes on the road.

Melvin Kay is a father who feels trucks will seriously jeopardize safety on Hwy 141.

Nick Lahrs lives on 1815 Bronson Black Top. His concerns are for safety, the area environment, and property value. He wants to see the character of the neighborhood and the wild life protected. Native habitats cannot be restored in just one year.

Hwy 141 is very difficult to pass on now. Trucks complicate things. The gravel and debris on roads cause accidents.

Lee Brennen from 1713 Old Hwy 141 said there are sharp curves and cars go off the roads into cornfields. Old Hwy 141 used to be maintained by the state; now it is maintained by the county.

Sandra Wendel had a 104 year old farm. Before she sold the property to Lieber, she walked the land with him, asked some questions, and had some concerns. Lieber answered questions to her satisfaction.

The crib is not part of the project and will remain and be maintained. People will continue to graze cattle and farm.

She believes she has been environmentally aware. She got the FAA to not construct a tower there. She hired environmental people to consult on all the Loess Hills natural grasses, flowers, and habitats.

She consulted with Lieber about maintaining the Loess Hills. Hauling will be directed away from this area. Carroll is not part of the truck traffic. Lieber needs dirt. He has to get it from somewhere. People have to get it in perspective. Put restrictions for what you need to protect it but allow them to get the borrow they need.

Mrs. Widman said she doesn't feel the land is zoned right for projects like this.

Cindy Bowman said they haven't considered other safety hazard traffic on Hwy 141 such as mail men, school buses, garbage trucks, the funeral processions at the cemetery; and there are many other obstacles before arriving at Hwy 20.

Mr. Lieber noted dirt was taken from the Hunt property in 1993 and hauled over Hwy 141 close to Morningside Ave. There were traffic issues when they got closer to more densely populated areas. He said he chose this area because from Old Hwy 141 you don't even see the Loess Hills. You begin to see it at 210th St. They wouldn't work weekends and only half days on Saturday. The borrow would be close to Sioux City. Sioux City is growing regardless of how much they might want the Loess Hills protected.

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

Discussion:

Chairperson Bob Brouillette said he understood the safety concerns, but it is going to be done somewhere and this is the area where borrows are allowed.

JoAnn Sadler was concerned with the adverse effects on the natural features. Because of the safety concerns, she does not think this is the best place for it.

Katie Colling noted the Board of Adjustment is charged with concern for the natural character of the environment and they are charged with considering the concerns the public has brought to them.

Dwight Rorholm said if this was a subdivision it would have the same effect. Find another place for it. It will damage the character of the location they chose.

Mrs. Colling thought the haul route was too vague.

Mr. Brouillette said it comes back to the safety issues and the condition of the road.

Mr. Pylelo thanked the audience for coming and offering their feedback.

Mr. Rorholm made a motion to deny the CUP and explained reflecting the majority opinion of the audience. Mrs. Colling seconded the motion.

Mr. Pylelo interrupted the motion saying the specific standards being objected to needed to be in contained in the motion.

Mrs. Sadler stated objections were cited in Section 2.02-9.F1F.

Mrs. Colling stated objections were also cited in Section 2.02-9.F1C.

Mrs. Colling amended the motion to deny the CUP stating objections were cited in 2.02-9.F1C & 1F.

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

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

There were no citizens wishing to be heard.

Mrs. Sadler made a motion to adjourn. Mrs. Colling seconded the motion; motion carried 4-0. Meeting adjourned at 8:30 pm.

Next meeting is scheduled for Monday, September 12 due to Labor Day falling on Monday, September 5th.