

RESOLUTION 01-24 (BOA)

RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 1150 E STREET

WHEREAS, the Board of Adjustment received a request from CCLP Enterprise, LLC for a Conditional Use Permit to establish and use certain property described below for commercial agricultural chemical and fertilizer storage and distribution in accordance with Section 2.1.6 of the Charles City Unified Development Ordinance in a M-2 General Manufacturing district and described as follows:

Parcel C being a part of Blocks 136 and 137, Lane's Addition to St. Charles, now incorporated in and a part of Charles City, Iowa and part of the SW1/4 of the NE1/4 and part of the NW1/4 of the SE1/4 of Section 6, Township 95 North, Range 15 West of the 5th P.M. all in Floyd County, Iowa, as described and depicted on Retracement Plat of Survey filed April 5, 2016 as Instrument No. 2016-0653 in the office of the Floyd County Record (locally known as Tax Parcel ID 12-06-301-010-0, former White Farm Site East of E Street)

And

All that part of Lots Eight (8), Nine (9) and Ten (10) in Block One Hundred Thirty-five (135), lane's Addition to the town of Charles City, Floyd County, Iowa, according to the recorded plat thereof, lying Southeasterly of a line parallel to and distant 50 feet Southeasterly of (as measured perpendicular to) the centerline of the railroad track (locally known as Tax Parcel ID 12-06-181-011-00)

And

Parcel U located in part of Parcel E in the South ½ of the Northeast ¼ of Section 6, Township 95 North, Range 15 West of the 5th P.M., Floyd County, Iowa, as described and depicted on Plat of Survey filed February 8, 2024 as instrument No. 2024-0247 in the office of the Floyd County Recorder

("the Property")

WHEREAS, notice of hearing was duly published in the Charles City Press and appropriate notice was provided to property owners located within two-hundred feet of the boundaries of the Property, and a hearing was held on the 29th day of April, and

WHEREAS, there were no written objections filed, and

WHEREAS, the Board engaged in deliberation and fact-finding during the hearing and thereafter granted the conditional use permit and requested that its findings and conclusions be incorporated into a written decision; and

WHEREAS, a written Findings of Fact have been prepared for review by the Board.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of Charles City, Iowa that the conditional use permit described above is hereby approved and the Findings of Fact attached hereto are approved with the following restrictions:

Conditions and Safeguards of Conditional Use Permit

1. That only the following materials, and materials of similar, like-kind and noncombustible composition, be allowed on site as determined by safety data sheets:
 - a. Liquid
 - i. UAN
 - ii. 6-24-6 till It Blue Zone 50/50
 - iii. 10-34-0 liquid ammonium polyphosphate
 - iv. ATS – ammonium thiosulfate
 - v. RISER
 - vi. Zinc – 9%
 - b. Dry
 - i. Ammonium sulfate 21-0-0
 - ii. MAP – monoammonium phosphate
 - iii. MES-10 – monoammonium phosphate with ammonium sulfate and sulfur
 - iv. Muriate of Potash – potassium chloride
 - v. SuperCal SO4 – calcium sulfate dihydrate, gypsum
 - vi. Urea, granular
2. That the onsite mixing of liquid fertilizers shall be prohibited, with the exception of dilution with water.
3. That ammonium nitrate and all other strong oxidizers (class 3 or greater) shall be prohibited from the facility.
4. That transfer of title of the real estate to a new owner requires resubmission and reapproval of the conditional use permit.
5. That construction and operation of the facility comply with all applicable requirements of local, state, and federal agencies (i.e. code enforcement, zoning, flood plain, IDNR, IDALS, USACE, etc.).
6. That the applicant provide proof of compliance with the Iowa Department of Agriculture (for any necessary license or permit requirements) and the Iowa Department of Natural Resources (for flood plain requirements) prior to issuance of any building permits.
7. The trucking route for the facility shall be submitted to and approved by the Charles City Engineering department prior to issuance of a building permit.
8. Standard operating procedures for the facility be submitted to and approved by the Charles City Engineering department prior to issuance of a building permit.

and such decision shall be posted by the Board Secretary on the City website in compliance with Iowa law.

