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### Minutes Mower County Planning Commission

Members Present: Gary Braaten, Duane Hanson, Oliver Hillier, Greta Kraushaar, Meri Jo Lonergan, Don Olson, Keith Voorhees.

Members Absent: None.

Others Present: Bruce Braaten (MPCA), William Buckley, Mel Haldorson, Daryl Franklin.

Chair Duane Hanson called the regular meeting to order at 7:00 p.m. on Tuesday, October 25, 1994, in the Conference Room of the Mower County Courthouse, Austin, Minnesota. Minutes of the September 27, 1994; meeting were approved as mailed on a motion by Gary Braaten, seconded by Keith Voorhees. The motion passed unanimously.

Chair Duane Hanson stated that the order of the agenda would be changed to hear the Wally Bustad CUP after the other CUP's

**Renewal of Conditional Use Permit #404 - Steven Durst -** Conditional use permit to allow the painting and repair of livestock trailers in Section 19, Frankford Township. Staff report was presented. Reference was made to the on-site visit by the investigating committee consisting of Don Olson and Oliver Hillier on October 19, 1994. Mr. Durst explained his business. Robert Werner spoke in favor of the operation. After some discussion, a motion was made by Don Olson, seconded by Meri Jo Lonergan, to recommend approval of CUP #404 for painting and repair of horse trailer because it was in accordance with Section 14-31 of the Mower County Code with the following conditions:

1. There be no outside storage of livestock trailers while they are being worked on.
2. The painting be in accordance with all Minnesota Regulations.
3. The permit will expire on October 31, 2004.

4. Failure to comply with any and all the listed conditions shall result in revocation of this conditional use permit.

Motion passed unanimously.

**Renewal of Conditional Use Permit #405 - Rondell Peck-Eilertson & Shirley Peck** - Conditional use permit for a pet boarding kennel in Section 33, Austin Township. Staff report was presented. Reference was made to the on-site visit by the investigating committee. Rondell Peck-Eilertson presented information on the business. Two adjoining property owners, Dr. Stahl and JoAnne Fuller, spoke in favor of the permit. After some discussion, a motion was made by Oliver Hillier, seconded by Gary Braaten, to recommend approval of CUP #405 for a pet boarding kennel because it was in accordance with Section 14-31 of the Mower County Code with the following conditions:

1. Permit will expire on October 31, 2004.

Motion passed unanimously.

**Conditional Use Permit #487 - Brian Dolan** - Conditional use permit to allow petitioner to use an alternative method of flood proofing instead of elevating an accessory structure in Royal Manor Subdivision, Lansing Township. Staff report was presented. Reference was made to the on-site visit by the investigating committee. Tom Baudler, attorney representing the Dolans, was concerned because the Dolans application for 1992 was not referenced to be in the floodplain. Now they have been informed that they were in the floodplain and were unable to add the garage. DNR letter was presented to the Planning Commission. After some discussion, a motion was made by Greta Kraushaar, seconded by Keith Voorhees, to recommend approval of CUP #487 for the use of an alternative method of flood proofing instead of elevating an accessory structure because it was in accordance with Section 14-31 of the Mower County Code and to encourage the County Board, DNR and the Dolans to work out an equitable solution with the following conditions:

1. Flood proof according to FP-3 or FP-4 flood proofing classification in State Building Code.
2. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls. [Section 14-120(3)a]
3. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed. [Section 14-120(3)b]
4. Storage of Materials and Equipment
  1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the County Board. [Section 14-120(3)d]
5. Submit a signed statement by a certified land surveyor or engineer stating that the building has been constructed according to condition #3.
6. Submit a Federal Emergency Management Agency National Flood Insurance Program Elevation Certificate for the project.
7. Permit will be permanent.
8. Follow recommendations of DNR letter dated October 20, 1994, (attached). Including the County completing an elevation certificate on the structure and recording a notice on the property title identifying the flood elevation, the lowest floor elevation, the fact that the home has been improved in excess of the imposed limits of the ordinance and that flood insurance should be required and that actuarial rates are to apply.
9. Failure to comply with any and all the listed conditions shall result in revocation of this conditional use permit

Motion passed unanimously.

**Conditional Use Permit #486 - Wallace Bustad** - Conditional use permit to allow petitioner for a demolition landfill in Section 23, Austin Township. Staff report was presented. Reference was made to the on-site visit by the investigating committee consisting of all of the Planning Commission members. Additional handouts from Jeff Green (DNR), Myrtle Dean (property owner), Mike Sutherland (Mower County Assessor), Bud Higgins (property owner) and Bruce Braaten (MPCA) were presented to the Planning Commission and citizens. It was explained that this was a land use decision and that there would be additional technical requirements from the MPCA. Bruce Braaten provided information and answered questions on the technical requirements. A petition in opposition of the CUP was presented to the Planning Commission. Reference was made to an Austin Township letter opposing all demolition landfills in the township. Evan Larson, attorney representing Wallace Bustad, presented background information and explained that Mr. Bustad was willing to go with the liner and monitoring wells to protect the residents in the area. Nancy McGonigle (neighbor to one of Mr. Bustad's current operations) cited several cases where Mr. Bustad has not followed the MPCA rules. Pat Higgins stated that the City of Austin should open a demolition landfill in the City. She requested that the County Board visit the site prior to the Board meeting. Tom Higgins was concerned about the groundwater with the shallow and artesian wells in the area. Mr.

