

Coordinated Development In

MOWER COUNTY

AUSTIN, MINNESOTA



AUSTIN-MOWER COUNTY PLANNING DEPT.

55912

(507) 433-1846

July 25, 1978

MINUTES OF THE MOWER COUNTY PLANNING COMMISSION

MEMBERS PRESENT: William Rugg, John Kramer, William Milbrath, Richard Anderson, Merrill Chesebrough, Art Vogel, Conrad Stemson, Dale Braaten.

MEMBERS ABSENT: Stella Jensen, Grace Dooley, Roger Peck

STAFF PRESENT: William Buckley, Chris Huang, Cheryl Johnson, Ronald Heitman

The regular meeting of the Mower County Planning Commission was called to order at 7:45 p.m. on July 25, 1978 by Chairman Chesebrough. Since Secretary Grace Dooley was ill and unable to attend the meeting, Chairman Chesebrough appointed Cheryl Johnson of the staff as Acting Secretary. Since the secretary was unable to publish the minutes of the last planning commission meeting, the reading and approval of the June 27th meeting was deferred until the August regular meeting.

County Sanitarian Bill Buckley asked for extension of compliance dates for sewage systems for Eugene Wallace, Arvid Satterlof, and Virgil Fisk. Mr. Buckley read a letter from Eugene Wallace which stated that because of financial conditions, he felt that it was impossible to have the septic system installed by August 1. Mr. Wallace stated that he is selling his farm, and plans on deducting the cost of the approved system from the selling price of the property. On a motion by William Milbrath and seconded by Dale Braaten, the commission passes unanimously to set a compliance date of December 1, 1978 for Mr. Wallace, subject to review at that time.

Mr. Buckley stated that Mr. Satterlof and Mr. Fisk properties were located in extremely wet areas, and recommended the compliance dates of December 1, 1978. A motion by Art Vogel, and seconded by William Rugg to set the compliance date of December 1, 1978 for Mr. Satterlof and Mr. Fisk, subject to review at that time, passed unanimously.

Chairman Chesebrough requested that Mr. Buckley conduct a study on the soil conditions within the central part of the county to see if workable sewage treatment system could be installed in these areas, and to report the information to the Planning Commission and County Board.

CUP 207 - Marvin Peterson for a beauty shop on 160 acres in the NW $\frac{1}{4}$ of Section 28 - Udolpho Township was presented with the investigation report recommending approval. The staff cited the three following violations of the zoning ordinance:

1. Operation of a commercial activity within a rural zone.
2. Failure to secure a building permit for moving in a mobile home.
3. Failure to secure a sewage disposal permit.

Mr. Vogel requested that the Petersons respond to violations, specifically, failure

Page 2
Minutes of County Planning Commission
July 25, 1978

to secure building and sewage disposal permits.

The Petersons stated that they were unaware that the permits were required, and, therefore, did not apply.

Mr. Chesebrough read a letter from George Golden of the State Attorney General which stated that the Minnesota Board of Cosmetology "will be looking into the disciplinary action against the license of Ms. Peterson on the grounds of false application and failure to meet local zoning regulations."

Mrs. Peterson had answered "yes" to the question "Have you complied with your local zoning law" and accompanied it with the name of Marion Peterson, Chairman of the Udolpho Town Board.

Mrs. Peterson stated that she did not know there was a county zoning ordinance, so therefore, she conferred with the nearest unit of local government, the Udolpho Town Board.

Mr. Vogel asked if the County Board had ever issued a conditional use permit for a use that was not specifically listed as an acceptable use under Section 14-16 of the County Code.

Mr. Chesebrough said yes, and cited the upcoming Arnold Wiste case as an example. Mr. Chesebrough presented a petition stating that the undersigned had no objection to the operation of a beauty shop on the Marvin Peterson property. The petition had 71 signatures.

Mr. Stenson said that he believed the Planning Commission did not have to act on the petition since no one left a name with the complaint the Planning Department received. Mr. Braaten concurred.

Cheryl Johnson of the staff stated that it was not office policy to give names of the complainants because this would discourage many people from issuing a complaint.

Chris Huang stated that there were several uses granted for Conditional Use Permits that were not specifically listed under Section 14-16 of the county code, but felt that this particular issue was critical due to future implications of operating a beauty shop in an accessory building in a rural zone.

Mr. Chesebrough stated that the question that faced the Planning Commission and County Board was not whether to allow a beauty shop in a rural zone, but whether to allow a beauty shop in a building other than a residence in a rural zone, thereby, "opening a door" for future beauty shops detached from the home.

Mr. Rugg asked Chairman Chesebrough if the first step to allow a conditional use permit for a beauty shop in an accessory building was to change the ordinance. Mr. Chesebrough said legally, yes. Mr. Rugg said he felt it was not practical to list every possible conditional use in the ordinance.

Mr. Rugg said that with so many names signed on the petition in favor of the beauty

shop, he did not believe the beauty shop operation was detrimental to the area.