BOARD MEMBER Powell moved the adoption of the foregoing Resolution;

BOARD MEMBER Hammond seconded the motion, and the voting was as follows:

AYES: LaBounty, Powell, Noah, Kloberdanz, Hammond

NAYS: none

Passed and approved this 13th day of May, 2024


Trudy O'Donnell, Secretary


Gene LaBounty, Chair

**Findings of Fact
For Conditional Use Permit for Property located at
1150 E Street**

Criteria to be considered by Board of Adjustment in granting or denying a special use permit:

- A. That the proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property.

Yes. The Board engaged in lengthy discussion with representatives for the applicant and general public in attendance. Based on the evidence presented at the hearing, the Board determined that the dry fertilizer facility is contained and that product is received and loaded inside the building structure, thereby reducing noise, dust and odor for surrounding properties. The dry fertilizer product is non-combustible. The liquid fertilizer facility has self-contained tanks onsite which will meet containment requirements. The site includes a lined retention pond. Further relevant discussion and findings are set forth in the Minutes of the meeting attached hereto as Exhibit A and made a part hereof. The Board further approved a number of conditions and safeguards which are attached hereto as Exhibit B and made a part hereof.

- B. That such use shall not impair an adequate supply of light and air to the surrounding property. *Yes.*
- C. That such use shall not unduly increase congestion in the streets or public danger of fire and safety. *Yes. The Board discussed the proposed truck route and volume of traffic at the facility. The Board was provided with the proposed truck route for the facility. The truck route is to be reviewed and approved by the Engineering Department as set forth in Exhibit B. Further relevant discussion and findings are set forth in the Minutes of the meeting attached hereto as Exhibit A and made a part hereof.*
- D. That such use shall not diminish or impair established property values in adjoining or surrounding property. *Yes. The Board determined that this is an appropriate use for an M-2 General Manufacturing District.*
- E. That such use will not unduly burden public utilities. *Yes.*

5. Conditions/safeguards which should be imposed upon a permit recipient:
See Exhibit B.

If any of these foregoing questions are answered in the negative, the special use cannot be granted.

6. Decision by the Board of Adjustment:

Approved X Disapproved Date: 5/13/24

Gene A. LaBonte
Chairperson

Rudy Donnell
Secretary

Exhibit A

(Attach approved Minutes)

BOARD OF ADJUSTMENT
APRIL 29, 2024

Charles City board of adjustment met on April 29, 2024 at 10:00 a.m. in council chambers. Chair Gene LaBounty presided and the following board members were present: Mike Hammond, Bob Klobberdanz, Krista Noah and Alan Powell. Also present were city attorney Brad Sloter and engineer in training Brian Sullivan.

Motion by Hammond, second Klobberdanz to approve the agenda. Ayes – 5

Correction to the minutes of 11/20/23 – “Elvidge stat” should be changed to “Eldridge stated”. Motion by Powell, second Noah to approve the minutes as amended. Ayes – 5

