

# MOWER COUNTY

AUSTIN, MINNESOTA

55912



January 28, 1992

## Minutes of the Mower County Planning Commission Regular Meeting

Members Present: Gary Braaten, Keith Voorhees, Gary Nemitz, Don Olson, Herb Hanson, Oliver Hillier, Greta Kraushaar

Members Absent: MeriJo Lonergan, Bob Werner

Others Present: William Buckley, Pat Oman, Daryl Franklin, Katie Losness-Larson

Chair Hanson called the meeting to order at 2:00 p.m. on Tuesday, January 28, 1992, in the Commissioner's Conference Room of the Mower County Courthouse in Austin, Minnesota. The minutes of the November 26, 1991, meeting were approved as mailed on a motion by Mr. Vorhees, seconded by Mr. Hillier and passed unanimously.

Conditional Use Permit #434 to Allow Grading and Filling in the Shoreland District - Paul Hirsch: This hearing was tabled from the November 26, 1991, meeting. The staff report was read. Mr. Hirsch is requesting a conditional use permit to allow grading and filling in the Shoreland District to facilitate the construction of a pond on his property in Lansing Township (Outlots in Section 26, OLs 4, 5 & 6 exc S 50 ft. E 67 ft. & W 33 ft. N 150 ft. E 235 ft. OL 7). Ms. Losness-Larson reviewed the comments received from the Department of Natural Resources. Whether Mr. Hirsch constructs the pond or fills in the hole, he will need DNR permits. He currently has a permit pending with the DNR for riprapping which requires the county permit. Mr. Franklin stated that the concern regarding possible contamination of wells in the area has been addressed by the DNR with their opinion that this pond should not impact these sand point wells.

After further discussion, a motion was made by Mr. Hillier to approve the permit with the following conditions:

- 1) If a pond is constructed, engineering plans must be approved by DNR.
- 2) All areas disturbed by construction be stabilized as soon as possible.
- 3) All appropriate DNR permits must be acquired.

The motion was seconded by Mr. Braaten and passed unanimously. Ms. Losness-Larson announced that the County Board hearing would be held on February 4, 1992, at 9:30 a.m.

Conditional Use Permit #436 for Sand and Gravel Extraction in the Agricultural District - Richard Morgan: This petition was tabled

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from the November 26, 1991, meeting. The staff report was read. Richard Morgan is requesting a conditional use permit for a sand and gravel extraction on property owned by him and Wallace Bustad (E 1580 ft. & W 1060 ft., N of river, NW 1/4 of Section 26, Austin Township).

Mr. Franklin reviewed the air photos and cross-section maps with the Planning Commission and others in attendance. Ray Guttormsen, County Engineer, had previously reviewed the maps for accuracy. Mr. Morgan's plan for restoration includes stripping off and stockpiling the black dirt during excavation; finished slopes will be 3:1 and the black dirt replaced for planting corn and sorghum for deer and other wildlife. There will be no large holes left after excavation.

Bill Buckley, Environmental Health Director, told the group that he had discussed the concern of possible well contamination with DNR who felt that the water would discharge south to the creek and river, not the wells; DNR doesn't feel a gravel pit would detrimentally affect the area wells. These shallow wells are susceptible to contamination from any source and it is their feeling that the gravel pit wouldn't make it any worse.

Colleen Brunton, area resident, questioned whether other fill would be brought in and placed in the excavated areas to which Mr. Morgan explained that would not be the case - the excavated area would be sloped to 3:1 and the topsoil replaced. Louise Lingbeck stated that the group should be aware that Mr. Morgan can later apply for a demolition landfill permit. Sam Brunton referenced an area resident's water test in 1982 which revealed a nitrate level of 9.4 requiring her to buy bottled water.

Steve Wollner, previous resident of the property in question, stated that when he lived there the water was okay and since the Morgans are expecting a baby, they wouldn't risk contaminating their own well which is closer to the site than the neighbors.

Daryl Sauer, area resident, claimed that the water does flow westerly toward the Cedar River which he fears will contaminate his well.

Lee Hansen questioned what effect these residents' septic systems have in terms of contaminating their own shallow wells. Mr. Buckley answered that their systems could definitely contribute to contamination.

Don Livingston, area resident, questioned whether blasting would be involved to which Mr. Morgan said no.

Mr. Morgan then discussed an alternative ingress and egress road he plans to build so as not to disturb the resident on the existing road. Chair Hanson stated that he had been to the site

twice and that the road was his main concern. This alternative would alleviate that concern. Chair Hanson also stated it would be his recommendation to place time restrictions for operation on the permit.

Rich Gabrielson questioned what kind of truck traffic could be expected in terms of number of loads. There was some speculation but it was stated that it would depend upon the jobs the material would be needed for.

Sam Brunton presented the Commission with a petition of 88 signatures of those opposing the permit. Mr. Morgan questioned how Mr. Brunton obtained those signatures without all of the facts. Dick Epley, Austin Town Board, went on record stating the Board's opposition to the permit.