Mr. Vogel stated that the County Board of Commissioners were baffled by the issuance of conditional use permits not listed in the ordinance. In past cases, the County Board did issue conditional use permit, but they were not aware that that practice may have been illegal. Now the County Board is faced with the issue of where to stop issuing conditional use permits not listed as acceptable uses in the ordinance.

Chris Huang stated that the county attorney suggested moving the mobile home and attaching it to the house so that the beauty shop could be classified as a home occupation, or have someone live in the mobile home. Both of those alternatives were in compliance with the ordinance.

A motion was made by Dale Braaten and seconded by Conrad Stemson to recommend approval for a conditional use permit to operate a beauty shop in a rural zone in an accessory building. Motion passed 6-2. For: Kramer, Rugg, Anderson, Milbrath, Stemson, Braaten. Against: Chesebrough, Vogel

A motion was later made by Dale Braaten and seconded by Conrad Stemson to amend the recommendation to add the condition that the permit be temporary and expire July 1, 1980, subject to review at that time. Motion passes 6-2. For: Kramer, Rugg, Anderson, Milbrath, Stemson, Braaten. Against: Vogel, Chesebrough.

Mr. Buckley questioned the commission about the matter of obtaining building and sewer permits.

Mr. Chesebrough stated that was a matter for the county attorney.

CUP 208 Arnold Wiste for a Vinyl Repair Shop in Lot 5 Country Club Addition in W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 31, Red Rock Township was presented with the investigation committee report and staff report recommending approval.

The petitioner previously had a special permit for a vinyl repair shop, but moved his business into Austin so that he could also sell used cars. Mr. Wiste stated that he no longer wishes to sell used cars and plans to only maintain his vinyl repair shop.

Two neighbors spoke in favor of the granting of the permit. Mr. Wiste commented on the staff's recommendation to limit the number of vehicles associated with the vinyl repair shop that must be parked on the petitioner's property and limited to three. The petitioner requested that limit be raised to six.

A motion was made by William Rugg and seconded by Richard Anderson to accept the investigation and staff reports and to recommend approval for CUP 208, subject to the following conditions:

1. It shall be temporary and non-transferable permit to expire July 1, 1979.
2. No used car sales activity shall be allowed.
3. No vehicles associated with the vinyl repair shall be parked on the street fronting the property. All vehicles must be parked on the petitioner's property and limited to five.

Motion passed 7-1. For: Kramer, Rugg, Anderson, Milbrath, Stemson, Braaten,

Chesebrough. Against: Vogel.

CUP 137 Renewal Kenneth Larson for a Private/Recreational Tennis Court was presented. Mr. Larson requested in the petition that the permit be changed to allow night play.

Mr. Chesebrough asked the petitioner why he was requesting that play be allowed at night. Mr. Larson stated that he had no intentions of installing lights in the near future, but had wanted that condition removed so that appropriate lights could be installed if he wished to install them.

On a motion made by Dale Braaten and seconded by Art Vogel, the commission recommended unanimously to renew the permit with the same conditions, with the understanding that the petitioner could request to the commission that the day play condition be removed upon its merit.

The conditions attached to the permit are:

1. It shall be a temporary permit to expire July, 1980.
2. On-site parking shall be provided for the tennis court.
3. If a sign is erected, it shall be an identification sign within 30 square feet and on the court only.
4. The conditional use permit allows the operation of one tennis court only.
5. The play hours shall be restricted to the daytime. No lighting shall be allowed on the court.
6. The court shall be fenced and a gate shall be provided.

CUP 126 Renewal Bennie Mallory for a Commercial Kennel on six acres in the SE $\frac{1}{4}$ of Frankford Township was presented with the investigation report and staff report recommending approval.

On a motion made by William Milbrath and seconded by William Rugg, the Planning Commission unanimously recommended approval subject to the following conditions:

1. It shall be a temporary permit to expire July 1, 1980.
2. It shall be valid only for training, boarding, and raising dogs.
3. It shall be a non-transferable permit.

CUP 209 David Stacy for a feedlot on 5.09 acres in the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ in Section 10, Lyle Township was presented with the investigation committee making no recommendation and the staff report recommending approval.

A letter in objection to the proposed feedlot from Louis A. and Shirley M. Gunderson was read.

A motion was made by John Kramer and seconded by Conrad Stenson to table the petition until the next meeting date. The motion passed unanimously.

It was felt by the commission that Mr. Buckley should inspect the property site and that more specific information be supplied by the petitioner; such as a written agreement with another property owner stating that the manure could be spread on his property, number of animals, etc; be supplied before the commission act on the matter.

Page 5
Minutes of County Planning Commission
July 25, 1978

PL 78-1 Beverly and James Cox - Preliminary Plat located in the SE $\frac{1}{4}$ of Section 6 and SW Corner Section 8, NW $\frac{1}{4}$ of Austin Township was read with the staff report recommending approval.

