Mower County Planning Commission

Minutes Mower County Planning Commission

Members Present: Diane Benson, Oliver Hillier, Meri Jo Lonergan, Brian McAlister, Len Miller, Don Olson, Keith Voorhees.

Members Absent: Harold Boverhuis.

Others Present: Lee Bonorden (Austin Daily Herald), Citizens, Daryl W. Franklin.

Chair Len Miller called the regular meeting to order at 7:00 p.m. on Tuesday, April 30, 1996, in Courtroom II at the Mower County Courthouse, 201 First Street NE, Austin, Minnesota. Minutes of the April 3, 1996; meeting were approved as mailed on a motion by Keith Voorhees, seconded by Brian McAlister. The motion passed unanimously.

Chair Len Miller opened the tabled hearing on CUP 506. He explained that the Planning Commission would only be accepting new testimony. It was explained that an EAW was requested for this project and that Mr. Bunne refused to pay the cost for an EAW. Therefore a decision will be made on the project without the completion of an EAW. A revised letter from Jeff Green, MN DNR, was presented.

Conditional Use Permit #506 - Edward Bunne/Homer Hickok- CUP applicable to Section 14-51(i) of the Mower County Zoning Ordinance to mine limerock, sand and gravel in Section 27 & 34 of LeRoy Township. Reference was made to the site investigation performed by Don Olson, Oliver Hillier, and Meri Jo Lonergan on April 24, 1996. Staff report was presented. Don Olson reported his concern of the karst area, the pipe that serves the lagoons and the blasting. Meri Jo Lonergan and Oliver Hillier discussed the proximity of the homes and the difficulty to comply with Section 14-31 of the Code. After some discussion, a motion was made by Don Olson, seconded by Meri Jo Lonergan, to recommend denial of CUP 506 to mine limerock, sand and gravel because it was not in accordance with Section 14-31(1) and 14-31(5). The motion passed unanimously.

Conditional Use Permit #511 - Tim Koch- CUP applicable to Section 14-51(i) of the Mower County Zoning Ordinance for mining and gravel extraction/quarry in Section 36 of LeRoy Township. Reference was made to the site investigation performed by Don Olson, Oliver Hillier, and Meri Jo Lonergan on April 24, 1996. Staff report was presented. Don Olson and Meri Jo Lonergan stated that this area seemed appropriate for a quarry. After some discussion, a motion was made by Brian McAlister, seconded by Oliver Hillier, to approve CUP #511 for mining and gravel extraction/quarry because it was in accordance with Section 14-31 of the Mower County Code and recommend approval with the following conditions:

1. A $6,500 Restoration Bond ($2,000 Restoration Bond for the first acre, plus $750 for each additional acre or part of an acre based upon 7 acres) must be posted with the County Auditor valid through June 30, 2002.
2. A "No Trespassing" sign shall be posted at the entrance.
3. Comply with Article IV Excavation of Earth Products of the Mower County Code
4. Extraction of materials shall be limited to areas as delineated on the site plan.
5. Quarry Operator shall remain at least twenty (20) feet from all adjoining property lines and forty (40) feet from the road right-of-way.
6. Before hauling, the Petitioner must contact the County Engineer (507-437-7718) for posted limits on bridges and comply with the postings.
7. Petitioner shall contact Township Officials regarding an agreement to keep the township road in satisfactory condition.
8. Mower County staff shall inspect the site at least once a year to guarantee compliance with conditions.
9. Permit will expire on December 31, 2001.
10. Failure to comply with any and all the listed conditions shall result in revocation of this conditional use permit.

The motion passed unanimously.

Chair Miller stated that the Planning Commission would deviate from the agenda to take the Osmundson CUP next.

