



SCOTT COUNTY PLANNING AND ZONING COMMISSION

MINUTES

November 20, 2012
7:00 P.M.

First Floor Board Room
Scott County Administrative Center

- MEMBERS PRESENT:** Kent Paustian, Linda Rivers, Gary Mehrens, Allan Kluever
Katherine Ion, Clayton Lloyd, Carolyn Scheibe
- MEMBERS ABSENT:** None
- STAFF PRESENT:** Timothy Huey, Planning & Development Director
Brian McDonough, Planning & Development Specialist
- OTHERS PRESENT:** Approximately 45-60 members of the public, including Terry
Harris and Rodney Foster of Crop Production Services
(applicant) and other members of the public.

- 1. CALL TO ORDER:** Chairman Kluever called the meeting to order at 7:00 p.m.
- 2. MINUTES:** It was moved by Scheibe, and seconded by Paustian, to approve the September 18, 2012 minutes. Motion carried unanimously.
- 3. PUBLIC HEARING – REZONING:** An application to rezone approximately five acres from Agricultural-Preservation (A-P) to Agriculture Service Floating Zone (A-F) in the southwestern corner of Section 18 in Butler Township. The applicants are Crop Production Services, Terry Harris (CPS representative), and Burnette and Dean Marten Life Estate (landowner).

Planning Director Timothy Huey presented staff's review of the rezoning application. Mr. Huey explained the history of this particular request. The same request was submitted in September, but withdrawn the day of the meeting. However, as was explained at that time, Crop Production Services was free to submit this rezoning request, or any other, at any future time. Mr. Huey explained the history and purpose of the County's A-F zoning district. It was developed to serve the agricultural community's need for farm-oriented retail commercial development in rural parts of Scott County. It was stated that the purpose for this rezoning was to allow Crop Production Services to establish an anhydrous ammonia retail distribution business. Crop Production services plans to lease the land from Dean

Marten. Mr. Huey proceeded with his presentation, assisted by a PowerPoint slideshow, and outlined how the proposal met both the requirements of the Scott County Zoning Ordinance and the Scott County Land Use Policies.

Maps were shown that demonstrated the required distances between the rezoning site and features such as environmental resources, residential zoning districts, property lines, and neighboring homes. Mr. Huey explained that the Zoning Ordinance requires that a minimum of five acres be rezoned for any A-F application. He further explained that CPS only plans to use approximately 2 acres for site development, thus leaving the majority of the rezoned site in row crop production.

Mr. Huey presented the Natural Resource Conservation Service (NRCS) soil survey maps for this particular area. The soil type has a CSR rating of 40. Huey explained that a CSR of 60 or greater represents the County's threshold for "prime" farmland. Huey proceeded to show the applicant's proposed site plan, explaining that any rezoning to A-F requires a site plan review occur at the same time as the rezoning. The applicant proposed one 30,000 gallon anhydrous ammonia storage tank, one fill station, a scale house/attendant station, one above ground scale, and a storage area for smaller nurse tanks. Lastly, Mr. Huey showed recent photos of the site and surrounding land uses taken by staff. Specifically, photos were shown looking both east and west down 290th street from various distances, both to and from the site. Also, photos looking from the site towards nearby residences were presented. For comparison, photos of River Valley Cooperative in Eldridge, Iowa were shown. This business operates a retail distribution business with anhydrous ammonia storage and sale, and has several 30,000 gallon storage tanks onsite.

Terry Harris, Crop Production Services representative and Farm Center Manager in Wyoming, IA, addressed the Commission. He thanked them for hearing the request, and announced that other CPS representatives were present at the meeting and would be glad to address any concerns about the project. Mr. Harris said that CPS is currently marketing agricultural products in Scott County. However, they have to travel fairly large distances to deliver anhydrous to customers in the County. The new site would greatly reduce transportation costs associated with the company's Scott County market, Harris said.

Chairman Kluever opened the Public Hearing portion of the meeting, and stated that the Commission would hear any comments from the public at this time.

