



Staff Report

Zoning and Land Regulation Committee

Public Hearing: **October 28, 2014**

Zoning Amendment:
None

Acres: 43.85
Survey Req. No

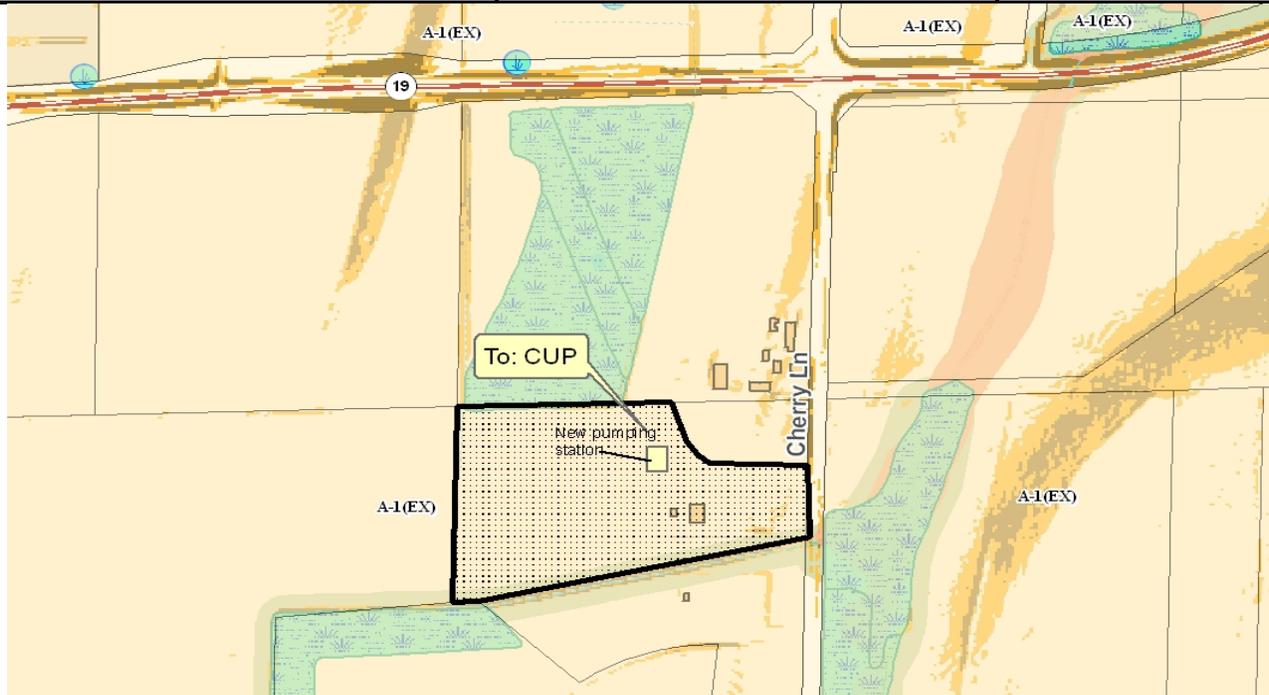
Reason:
Allow an additional pumping station for an existing petroleum pipeline

Petition: **CUP 2291**

Town/sect:
**Medina
Section 14**

Applicant
**Wisconsin Electric
Power Co / Enbridge**

Location:
5635 Cherry Lane



DESCRIPTION: Enbridge is requesting a conditional use permit on land owned by Wisconsin Electric Power Company to allow expansion of the existing Enbridge “Waterloo” pumping station for Enbridge’s “Line 61” petroleum pipeline. There is an existing American Transmission Company electric distribution sub-station, as well as the existing pipeline and pumping station located on the property. The pumping station will consist of a new 10,000+ sqft utility building housing four 6,000 horse power electric pumps. Station facilities would be secured and fenced. The pump station would operate 24 hours year round, with 1-2 employees monitoring operations at the site.

OBSERVATIONS: There are two rural residences located in relatively close proximity to the property – one residence is located approximately 600’ northeast of the proposed new pumping station, and the other residence is located approximately 1,600’ southeast of the property. Several additional residences are located over 2,500’ away. A noise impact analysis submitted by the applicant indicates that noise associated with operations at the site will be less than a modest 50db at the property line. Protective barriers / berms and other safety measures will be installed. The facility has an emergency response action plan in place, and copies of the plan have been provided to the Waterloo and Marshall fire departments. Local first responders will also participate in a training exercise with Enbridge upon completion of the new station.

TOWN PLAN: The property is located in the town’s agricultural preservation area. The town plan does not include specific policies regarding installation / operation of utility uses. Utility services are a conditional use in the A-1EX zoning district, which is the county’s primary state-certified farmland preservation zoning district.

RESOURCE PROTECTION: There are no resource protection corridors located on the property.

STAFF: There are a number of land use issues related to the proposed conditional use. It’s important to note that concerns / issues related to public health and safety are governed exclusively under the Federal Pipeline Safety Act (see attached corporation counsel opinion). Staff has recommended two conditions addressing noise and lighting, below.