Conditional Use Permit #514 - Osmundson Bros, Inc. CUP applicable to Section 14-51(i) of the Mower County Zoning Ordinance for a quarry in Section 27 of LeRoy Township. Reference was made to the site investigation performed by Don Olson, Oliver Hillier, and Meri Jo Lonergan on April 24, 1996. Staff report was presented. Russell Wilcox, neighbor to the west, expressed concern about the blasting and the effect on wells. Don Hanson felt that Osmundson were a good neighbor in the past and with a professional blaster they would be appropriate. June Brandsmeier, neighbor to the west, expressed her concern about the blasting. Joe Monsen voiced concern about the area being sensitive and all the quarries in the area. LeRoy Mayor Koppen stated that the City of LeRoy's position was explained in the letter sent to the Planning Commission. After some discussion, a motion was made by Don Olson, seconded by Keith Voorhees, to approve CUP #514 for a quarry because it was in accordance with Section 14-31 of the Mower County Code and recommend approval with the following conditions:

1. The quarry operation on the Hickok property must be north of the access road which leads to the Old Hickok Crushing Site.
2. The quarry operation on the west side of the current quarry must remain at least 200 yard from the residential property in Section 27 of LeRoy Township.

3. A $16,250 Restoration Bond ($2,000 Restoration Bond for the first acre, plus $750 for each additional acre or part of an acre based on 20 acres) must be posted with the county Auditor valid through June 30, 2002.
4. A "No Trespassing" sign shall be posted at the entrance.
5. Comply with Article IV Excavation of Earth Products of the Mower County Code
6. Extraction of materials shall be limited to areas as delineated on the site plan.
7. Extraction of gravel/sand shall remain at least ten (10) feet from all adjoining property lines and forty (40) feet from the road right-of-way and out of areas that would have lateral draining effects on wetlands.
8. Before hauling, the Petitioner must contact the County Engineer (507-437-7718) for posted limits on bridges and comply with the postings.
9. Blasting will be performed by a licensed and bonded operator.
10. Mower County staff shall inspect the site at least once a year to guarantee compliance with conditions.
11. No quarry activity allowed below the water table. The water table to be determined by the Minnesota Department of Natural Resources (DNR).
12. No de-watering allowed in the expanded quarry portion on the east and west side of the existing quarry.
13. Permit will expire on December 31, 2001.
14. Failure to comply with any and all the listed conditions shall result in revocation of this conditional use permit.

The motion passed unanimously.

Conditional Use Permit #512 - Mark Raimann - CUP applicable to Section 14-50(u) of the Mower County Zoning Ordinance to sell truck parts, not including engines and transmissions in Section 26 of Austin Township. Reference was made to the site investigation performed by Don Olson, Oliver Hillier, and Meri Jo Lonergan on April 24, 1996. Staff report was presented. After some discussion, a motion was made by Don Olson, seconded by Meri Jo Lonergan, to approve CUP #512 to sell truck parts, not including engines and transmissions, and two total vehicles because it was in accordance with Section 14-31 of the Mower County Code and recommend approval with the following conditions:

1. No outside storage of parts and supplies.
2. Storage building of approximately size of 40' x 80' must be completed no later than October 1, 1996, for the permit to be valid.
3. Permit will expire on December 31, 2001, and may be renewed at that time.
4. No additional inventory (increase in unit number) can be obtained until the building is constructed.

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

The motion passed unanimously.

Conditional Use Permit #513 - Jason Rice and Elizabeth Krahn/Karol Jean Krahn - CUP applicable to Section 14-51(g) of the Mower County Zoning Ordinance to build a second dwelling on the present farm site in Section 16 of Bennington Township. Reference was made to the site investigation performed by Don Olson, Oliver Hillier, and Meri Jo Lonergan on April 24, 1996. Staff report was presented. After some discussion, a motion was made by Meri Jo Lonergan, seconded by Diane Benson, to approve CUP #513 for a second farm dwelling because it was in accordance with Section 14-31 of the Mower County Code and recommend approval with the following conditions:

1. Secure zoning permit from the Mower County Planning Department for new dwelling.
2. Install Individual Sewage Treatment System according to County and State regulations and secure sewer permit from Mower County Environmental Health Department.
3. Remove original (existing) dwelling after six (6) month vacancy by grandparents.
4. Failure to comply with any and all the listed conditions shall result in revocation of this conditional use permit

The motion passed unanimously.

OTHER BUSINESS:

Change in Mower County Zoning Ordinance:

After some discussion, a motion was made by Keith Voorhees, seconded by Oliver Hillier, to recommend the following changes:

Section 14-18.2 Junk Cars, Hazardous Materials, Equipment and Appliances Stored on Public or Private Property.