City attorney Sloter then outlined the process that will be followed today. A staff report will be read that provides some background information. After that, the applicant or their representative will present information and answer any questions from the board. The members of the public will then be allowed to ask questions or make public comment. Motion by LaBounty motioned to open the public hearing, seconded by Powell. Ayes – 5. Board secretary O'Donnell then read the staff report on this conditional use permit. Affidavit of publication dated 4/12/24 was informally filed. Chair LaBounty asked for written comments. There being none, he then asked for oral comments. Dennis Rippentrop, applicant, then summarized the project and the request for the conditional use permit. This terminal will be housing straight fertilizer and also warehousing steel and possibly wood, Rippentrop was informed this was specifically for a fertilizer distribution center. There could be additional manufacturing there in the future. They have already been cleaning up here, hauled contaminated dirt away and brought the levels up to commercial grade. Terracon has done testing and it has all been reported to the DNR. Darin Brushard from Marcus Construction then shared site plans. This will be a transfer station (truck to rail and rail to truck). All product will be received inside, so dust will be greatly reduced. The buildings are tailored to the types of products listed on the application for the conditional use permit. The equipment is all automated and they will have the ability to lock down the overhead doors, equipment, etc. in the event of an emergency. All areas and equipment are accessible by stairs, but there will still be a few ladders needed for some areas. There will be in floor heating, which will reduce condensation so it will be easy to keep clean. A 6" curb around the facility will help with containment in the event it is needed. A containment permit was required to be submitted to the Department of Ag and a flood plain application was submitted to the DNR. Question on if there will be any odor issues with this facility and response was that since this is dry fertilizer, there should be no odor that gets outside the facility. Any liquid being moved will be by pipe so no issues there with odor. The bucket conveyors used to load/unload fertilizer will be used for all products. Dust accumulation will depend on the house keeping done by the owner. Question on how flammable these products are and response was not at all. They would like to have more product brought in by rail but there will be some truck traffic bringing in. Some concern raised over the amount of truck traffic, do not want to cause issues with homeowners in the area with trucks moving around all hours of the day. A plan for the truck route has been developed and will be shared with the city. They do not plan on operating 24 hours a day but it could get long days during the peak season, which is spring and fall. Site lighting will be done according to city code. There will not be any anhydrous stored on this site. Normally, a building of this size would require a sprinkler system be installed. It was stated that due to the products being stored at the site, a sprinkler system would not be installed. There will be no floor drains in the facility. If there is a fire, no water will be used and the structure would just be allowed to burn. The large tanks have an interior bladder and area for containment. They will be thoroughly tested for leaks. Also, the concrete pads will also be able to hold large quantity of gallons for containment. Access to the pumps will be controlled with key fobs/key pads, so no unauthorized people can dump any product. It was asked what liquid products will be here and the following products were noted: UAN, ATS, 10-34-0, Riser, Zinc 9 and 6-24-

6. Engineer in training Sullivan commented that UAN was not listed in the staff recommendations because we did not receive any information on how the salting prevention was going to be achieved. With the freezing conditions here, that could be a problem. Response was that they plan to have those tanks empty before it freezes. Sullivan stated he would like to see the standard operating procedures. City attorney Slotter stated that since they are requesting having UAN present, staff will need to see the safety procedures for that product. A question was posed as to whether the proposed use complied with the standards of the Comprehensive Plan and City staff confirmed that the proposed use complied with the Comprehensive Plan. The planned truck route was shown on the projector screen. The majority of the traffic will be going north out of town. It is a rough estimate of 4 trucks per hour with maximum of 8 per hour so 32 total for an eight hour day during peak season. The trucks will follow the established truck routes and what residential they do go through will be very low density of residences. The entrance to the facility will come off of E Street. Some concern voiced over the heavy school traffic on E Street currently, do not want the added truck traffic to cause a problem. Question on if Hwy 18 could be used instead of Hwy 14 for the truck traffic, it is more suitable to truck traffic. They will look at that. Question on how often the railroad tracks on 13th Avenue will be blocked for loading/unloading. Reply was that they will be serviced by CP Railroad 2 to 3 times a week. They have worked closely with CP to minimize the train traffic. Request to review the liquid spill control plans was made. There will be a poured in place concrete dike for the smaller tanks and the large tanks will have a poly liner system used. Rainwater will be managed using a retention pond. The site is sloped toward this stormwater pond so if any catastrophic spills get through the other containment measures, it will flow into this pond. The pond is lined. In a large rain event, inspections will be conducted and testing done if needed. If all okay, then the water will be discharged into the city storm water system. They will install several fire hydrants on the site for fire control. This site will have to follow DNR and IDALS regulations, which are pretty stringent. City attorney Slotter stated that since staff was originally recommending not allowing UAN but with the information received today, the city can remove that item from the not allowed list once the standard operating procedures are provided for that product. The truck route also needs to be submitted and approved by city staff. The findings of facts will be reviewed and acted upon by the board today verbally and official written decision will be formally approved at a future meeting. There was a request that verbiage be changed on the product list to allow products of similar substances. These products change due to the season, so would like a little bit of flexibility. Question on if the city has adequate water supply to fill their needs and response was yes, the tanks on site will keep the drawdown steady. The largest building is 53' tall and the height of the tallest storage tanks is 32'. Rippentrop commented that he has been contacted by several businesses about utilizing this facility to load/unload materials from the rail, so this can be useful to others in the area as well. Sullivan stated that if any of the storage needs change, it would require another conditional use permit be secured from this board. Mr. Brushard requested that one of the items on the recommendation list should be liquid fertilizers, not liquid chemicals. Motion by Kloberdanz, second Hammond to close the hearing. Ayes - 5.