Nancy Phelps (directly across the street from the site at: 18021 290th Street): Ms. Phelps expressed concerns about the development. Her main objections were related to environmental hazards, traffic, and general quality of life. She used a PowerPoint presentation during her address to the Commission. She stated her main concern as the safety of her family and extended family which often visits her home, which is situated directly across 290th Street from the proposed site. Specifically, she stated concern about the hill to the east of the proposed site's driveway entrance, believing that it is a major traffic concern. She also expressed concern about the site's potential to attract individuals seeking anhydrous to make methamphetamine. She noted that while there exists a similar

site in Eldridge, that the difference is the Eldridge site sees more law enforcement patrols. She also expressed concern for bicyclists, which often use 290th Street. She is also concerned about her water well which she stated is less than 50 ft from the site. She is concerned that the slow towing speed requirement for anhydrous tanks has the potential to cause traffic accidents. She furthered stated that any site lighting will ruin her view of the nighttime sky. She noted that she is a mental health professional, and that the location, and even potential location, of this site near herself and her neighbors will cause mental and physical harm to them. Ms. Phelps ended her presentation by stating that there are other, more suitable sites for this use in Scott County, and she asked for empathy from the Commission members. Even though the criteria may have been met in this case, Ms. Phelps stated that she believes the human and personal issues have not been addressed fully.

Dan and K.J. Rebarcak (live west of the site at 17860 290th Street): Mr. Rebarcak spoke against the proposed rezoning, citing issues related to safety, environmental quality, and quality of life. He presented his own research with a PowerPoint presentation. He stated that CPS has 21 Occupational Safety and Health Administration (OSHA) violations. He said these facilities are seasonal and unlikely to be inspected. He said that only 8 complete OSHA violation inspections have been documented for the company. Mr. Rebarcak noted that some of CPS's OSHA violations have been rated as serious. Serious violations mean that the violation has a high probability of resulting in death or serious injury. Mr. Rebarcak then spoke about the health hazards of anhydrous ammonia and its effects on the human body when in direct contact. He also expressed concern that the site would attract meth makers. Stated that locking nurse tanks is not enough of a safety measure, and won't deter someone who wants access. Explained a conversation he had with individuals in Fayette County's Sheriff's office, where they indicated that anhydrous ammonia is still a major input into meth making, even though batch methods have increased in recent years. Asked the Commission if any of them would honestly say they would live next to this proposed use? Spoke about traffic, noise, and light concerns if the use were to be approved. He described a conversation he had before the meeting with Dale Denklau (Scott County Assessor). Mr. Denklau mentioned that residential homes near this site are far enough away that neighboring residential property values should not be significantly affected. Mr. Rebarcak disagrees with this evaluation of property values. He ended his talk by saying that he believed the will of the people was not being followed in this case.

K.J. Rebarcak addresses the Commission: She used a PowerPoint presentation. She stated that the proposal does not meet the Scott County Comprehensive Plan Goals 1-4. She claimed only 11 days notice was given to her before the September hearing, and that she was lead to believe the proposal was dead after that hearing. She expressed her feelings that there was a lack of communication. She stated that this use would not be a "normal Ag nuisance" stated in Scott County's Land Use Policies. She said the proposal didn't conform to other land use policies regarding environmental protection. She was upset that Mr. Marten has operated a barrow pit for several years on this site. She doesn't believe the proposal met the land use policy pertaining to need for development, because it will only profit Mr. Marten and CPS.

Mike (stated he has lived on St. Anne's Road for 26 years): He spoke about concerns related to road conditions and traffic, as well as the towing of anhydrous at low speeds. He is concerned about the gas drifting if there was an accident or leak. Said he expected a risk assessment to be completed for this proposal. He was concerned about the proximity of the site to residential homes, the Walnut Grove tourist site, and Scott County Park. He believed that the area is too densely populated to make this a decent proposal.

Mary Jennings (lives in Woodland Acres housing development): She stated her belief that the whole proposal is about money, because CPS wants to take part of the anhydrous ammonia market share, and Dean Marten stands to profit from a 20 year lease. Stated that her residential area is home to approximately 30 families, and that she was concerned for their safety and home values. She ended by saying that the current district is for Preservation, and that the Commission should vote to preserve it.