Higgins stated that the MN Dept. of Health requires deep wells for the area if they needed to drill a new well. He was also concerned with Mr. Bustad's record. Darryl Sauer was concerned about the devaluation of his property and the truck traffic. Jim Goergen was concerned about the limestone and devaluation of property. Jack Waller felt that the safety would be compromised by all the extra traffic. Fred Schmidt presented drawings of potential water problems in the area with drainage ditches. Jean Wiseman said that she did a survey and that there were 52 children in the area. Bud Higgins was concerned about the demolition material, specifically asbestos. Chair Hanson closed the meeting to public comment at this point and called for discussion by the Planning Commission. Greta Kraushaar stated that she visited the site and felt that it was far enough away from other residences. Don Olson was concerned about the DNR letter from Jeff Green about the problems with the test holes. After some discussion, a motion was made by Meri Jo Lonergan, seconded by Don Olson, to deny the conditional use permit for a demolition landfill due to the geological sensitivity of the area reported in the DNR letter. Roll call was taken on the motion to deny. Aye: Braaten, Hanson, Hillier, Lonergan, Olson, Voorhees. Nay: Kraushaar. Motion passed 6 to 1.

**Solid Waste Management Plan** - Bruce Braaten reminded the Planning Commission that the County needs to complete the solid waste management plan.

**Discussion of Amendment to Zoning Ordinance to Allow Planning Commission to have Final Approval of CUP's** - After some discussion, a motion was made by Don Olson, seconded by Greta Kraushaar, to recommend to the County Board that the Mower County Zoning Ordinance be amended as follows to allow the Planning Commission to have final approval of permits:

SECTION 14-21. PLANNING COMMISSION

(d) The Planning Commission shall elect a Chair and Vice-Chair from among its members. The Zoning Administrator shall act as secretary of the Commission. The Planning Commission shall cooperate with the Planning and Zoning Administrator and other employees of the county in preparing and recommending to the Board for adoption, Comprehensive Plans and recommendations for plan execution in the form of official controls and other measures and amendments thereto. In all instances in which the Planning Commission is not the final authority, the Commission shall review all applications for **rezoning, amendments to the Zoning Ordinance**, and plans for subdivisions of land and report thereto the Board.

SECTION 14-28. CONDITIONAL USES

Within the unincorporated areas of the county, all uses except permitted uses shall be required to obtain a Conditional Use Permit approve by the **County Planning Commission**.

SECTION 14-30. NOTIFICATION AND PUBLIC HEARING

- (d) The Planning Commission shall hold the public hearing. The Commission shall table further action on any application which is not accompanied by a recommendation of the township. The tabling shall be until such time as a recommendation is received, but not to exceed thirty-five (35) days. Failure of the township to act upon the application within thirty-five (35) days of the Planning Commission's action tabling the request shall cause the township to forfeit its opportunity to comment upon said application. The Planning Commission shall adopt findings based upon the evidence established during the hearing and shall act upon the application within ninety (90) days from the date of the public hearing. Appeals from the decision of the Planning Commission can be made to the County Board of Commissioners.
- (e) The Mower County **Planning Commission** must take action on the application within **sixty (60)** days after receiving the **complete application**. If it grants the conditional use permit, the Mower County **Planning Commission** may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

SECTION 14-31. FINDINGS

No conditional use shall be **approved** by the Planning Commission unless said commission shall find:

*ADD THE FOLLOWING SECTION TO THE ZONING ORDINANCE:*

SECTION 14-36.1. APPEALS

A decision of the Planning Commission may be appealed to the County Board of Commissioners. Such appeal may be taken by a person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state. Should a zoning permit have been issued as a result of the Planning Commission's decision, such permit shall be suspended until the County Board has rendered a decision on the appeal.

Appeal Procedures:

1. The appeal application shall be submitted to the Planning Department within ten (10) days of the Planning Commission's

decision and the appellant shall pay the fee for the appeal as established by the County Board of Commissioners.

2. Within sixty (60) days after receipt of the appeal application, the Board of Commissioners shall hold a public hearing in accordance with Minnesota Statutes, Section 394.26. The Board of Commissioners shall adopt findings and shall act upon the appeal within sixty (60) days of the Board of Commissioners scheduled public hearing date.
3. A decision of the Board of Commissioners granting the conditional use permit pertaining to the Floodway, Flood Fringe, and the Floodplain districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
4. A certified copy of an approved conditional use permit, along with the legal description of the property, shall be transmitted to the County Recorder for recording.

Aye: Braaten, Gary Braaten, Hanson, Hillier, Kraushaar, Olson, Voorhees.

Nay: Lonergan.

Motion passed 6 to 1.

**Doubling of Fees** - The Planning Commission feels that it is a good idea but they are requesting that Mower County Attorney Pat Oman provide the appropriate verbiage to amend the Ordinance. A concern was also raised that if the County implements this then we should provide additional education to the rural residents. It was explained that a newsletter is being proposed. A motion was made by Don Olson, seconded by Gary Braaten, to table this until the November meeting. The motion passed unanimously.

There being no further business, the meeting adjourned at 9:00 p.m. on motion by Don Olson, seconded by Keith Voorhees. The motion passed unanimously.

Respectfully Submitted,



Daryl W. Franklin  
Planning Director