(a) It is unlawful for any person to park any unlicensed, unregistered or inoperable motor vehicle on any property, public or private, unless housed within a lawfully erected building. Provided, however, that the person residing on the premises may store his partially dismantled automobile during actual repair for a period not to exceed two (2) weeks.

(b) It is unlawful for any property owner or occupant to allow accumulation of hazardous materials, equipment or appliances on property owned or occupied by such person. It is also unlawful for any person to abandon, discard, store or keep in any place accessible to the public or permit to remain on premises under his control, a refrigerator, ice box, freezer cabinet or similar container of capacity of one and one-half cubic feet or more, which is no longer used for refrigeration purposes, without the attached doors, hinges, lids or latches being removed. It is unlawful for any person to permit to be stored on private property any hazardous chemical,

insecticides or poisons unless such person takes specific steps and makes provision to adequately prevent ready access to the same.

(c) It is unlawful for any person to store materials such as lumber, merchandise, machinery, miscellaneous parts, disabled household appliances or salvage goods on private property except as may be normal to the legal use of the property in questions, unless housed within a lawfully erected building. Provided, however, that building materials stored during actual building operations or salvage materials during actual remodeling, wrecking or demolition operations, shall not be a violation of this Section.

(d) Any violation of this Section is declared to be a nuisance and upon seven (7) days written notice to the owner, as shown by the records in the office of the County Auditor, of private premises on which such material is found, the County may remove the same and certify the cost of such removal as any other special assessment.

Section 14-19. Enforcement

(d) Provisions of this ordinance shall be enforced by the Mower County Planning Department.

(e) Misdemeanor. Any person within the County who violates this ordinance, or permits a violation to exist on property under his/her control, or fails to take action to abate the existence of the violation as ordered or notified by the County shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by law. A separate offense shall be deemed committed each day, during or one, which a violation occurs or continues.

(f) Equitable Relief. In the event a violation exists or there is a threat of violation of this ordinance, the Mower County Planning Department may take appropriate action to enforce this ordinance. Such action may include application for injunction relief, action to compel performance, including revocation of license or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate such violations or threatened violations.

(g) Citation. When a violation in this ordinance is discovered by a representative of Mower County Planning Department, he/she shall forward a report to the appropriate prosecution authority.

(h) County Inspection. All property affected by this ordinance shall be subject to inspection by the County in accordance with Minnesota Statutes. After presentation of credentials, the County may collect samples for evidence or laboratory examination as deemed necessary for enforcement of this ordinance. No person shall refuse to permit the County's officers to inspect any premises. No person shall molest or resist the County's officers in their discharge of duty.

(i) Civil Action or Cost as Special Tax. The County Board, by resolution, may specify a non-exclusive list of activities prohibited by sections of this ordinance and declare the violation of those

activities to be public nuisances. Such list shall be in addition to those activities determined to be public nuisances under Minnesota Statutes 561.01 and 609.74. If a person fails to comply with the provisions of this ordinance, and such violation is deemed to be a public nuisance, the County may make the corrections at County expense and recover the costs incurred for corrective action in civil action in any court of the competent jurisdiction or, at the discretion of the County Board. The costs may be certified to the County Auditor as a special tax against the real property as provided by law.

(j) Unpaid Charges. Each year the County Board shall certify to the County Auditor all unpaid outstanding charges for services hereunder, and a statement describing the type of service or the lands where service was provided and against which the charges arose. It shall be the duty of the County Auditor, upon order of the county Board, to extend the assessments with interest upon the tax rolls of the County for the taxes of the year in which the assessment is filed. The assessment shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the state. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state.

(k) Other Ordinances, Laws and Regulations. Where the conditions imposed by any provision of this Ordinance differ with conditions imposed by other provisions of this Ordinance, or any other applicable law, ordinance, or rule, the provision that establishes the higher standards for the promotion of the public health, safety, and general welfare shall prevail.

The motion passed 5 to 1.

Aye: Benson, Hillier, Lonergan, Olson, Voorhees.

Nay: McAlister. Brian McAlister felt that the changes should have been listed on the agenda prior to being passed.

There being no further business, the meeting adjourned at 8:20 p.m. on motion by Meri Jo Lonergan, seconded by Keith Voorhees. The motion passed unanimously.

Respectfully Submitted,

Daryl W. Franklin
Planning Director