TOWN: Town has approved with conditions (signed agreement with town for use of town roads, and minimum spill basin size). The town conditions have been included in the recommended conditions, below.

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Wisconsin Electric Power Co / Enbridge
Continued

10/28 ZLR: The petition was postponed due to public opposition and concerns raised by the Committee. The Committee requested additional information regarding insurance/bonding, approval from other municipalities, information on the product being pumped, content of DNR environmental assessment report, and reporting of spills.

Insurance/bonding

During the public hearing, it was suggested that Enbridge be required to have insurance or bonding to ensure clean up of any potential spills. In checking with other municipalities that granted approvals, no municipality has required a bond regarding spill clean up. Staff is hesitant to suggest a condition that requires bonding for a spill clean up due to the scope of the conditional use permit being the pump station itself. The Committee may want to entertain a condition for insurance/bonding, but it is suggested to have it pertain to the pump house property exclusively. Further guidance from Corporation Counsel is suggested prior to pursuing this type condition. Enbridge is opposed to the insurance/bonding condition as noted in the attached letters.

Approvals from other municipalities

All approvals have been granted from the other 11 municipalities for the additional pumping stations needed for the Line 61 upgrade project. Most municipalities required a road use permit be obtained to correct and damage that may occur to the roadway during construction of the pump stations. Some municipalities required screening and buffering of the projects. No municipalities required insurance or bonding for spills.

Information for product being pumped

Enbridge has provided the Material Safety Data Sheets (MSDS) for the products being pumped. The MSDS sheets have been provided to the Marshal and Waterloo Fire Departments. The emergency response plans have been reviewed with both departments.

DNR Environmental Assessment Report

The Environmental Assessment Report was prepared by the DNR in 2006. The report describes the design of the pipeline, the products being transported, and the sensitive environmental features that would be crossed. The operating pressure of the pipeline is designed for 1275 psi. The proposed pumping station will raise the pressure to 1000 psi. It appears that the proposed upgrade is consistent with the contents of the Environmental Assessment Report.

Reporting of Spills

Staff contacted David Bursack from Dane County Emergency Management regarding procedures on the reporting of spills. He stated that Enbridge needs to operate under the Federal Reporting Requirements. The Local Emergency Planning Agency (Dane County Emergency Management), the Department of Natural Resources, and the National Spill Center must be notified regarding any spills. Representatives will be prepared to summarize the procedures of spill detection, notification, and response actions at the meeting.

11/11 ZLR: The Committee postponed action to acquired additional information.

1. The Committee would like more information regarding the 2006 WDNR Environmental Assessment Report regarding Enbridge Line 61. The Committee would like to know if the report accounted for the proposed increase in pressure of pipeline and the transportation of tar sands.
2. The Committee also requested that Enbridge produce documentation regarding proof of insurance for a catastrophic event.
3. The Committee would like the WDNR to review the scope of the pipeline assessment to see if an Environmental Impact Statement is needed.

Staff Update:

1. Staff contacted James D. Pardee, WDNR Environmental Policy Act Coordinator, to see if the 2006 EA report accounted for the upgrade to Line 61. It was confirmed that the 2006 EA report included to the proposed increase in pressure. See attached email from Mr. Pardee. The WDNR has also sent a letter to the Rock County Clerk dated 12/23/14 which outlines the environmental analysis the WDNR has performed on the pipeline project throughout the years.
2. Enbridge has submitted a letter dated 1/6/15 regarding risk assessment and information on proof of insurance. Other documentation includes quarterly filing to the SEC noting \$700 million of Sudden and Accidental Pollution Liability carried by Enbridge. The US Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) has approved the Enbridge Integrated Contingency Plan on July 11, 2013. See attached letter.

Proposed Conditional Use Permit # 2291

In order for an applicant to obtain a Conditional Use Permit, the Zoning and Land Regulation Committee must find that all of the following standards are met for the proposed land use:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
2. The uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
3. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made; and
5. That adequate measures have been or will be being taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

Staff has prepared a list of conditions that may be used in order to meet the six standards as listed above to allow the conditional use on the property. Please note that the conditions may need to be changed or additional conditions added to address potential nuisances that may come to light during the public hearing.

Recommended conditions of approval for CUP 2291

1. The pumping station shall be located and constructed as depicted in the presented plans.
2. Enbridge shall be responsible for obtaining a road use agreement with the Town of Medina prior to the construction of the pumping station to ensure repairs for any damage to local roadways.
3. A spill containment basin shall be constructed around the pumping station to handle a minimum of a 60 minute flow prior to the operation of the pumping station.
4. The pumping station shall be designed and constructed to limit the operating noise to a maximum of 50 decibels dba as measured at property lines.
5. Exterior lighting shall be down-shrouded to limit light pollution onto adjoining property.

Other potential conditions:

- A study shall be performed to assess the environmental impacts cause by a potential release of the transported petroleum product and the costs associated with clean up measures.