

Mower County Planning Commission

Minutes of the Mower County Planning Commission – September 25, 2001

Members Present: Raymond Tucker, Beverly Weness, Brian McAlister, Sheldon Lukes, Harold Boverhuis, Diane Benson, Vance Larson

Members Absent: Myles Bendtsen

Others Present: Daryl W. Franklin, Bill Buckley, Pat Oman

Chair Ray Tucker called the regular meeting to order at 7:00 p.m., on Tuesday, September 25, 2001, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the August 28, 2001, meeting were approved as mailed on a motion made by Brian McAlister and seconded by Vance Larson. The motion passed unanimously.

CUP #586 – Dan Hodgman: Conditional Use Permit #586 to develop marginal quality farm land into residential lots pursuant to Section 14-51(y) of the Mower County Zoning Ordinance on property located at: NW ¼ and SW ¼ NE ¼ Exc. Red Rock Estates, Section 32, Red Rock Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Brian McAlister, Diane Benson, Vance Larson and Ray Tucker on September 19, 2001. The staff Report was presented with conditions and background information noted.

Applicant's Presentation: Tom Baudler discussed the proposal and reference was made to the Jones & Haugh letter, the two letters from the MPCA from Larry Landherr and Don Abrams, the MN Dept. of Transportation comments and the Russ Briggs letter stating property values would probably increase with the platting. Tom Baudler also explained that the phone companies had made allowance for installing extra phone service in the area. He walked the Planning Commission through the five factors for granting a CUP showing the permit request met those.

Dan Hodgman also spoke in favor of the proposal.

Statement from the Public:

Dr. Steven Bartells, property owner to the north, was concerned about how the increase in value was determined from Mr. Briggs' letter. He was also concerned about the Well Code and that it was protecting the new people but wondered about the people with shallow wells. Bill Buckley explained that the

Well Code would protect the new and the old and asked where the 1,000 foot setback was determined. Lowell Franzen explained it was taken from the barn and a short distance from it.

Mr. Hodgman stated that in their planning process they would be adding deed restrictions for the homes and they would be required to build stick built homes.

John Vandenover was concerned about the wells. Bill Buckley stated that the Well Code helps to protect both old and new wells.

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Vance Larson and seconded by Harold Boverhuis to recommend approval of CUP #586 with the conditions listed on the staff report in addition to an added condition (#13) to comply with the 1,000 setback from the feedlots because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopted the Findings of Fact prepared by Tom Baudler.

The following are conditions of Conditional Use Permit #586:

1. Comply with Mower County Subdivision Ordinance.
2. Site evaluations, including a minimum of two soil borings and two percolation tests will be conducted on the "primary" sewage treatment site for each lot. The site evaluations shall be submitted to the Mower County Planning Department prior to selling any lots.
3. Easements as requested by Austin Utilities & others will be shown on plat.
4. All pipeline easements shall be delineated on plat.
5. No access for lots directly on to CSAH 24 or 570th Ave. Access for lots shall be from an internal road.
6. Developer will pay all cost associated with roads and driveway installations including culverts and fill.
7. Developer will install road according to Township and County specifications.
8. Complete wetland inventory and evaluation, according to the 1987 Army Corps. Of Engineers Wetland Delineation Manual (NPDES) of area and submit with preliminary plat to the Mower County Planning Department.
9. The platting must be completed by December 31, 2004, if not the CUP is void.
10. Petitioner must complete and submit an EAW on the subdivision to Mower County for review. If the EAW determines that an EIS is necessary, Petitioner must complete and submit to the County.
11. Petitioner/Owner shall be required to cure the violations under procedures of the Mower County Zoning Ordinance as it exists or may hereafter be amended. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable statute.

12. Comply with Minnesota Pollution Control Agency requirements for project development, including but not limited to general storm water permit for construction activity. Developer will be responsible for all costs.
13. Comply with 1,000 foot variance requirement from feedlots.

Summary of Roll Call: 6 Yeas; 0 Nays. Motion passed unanimously. Chair, Raymond Tucker does not vote.

It was stated that the County Board would be acting on this petition at the Tuesday, October 2, 2001 meeting at 1:30 p.m. at the Mower County Courthouse.

CUP #583 – Great River Energy: Conditional Use Permit #583 to construct up to a 200 foot self-supporting communication tower and a 10' x 20' foot control building pursuant to Section 14-51(d) of the Mower County Zoning Ordinance on property located at: NW ¼, Section 19, Pleasant Valley Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Brian McAlister and Diane Benson on September 19, 2001. The staff Report was presented with conditions and background information noted.