After some discussion, Mr. Olson stated that after discussing this with the four Planning Commission members who had been out to the site, it seemed that the biggest concern was the driveway being used for ingress and egress which has been resolved with the alternate road. It seems to be a good spot for a pit and he fails to see how the pit could affect their wells. Therefore, he made a motion to recommend approval of the permit with the following conditions:

- 1) Extraction of materials shall remain at least twenty feet from adjoining property lines and forty feet from the road right-of-way.
- 2) Extraction of materials shall remain outside of the Shoreland District.
- 3) There shall be no extraction of materials nor temporary stockpiling of materials in the Floodway District.
- 4) Hours of operation shall be limited to 8:00 a.m. to 7:00 p.m. Monday through Saturday.
- 5) The new access road as presented to the Planning Commission must be constructed and be the only ingress and egress from the site.
- 6) A \$10,000 performance bond must be posted with the County Auditor.
- 7) This permit shall be up for renewal in November, 1995.

The motion was seconded by Ms. Kraushaar and passed on a 4-2 vote with Mr. Braaten and Hillier voting nay and Mr. Nemitz abstaining. Ms. Losness-Larson announced that the County Board hearing would be held February 4, 1992, at 9:30 a.m.

Conditional Use Permit #437 for Sand and Gravel Extraction in the Agricultural District - Delmar Ellis: This hearing was tabled from the November, 1991, meeting. The staff report was read. Mr. Ellis is requesting a conditional use permit for sand and gravel extraction on his property (W 660 ft. E 1704.51 ft. N 660 ft. N 1/2 SW 1/4 in Section 30, Red Rock Township).

The drawing Mr. Ellis submitted was presented which showed an area to be excavated of 300 by 500 feet with eight feet excavated at the north end sloped to zero at the south end. Chair Hanson stated that he had been out to the site and felt that the drawing showed what Mr. Ellis had tried to explain when he was out there.

After some discussion, a motion was made by Mr. Braaten and seconded by Mr. Olson to recommend approval of the permit with the following conditions:

- 1) Extraction of materials shall remain at least 20 feet from adjoining property lines and 40 feet from the road right-of-way.
- 2) A \$10,000 performance bond must be posted with the County Auditor.
- 3) This operation shall be completed and the area restored by November 30, 1993.

The motion passed unanimously with Mr. Nemitz abstaining. Ms. Losness-Larson announced that the County Board hearing would be held February 4, 1992, at 9:30 a.m.

Request for Amendment to CUP #303 - Wallace Bustad: Mr. Franklin read the conditions set for CUP #303 of which Mr. Bustad is asking that the following two be amended:

- 10) Current temporary storage of concrete is allowed until November 30, 1991, unless a conditional use permit allowing storage and crushing is approved prior to that date. No additional concrete may be brought into the site for purposes of storage unless a conditional use permit for storage and crushing is approved prior to that date.
- 11) Petition must have in effect at all times a performance bond in the amount of \$50,000.

The request is to change the date on #10 to July 1, 1992, and to adjust the bond requirement on #11 to the previous level or a comparable level to other demolition landfills in the County. Mr. Franklin stated that a permit for crushing was subsequently denied and since the concrete was still on-site on December 1, 1991, a complaint was drawn by the County Attorney's office prosecuting the violation of that condition. To date there has been no trial date set.

Mr. Bustad stated that he wanted to have an extension to July in order to haul out some of the concrete for use as riprap. He questioned whether the County had the authority to pass the crushing ordinance after Bill Buckley had told him he could store the concrete there in order to crush at a later date. Mr. Bustad also questioned what Harrington's bond is to which Mr. Buckley stated that Harrington has a \$5,000 bond for his solid waste permit but has no conditional use permit. Mr. Franklin stated he believed that Harrington's pit preceded our zoning ordinance.

Chair Hanson stated that since the storage issue is being

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litigated, he suggested the request be tabled until that has been concluded.

Art Nelson, who lives one-quarter mile to the west of the landfill, stated that the key word here is recycling and he feels it is wrong to disallow the crushing as the costs affect people's taxes.

Pat Oman, County Attorney, told the Commission that they should handle each request with a separate motion. After further discussion, Mr. Olson stated that since the issue regarding storage is in litigation, he made a motion to table this request until that has been determined. The motion was seconded by Mr. Vorhees and passed unanimously.

Mr. Oman then explained his rationale for recommending the higher bond on the Bustad landfill from the normal \$20,000 to \$50,000. He stated that since this permit is being sunsetted and the site is near the Cedar River there is a possibility of further PCA regulation of the site such as test wells. He also stated that in the past there have been unauthorized items in the landfill and Mr. Bustad has been somewhat slow in compliance. Therefore, if it becomes necessary for the County to take responsibility for the site - Mr. Bustad could let the property be tax forfeited - the cleanup would not be at taxpayers' expense.

Mr. Bustad stated that he has followed state regulations and wondered whether Harrington has ever had fill brought into his landfill which he, Mr. Bustad, has done many times. Mr. Bustad stated that he wanted the competition to have the same costs he has; the law should be the same for everybody in terms of bond amounts and time limits. He also questioned what the County did with their demolition material and whether they are regulated as he is.

Based on Mr. Oman's reasons, Mr. Braaten then made a motion to recommend the bond amount stay the same. The motion was seconded by Mr. Olson and passed unanimously with Mr. Nemitz abstaining. Ms. Losness-Larson announced that the hearing on this request would be heard by the Board on February 4, 1992, at 9:30 a.m.

There being no further business to discuss, the meeting adjourned at 3:50 p.m. on a motion made by Mr. Vorhees, seconded by Mr. Olson and passed unanimously.

Respectfully submitted,



Katie Losness-Larson