Jim Coffman (lives on property NW of the site): Mr. Coffman referenced a rezoning some years ago which he referred to as the Lake Huntington subdivision. He stated that it was turned down because of road inadequacies, and believes this is a similar case. He is concerned about after hour's transport of anhydrous ammonia, and also worried about the lack of road shoulder on 290th Street, and the hill to the east of the site driveway. He said the road is overall not suitable for the increase in traffic that will result if this is approved.

Harold (20437 290th Street): He stated he is a cattle farmer and that he is worried about potential air quality issues if there were to be an accident. Said it could damage his heard. Also, he was concerned about evacuation routes for residents. He noted that there is only one stop sign on 290th Street between Utica Ridge Road and the Donahue blacktop. If this were to be approved by the Commission, he would like to see a stoplight at Scott Park Road and 290th Street intersection, as well as at the Interchange of Highway 61, as a condition for approval of this rezoning. He ended by saying that he has seen anhydrous ammonia accidents, and is concerned about this particular location, due to traffic.

Jill Lochner (She and her husband recently purchased approx. 200 acres SW of the site on the south side of 290th Street): She stated that they recently entered into a purchase agreement for 200 acres just SW of the site, set to close in December. Mrs. Lochner took issue with staff's presentation of the proposed site's Corn Suitability Rating of 47. She referenced OSHA violations for CPS, noting that 8 of the violations were categorized as "serious." Ms. Lochner then told the Commission members that this site would cause serious environmental harm to both the natural landscape and to nearby residents, urging them to think about this impact.

Dean Marten (property owner listed on the application): Mr. Marten spoke very briefly, stating that this is not all about money for him. He said he was approached by CPS, not the other way around, and that if it was purely about profit he would put a hog confinement building on the site, because that would have a much higher profit than this proposal.

Ed Nolton: Stated that the road shoulder is not a big issue, because there is a general lack of/small shoulders throughout the County's roads. He also spoke to the free enterprise system, noting that property owners have a right to do what they wish with their own land.

Michael Holst (Scott County Farm Bureau President): He read a brief statement from the Scott County Farm Bureau in support of this rezoning.

Robb Ewoldt (former Scott County Farm Bureau President, and a Scott County Farmer, but does not live near the site): He spoke about the need for this development from a farmer's perspective. He said that Scott County needs another company to spur competition and ultimately bring down prices. He addressed previous concerns about traffic, stating that there would be 2 to 4 semi trucks per day entering the site during the busy season; thus not generating all that much traffic. He also addressed previous concerns about towing anhydrous ammonia at night. He said that Iowa regulations are very strict, and that virtually no one tows this chemical at night. Regarding comments about bicyclists' safety, he doesn't see how a two lane highway can be deemed safe for bike traffic, but not so for anhydrous ammonia tanks pulled by vehicles. He lastly addressed the statement made several times that there are surely other, more suitable, sites in Scott County for this use. He said there probably are, but there also must exist a willing seller, and this is hard to find and negotiate in many instances.

Todd Dan Tassel (lives within 1.5 miles of the site): Said that he just passed an anhydrous ammonia tank on the way to the meeting, after dark. So he disagreed with the previous comment that no one tows at night. He generally doesn't believe that the County has done its due diligence, and stated that he believed Mr. Huey had "already made his mind up before the public hearing."

Karl Carstens (lives on 240th Avenue in rural LeClaire): He asked the simple question, "If these sites are so dangerous, then why does there seem to be one in every little town?"

Rodney Foster (Regional Operations Compliance Manager for CPS): He said that the company is governed by the Environmental Protection Agency (EPA) and the State of Iowa, and all the applicable regulations for anhydrous ammonia enforced by these agencies. He stated that the company does 5 year hazard assessments, and that all sites have 3 emergency shutoffs. CPS company policy is to train local fire departments on emergency response preparedness. He explained the method for residents in case of a leak is to "shelter in place." In other words, the protocol is to stay indoors, shut all doors and windows, and turn off heating and cooling systems. Air concentrations of anhydrous ammonia have to be very large before they become toxic; therefore evacuation is not really a concern for a facility of this size. The technique is shelter in place. Stated that the chemical is rarely transported by the company at night, but when it is a necessity they comply with all regulations and trailers do have lights on them. He noted that any hauling after dark is a company activity. In other words they don't sell to customers who leave the site after dark towing the chemical. Stated they use schedule 80 pipe for all their facilities, while the minimum is only schedule 40.