Applicant's Presentation: Dale Aukee and Gary Strum, representing Great River Energy, explained their proposal and talked about their need for a tower for communication purposes with the plant.

Statement from the Public: There were no statements from the public.

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Brian McAlister and seconded by Harold Boverhuis to recommend approval of CUP #583 with the conditions listed on the staff report because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact:

GREAT RIVER ENERGY - CUP #583

SECTION 14-31. FINDINGS

No conditional use shall be recommended by the Planning Commission unless said Commission shall find:

- (a) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

The installation of the communications tower will not have any impact on the immediate vicinity. The tower, when installed, will have three or four anchors and the land will continue to be part of this substation. As such, this will not diminish or impair property values within the immediate area.

- (b) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant properties for uses predominant in the area.

The installation of the tower will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

- (c) That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

Current roads, drainage, etc. are being provided and there is no additional infrastructure that needs to be provided.

- (d) That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

There will be adequate parking, maneuvering and storage area for the facility during its construction since the proposed location is within the site of the existing substation.

- (e) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

The operation, as proposed by Great River Energy, will not be a nuisance to adjacent property owners. There will be limited noise and dust during construction. Once it is completed there will not be noise, dust, odor, fumes or vibration. When the tower is installed there may be a warning light, required by the FAA, present which should not be a distraction or disturbance to adjacent property owners.

The following are conditions of Conditional Use Permit #583:

1. Petitioner must secure appropriate FCC and FAA permits and licenses.
2. Follow all applicable Federal and State safety and health regulations during construction process.
3. The use of any portion of the tower for advertising signs (other than warning or equipment signs) is prohibited.
4. All abandoned or unused towers or associated above ground facilities shall be removed within 12 months of the cessation of operations of an antenna facility at the site unless a time extension is approved by the Mower County Board of Commissioners. In the event that a tower is not removed within 12 months of the cessation of operations at the site, the tower and associated facilities may be removed by the Mower County Board of Commissioners and the costs of removal assessed against the property.
5. Petitioner/Owner shall be required to cure the violations under procedures of the Mower County Zoning Ordinance as it exists or may hereafter be amended. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable statute.

Summary of Roll Call: 6 Yeas; 0 Nays. Motion passed unanimously. Chair, Raymond Tucker does not vote.

CUP #585 – James Royston: Conditional Use Permit #585 to sell vehicles from property pursuant to Section 14-51(aa) of the Mower County Zoning Ordinance on property located at: E 480' S 536' N 1162' NE ¼ SE ¼, Section 30, Bennington Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Brian McAlister and Diane Benson on September 19, 2001. The staff Report was presented with conditions and background information noted.

Applicant's Presentation: Jill Royston, explained their proposal and stated the vehicles would be in a barn and storage shed.

Statement from the Public: No one spoke regarding this CUP.

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Harold Boverhuis and seconded by Brian McAlister to recommend approval/denial of CUP #585 with the conditions listed on the staff report because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact:

JAMES ROYSTON – CUP #585

SECTION 14-31. FINDINGS

No conditional use shall be recommended by the Planning Commission unless said Commission shall find:

- (a) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

The issuing of the Conditional Use Permit to James Royston for vehicle sales will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted considering the sales will simply be conducted over the internet and all vehicles will be stored inside an existing structure and there will not be any outside storage of vehicles.

- (b) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant properties for uses predominant in the area.

The normal and orderly development of property in the Royston area is farmland. This is an existing farmstead and existing buildings will be used. Therefore, it will not impede the normal and orderly development and improvement of vacant property for uses predominant in the area.

- (c) That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

This an existing farmstead. There is a large area for working and maneuvering. There are large buildings that will store the vehicles so they will not be seen or displayed outside the buildings.

- (d) That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

Considering the size of the proposed building site, there is ample room for off-street parking and loading space.

- (e) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

The establishment of the car sales will not contribute any excessive odor, fumes, dust, noise or vibration and therefore will not constitute a nuisance to adjoining properties. There will not be lighted signs on the property.

The following are conditions of Conditional Use Permit #585:

- 1.) Secure the necessary State, Federal or Local Permits.
- 2.) Petitioner/Owner shall be required to cure the violations under procedures of the Mower County Zoning Ordinance as it exists or may hereafter be amended. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable statute.

Summary of Roll Call: 6 Yeas; 0 Nays. Motion passed unanimously. Chair, Raymond Tucker does not vote.