Finding of the facts were reviewed and answered as follows:

- A. That the proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property - Yes (5 votes)
- B. that such use shall not impair an adequate supply of light and air to the surrounding property. - Yes (5 votes)
- C. that such use shall not unduly increase congestion in the streets or public danger of fire and safety. - Yes (5 votes)
- D. That such use shall not diminish or impair established property values in adjoining or surrounding property - Yes (5 votes)
- E. That such use will not unduly burden public utilities - Yes (5 votes)

List of restrictions submitted by staff to be changed to include UAN as permitted product, add an item stating that the standard operating procedures for UAN will be submitted to the city engineering department for approval, change the item "liquid chemicals" to "liquid fertilizer" in item #2, amend item #1 to add "similar non combustible products". Following is the full list of restrictions submitted by staff (after above amendments)

1. That only the following materials, and materials of similar, like-kind and noncombustible composition, be allowed on site as determined by safety data sheets:
 - a. Liquid
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 - iii. 10-34-0 liquid ammonium polyphosphate
 - iv. ATS – ammonium thiosulfate
 - v. RISER
 - vi. Zinc – 9%
 - b. Dry
 - i. Ammonium sulfate 21-0-0
 - ii. MAP – monoammonium phosphate
 - iii. MES-10 – monoammonium phosphate with ammonium sulfate and sulfur
 - iv. Muriate of Potash – potassium chloride
 - v. SuperCal SO₄ – calcium sulfate dihydrate, gypsum
 - vi. Urea, granular
2. That the onsite mixing of liquid fertilizers shall be prohibited, with the exception of dilution with water.
3. That ammonium nitrate and all other strong oxidizers (class 3 or greater) shall be prohibited from the facility.
4. That transfer of title of the real estate to a new owner requires resubmission and reapproval of the conditional use permit.
5. That construction and operation of the facility comply with all applicable requirements of local, state, and federal agencies (i.e. code enforcement, zoning, flood plain, IDNR, IDALS, USACE, etc.).
6. That the applicant provide proof of compliance with the Iowa Department of Agriculture (for any necessary license or permit requirements) and the Iowa Department of Natural Resources (for flood plain requirements) prior to issuance of any building permits.
7. The trucking route for the facility shall be submitted to and approved by the Charles City Engineering department prior to issuance of a building permit.
8. Standard operating procedures for the facility be submitted to and approved by the Charles City Engineering department prior to issuance of a building permit.

Motion by Noah, second Hammond to approve drafting a written decision to approve the conditional use permit with the above restrictions to be formally approved at a future meeting. Ayes – 5.

Trudy O'Donnell, Board Secretary

BOARD OF ADJUSTMENT
MAY 13, 2024

Charles City board of adjustment met on May 13, 2024 at 10:00 a.m. in council chambers. Chair Gene LaBounty called the meeting to order and the following board members were present: Alan Powell, Bob Kloberdanz, Krista Noah and Michael Hammond. Also present was city engineer in training Brian Sullivan.

Motion by Hammond, second Powell to approve the agenda. Ayes – 5

Minutes of the April 29, 2024 minutes were reviewed with the following changes: First page, add “fertilizer” in front of “transfer station”; First page, 2nd to last sentence, change “large quantity of gallons” to “125% of one tank’s volume”; page 2, 4th sentence – should be “stated” after “City Attorney Slotter”; couple sentences after that, should be “64 total for an eight hour day” rather than “32”; add “areas” after “residential; restriction #3 should be “ammonium”, not “ammonia”. Motion by Noah, second Kloberdanz to approve the minutes as corrected. Ayes – 5.

Board member Powell introduced Resolution 1-24 entitled, “RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 1150 E STREET” and moved for adoption. Second to adopt Hammond. Resolution duly passed as follows: Ayes – Powell, Kloberdanz, Noah, LaBounty, Hammond. Nays – none.

Motion by Powell, second Kloberdanz to adjourn. Ayes – 5.

Trudy O'Donnell, secretary

Exhibit B

Conditions and Safeguards of Conditional Use Permit

1. That only the following materials, and materials of similar, like-kind and noncombustible composition, be allowed on site as determined by safety data sheets:
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