With no other members of the public wishing to speak, Chairman Kluever closed the public hearing portion of the meeting, and asked for Mr. Huey's recommendation.

Mr. Huey said that he would like to briefly address a few of the comments heard tonight before giving his recommendation. First, he said that every effort was made to notify surrounding property owners and the public appropriately and in accordance with the legal requirements. In fact notifications for CPS's second application went above and beyond the legal requirements for notification, based upon concerns from residents during the first application that lived beyond the 500 foot notification boundary. Mr. Huey also noted that he did not make a recommendation on this proposal prematurely. Rather it is his job to review the facts of the case and present his recommendation to the Planning and Zoning Commission the night of the public hearing. He said that he met with Allan and Nancy Phelps and Dan Rebarcak on Friday, November 16th, at their request to address their concerns and questions about the application. At that meeting he was asked if the Commission always followed his recommendation. Mr. Huey explained that he answered that question by saying that the Commission usually follows his recommendation, but not always. The Commission is an independent body that makes its own decision.

Mr. Huey then presented staff's recommendation: Staff recommended approval of the rezoning request due to its compliance with the Scott County Land Use Policies and the Scott County Zoning Ordinance, with 4 imposed conditions:

- 1) A permanent, secure, and lockable front gate must be constructed across the completed driveway entrance of the site.
- 2) The applicant shall install and maintain adequate security lighting for the site. Specifically, all buildings and storage areas shall be lit during nighttime hours, and all nighttime lighting shall be "full cut-off" in nature as well as designed to minimize light spillover across the property line. A lighting plan must be submitted prior to issuance of a building permit.
- 3) A landscaping plan shall be submitted prior to the issuance of a building permit. The plan must show how general site operations as well as any light spillover will be buffered from nearby properties. Special attention shall be paid to shielding the southern and western boundaries of the site, where the nearest residential properties are located. The landscaping plan shall include at least some evergreens or other non-deciduous plants which will provide buffering during all seasons. The plan may include any combination of plantings that achieve a reasonable buffering of the site during its operation.
- 4) Copies of any state and federal permits required to be held by Crop Production Services for this site shall be submitted to the Scott County Planning and Development Office prior to the issuance of a building permit.

Commission member Kent Paustian explained the history of the A-F Zone, saying historically there has been a recognized need for retail sales in the County. He noted that Paul Meyer Chemical near Maysville was the first property to be rezoned A-F. He also noted that it has many similarities to this proposal. It is relatively close to residences and environmental features, such as Cameron Woods. Mr. Paustian said that the A-F zone was

established through public meetings and received public input, and took a considerable amount of time, effort, and thought by the County. He acknowledged the safety concerns as valid, but took issue with some of the comments made during the public hearing. He stated that he would, personally, not be opposed to living next to an anhydrous tank.

Chairman Kluever asked CPS if they had any comment on the OSHA violations that had been brought up during the public hearing.

Rodney Foster said that he had no comment other than that those are company-wide violations and are not necessarily specific to anhydrous ammonia, citing that CPS has over 800 total facilities.

It was moved by Paustian, and seconded by Lloyd, to approve the rezoning of approximately five acres in Section 18 of Butler Township, from Agricultural-Preservation (A-P) to Agriculture Service Floating Zone (A-F), subject to the four conditions suggested by staff.

Vote: 6-1. Ayes (Paustian, Lloyd, Scheibe, Mehrens, Kluever, Ion). Nays (Rivers)

It was moved by Paustian, and seconded by Scheibe, to approve the site plan, subject to approval of the rezoning by the Scott County Board of Supervisors.

Vote: 6-1. Ayes (Paustian, Lloyd, Scheibe, Mehrens, Kluever, Ion). Nays (Rivers)

Mr. Huey explained to the audience that the item will now move to the Board of Supervisors for their approval. It will require a public hearing and two readings before the Board of Supervisors.

With no new business to discuss, **a motion to adjourn was made by Paustian and seconded by Mehrens.** The meeting adjourned at 8:30 P.M.