It was stated that the County Board would be acting on this petition at the Tuesday, October 2, 2001 meeting at 1:30 p.m. at the Mower County Courthouse.

CUP #587 – Jodi Butcher: Conditional Use Permit #587 to operate a dog kennel from property pursuant to Section 14-51(e) of the Mower County Zoning Ordinance on property located at: E 282.64 ft. S 974 ft. SE ¼ SE ¼, Section 2, Lyle Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Brian McAlister and Diane Benson on September 19, 2001. The staff Report was presented with conditions and background information noted.

Applicant's Presentation: Jodi Butcher, explained her proposal and stated that there would be no outside boarding and that it will just be her own dogs. She did not see that they would have any puppies.

Statement from the Public: No one spoke regarding the CUP request.

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Bev Weness and seconded by Diane Benson to recommend approval of CUP #587 with the conditions listed on the staff report because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact:

JODI BUTCHER – CUP #587

SECTION 14-31. FINDINGS

No conditional use shall be recommended by the Planning Commission unless said Commission shall find:

- (a) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

The establishment of the small sized kennel for the private use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted nor substantially diminish and impair property values. Considering the relationship to Hwy. 218 and the distance back on the property, any noise from the dogs would not be a problem to adjoining property owners.

- (d) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant properties for uses predominant in the area.

The establishment will not diminish or impair vacant property values nor impede the normal and orderly development for vacant property in the area. The property can still be used as agricultural land or scattered residential homes based on the one home per 160 acres.

- (e) That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

There is currently adequate access in the driveway since it is a private kennel and others won't be using it.

- (d) That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

There are adequate measures for sufficient off-street parking and loading space to the proposed kennel since it is a private kennel and is not open to the public.

- (e) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Considering the location of the kennel, any noise that the dogs make should not be a disturbance to neighboring property owners. There will not be odor, fumes, dust, noise or vibration and therefore will not constitute a nuisance to adjoining properties.

The following are conditions of Conditional Use Permit #587:

1. The kennel would be limited to 15 dogs.
2. Petitioner/Owner shall be required to cure the violations under procedures of the Mower County Zoning Ordinance as it exists or may hereafter be amended. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable statute.

Summary of Roll Call: 6 Yeas; 0 Nays. Motion passed unanimously. Chair, Raymond Tucker does not vote.

It was stated that the County Board would be acting on this petition at the Tuesday, October 2, 2001 meeting at 1:30 p.m. at the Mower County Courthouse.

CUP #588 – Gary Stroup: Conditional Use Permit #588 to construct two commercial mini-storage facilities pursuant to Section 14-51(t) of the Mower County Zoning Ordinance on property located at: W 174.24 ft. E 1080.5 ft. N 250 ft. NE ¼ and E 1200 ft. NE ¼ Exc. E 548 ft. W 668 ft. N 250 ft. & Exc. E 362 ft. W 668 ft. S 392 ft. N 642 ft., Section 35, Windom Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Brian McAlister and Diane Benson on September 19, 2001. The staff Report was presented with conditions and background information noted.

Applicant's Presentation: Gary Stroup, explained their proposal and stated they hope to build the first building this year or next year and the second one should be built within three years.

Statement from the Public: There were no comments from the public.

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Harold Boverhuis and seconded by Brian McAlister to recommend approval of CUP #588 with the conditions listed on the staff report because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact:

GARY STROUP – CUP #588

SECTION 14-31. FINDINGS

No conditional use shall be recommended by the Planning Commission unless said Commission shall find:

- (a) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

The existing property around the proposed location of mini-storage is residential, agricultural and the City of Rose Creek. Mini-storage facilities as are designed and operated today are a compatible land use with these activities. Therefore, it will not have an impact on the property values and hurt the use and enjoyment of other property for purposes already permitted.

- (b) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant properties for uses predominant in the area.

Vacant property will not be hampered by the development of the mini-storage, be it for a residential area or agricultural use.

- (c) That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

When the facility is constructed, they will bring in an access road and provide other necessary facilities for the mini-storage.

- (d) That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

Sufficient off-street loading and parking space will be provided on the circulation plan, as presented for the proposed mini-storage.

- (e) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

The establishment of the mini-storage facility will not contribute any excessive odor, fumes, dust, noise or vibration and therefore will not constitute a nuisance to adjoining properties. The only lights will be the nominal security light.

The following are conditions of Conditional Use Permit #588:

1. Permit void if commercial mini-storage units are not constructed within 36 months of date of approval.
2. Petitioner/Owner shall be required to cure the violations under procedures of the Mower County Zoning Ordinance as it exists or may hereafter be amended. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable statute.