The petitioners wish to divide off one acre of land from a 14.75 acres so that they may sell the one-acre building site.

Mr. Cox stated that the remaining 13.75 acres may be platted in the future, but that would have no bearing on the present plat.

County Sanitarian William Buckley stated that he had no objection to the plat and recommended approval.

On a motion by William Milbrath and seconded by Art Vogel, the Planning Commission voted unanimously to recommend approval of the preliminary plat.

CUP 105 Renewal, Ervin Dietrich for a used car lot was brought to the attention of the planning commission since it was tabled from last months meeting. The planning commission had requested of the staff to obtain information from George Grim of the Minnesota Department of Transportation to see if Mr. Dietrich was also operating a junkyard in addition to a used car lot.

The staff report was read recommending denial. A letter from George Grim was read stating that Mr. Dietrich was operating an illegal junkyard on his property along T.H. 56.

A motion was made by Art Vogel and seconded by Dale Braaten to recommend denial of the petition and require the petitioner to have the site cleared of junk in 120 days. Motion passed unanimously.

Election of officers for the upcoming year was held. William Milbrath nominated Merrill Chesebrough for Chairman. Mr. Chesebrough was re-elected unanimously.

Art Vogel nominated William Rugg to be Vice-Chairman. A motion was made by Conrad Stenson and seconded by Dale Braaten to have the secretary cast a unanimous ballot electing William Rugg as Vice-Chairman. Motion carried.

A motion was made by William Rugg and seconded by Dale Braaten to have the secretary cast a unanimous ballot re-electing Grace Dooley as secretary. Motion passed.

A discussion was held on whether the investigation committee should be eliminated.

Dale Braaten stated that many cases, especially renewals, could be handled over the telephone. Mr. Braaten stated that in the cases where it is important that the site be seen, the county board conducts an investigation themselves. He said he believed that cutting the investigation committee was an appropriate way to save tax dollars.

Page 6

Minutes - County Planning Commission
July 25, 1978

Art Vogel stated that in future appointments to the Planning Commission, the County Board intended to appoint 2 persons from each quarter of the county so that all areas of the county can be equally represented throughout the county. If it was important enough for a site investigation, the planning commission member from that area could drive by and look at the site prior to the meeting.

Mr. Chesebrough stated that he felt the two commission members absent, Grace Dooley and Stella Jensen, objected to eliminating the Investigation Committee on the basis that it would give the staff too much power and could possibly omit an important contrary opinion. However, Mr. Chesebrough felt that by having two members from each quarter of the county, at least one member would be familiar with the situation and that perhaps that individual could be authorized to drive a few extra miles to look at the site.

Mr. Braaten suggested that the commission try continuing an Investigation Committee for a six month trail period.

Mr. Rugg suggested that one person of the Planning Commission accompany the staff on site investigations.

Chairman Chesebrough stated that as he saw it the commission had three alternatives:

1. Continue as in the past with a three-member committee for a six-month term.
2. Not to appoint an investigation committee for a six-month trail period.
3. Have one person go out on site investigations with the staff.

Mr. Vogel suggested that the staff use its discretion in appointing commission members living near a controversial site to accompany them on investigation.

John Kramer made a motion to ~~discontinue the investigation committee for a six-month trail period and to authorize the staff to use its discretion to appoint commission members living nearby to accompany them on a site investigation.~~ Conrad Stemson seconded the motion and it was passed unanimously.

Ron Heitman of the staff was present to distribute the updated interchange study which was prepared. The commission was requested to read over the study so that final recommendation of approval could be given at the August meeting.

He also reported that the Cedar River Flood Plain Study outside of the City of Austin was completed, and that the staff was waiting to hear from Barr Engineering for the report.

Mr. Buckley reported that due to a number of reasons about half of the property owners who were notified in April of having illegal sewer outlets had contacted him requesting extensions.

A motion was made to extend the compliance date to December 1, 1978 at which time all individuals contacted in April must be in compliance or be contracted to be in compliance by Art Vogel, and was seconded by William Milbrath.

A similar motion was made to extend the compliance date to December 1, 1978 at which time all individuals contacted in June must be in compliance or be contracted to be

Page 7

Minutes of County Planning Commission
July 25, 1978

in compliance by Art Vogel and seconded by William Milbrath.

Mr. Buckley brought to the attention of the commission a complaint of an illegal sewage outlet, but said the individual did not receive his notice in time to appear at the meeting. Mr. Buckley said that the individual who received the complaint said he did not care if he was present at the meeting when the complaint was acted upon. Mr. Chesebrough suggested that the individual be invited to attend the next meeting.

Three planning commission members who are ineligible for reappointment were honored. The three individuals honored were John Kramer, William Milbrath, and Dale Braaten.

There being no further business, the meeting was adjourned on a motion of Art Vogel and seconded by Dale Braaten. The motion carried unanimously.

Respectfully submitted,

Cheryl Johnson

Cheryl Johnson
Acting Secretary