Summary of Roll Call: 6 Yeas; 0 Nays. Motion passed unanimously. Chair, Raymond Tucker does not vote.

It was stated that the Mower County Board of Commissioners will be acting on this petition at their October 2, 2001 meeting at 1:30 p.m. in the Mower County Courthouse.

CUP #589 – enXco (Petitioner) and Delbert Lecy (Owner): Conditional Use Permit #589 to install a 160-200 foot meteorological tower pursuant to Section 14-51(d) of the Mower County Zoning Ordinance on property located at: SE ¼ Section 19, Pleasant Valley Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Brian McAlister and Diane Benson on September 19, 2001. The staff Report was presented with conditions and background information noted.

Applicant's Presentation: Lori Lecy, the property owner, explained the proposal for the wind tower.

Statement from the Public: There were no statements from the public.

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Diane Benson and seconded by Vance Larson to recommend approval of CUP #589 with the conditions listed on the staff report because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact:

EnXco (Petitioner) and Delbert Lecy (Owner) – CUP #589

SECTION 14-31. FINDINGS

No conditional use shall be recommended by the Planning Commission unless said Commission shall find:

- (a) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

The installation of the meteorological tower in Section 19 of Pleasant Valley Township will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted nor diminish and impair property values. It will simply be a tower installed to gather data. It may actually enhance the property values because if there are sufficient results, property may be acquired for wind turbines.

- (b) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant properties for uses predominant in the area.

The installation of the meteorological tower will not adversely influence orderly development of the township. The township can still be used for agricultural pursuits or residential pursuits. It will not diminish or impair vacant property values nor impede the normal and orderly development for vacant property in the area which will primarily be used for agricultural activities. The vacant property can still be used for farm land or other uses and this will not adversely impact it.

- (c) That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

The tower location is on a township road which provides adequate access to the site. The tower installation will not cause a need for drainage or other necessary facilities to the location.

- (d) That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

Considering the location of the area and the sites, there is adequate off-street parking and loading space to serve the proposed tower during the construction phases and afterwards.

- (e) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

The installation of the tower will not create excessive noise. There will be no odor, fumes, dust, or vibration and therefore will not constitute a nuisance to adjoining properties. There also will not be any lighted signs on the tower except those lights which may be required by the FAA.

The following are conditions of Conditional Use Permit #589:

1. Secure the necessary State, Federal or Local Permits.
2. Follow all applicable Federal and State safety and health regulations during construction process.
3. The tower must be removed by November 1, 2003.

Summary of Roll Call: 6 Yeas; 0 Nays. Motion passed unanimously. Chair, Raymond Tucker does not vote.

It was stated that the Mower County Board of Commissioners will be acting on this petition at their October 2, 2001 meeting at 1:30 p.m. in the Mower County Courthouse.

CUP #591 – enXco (Petitioner) and Gehl Meddlestad (Owner): Conditional Use Permit #591 to install a 160-200 foot meteorological tower pursuant to Section 14-51(d) of the Mower County Zoning Ordinance on property located at: NE ¼ & N ½ NW ¼ Section 4, Clayton Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Brian McAlister and Diane Benson on September 19, 2001. The staff Report was presented with conditions and background information noted.

Applicant's Presentation: None

Statement from the Public: None

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Sheldon Lukes and seconded by Diane Benson to recommend approval of CUP #591 with the conditions listed on the staff report because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact:

enXco (Petitioner) and Gehl Meddlestad (Owner) – CUP #591

SECTION 14-31. FINDINGS

No conditional use shall be recommended by the Planning Commission unless said Commission shall find:

- (a) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

The installation of the meteorological tower in Section 4 of Clayton Township will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted nor diminish and impair property values. It will simply be a tower installed to gather data. It may actually enhance the property values because if there are sufficient results, property may be acquired for wind turbines.

- (b) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant properties for uses predominant in the area.

The installation of the meteorological tower will not adversely influence orderly development of the township. The township can still be used for agricultural pursuits or residential pursuits. It will not diminish or impair vacant property values nor impede the normal and orderly development for vacant property in the area which will primarily be used for agricultural activities. The vacant property can still be used for farm land or other uses and this will not adversely impact it.

- (c) That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

The tower location is on a township road which provides adequate access to the site. The tower installation will not cause a need for drainage or other necessary facilities to the location.

- (d) That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

Considering the location of the area and the sites, there is adequate off-street parking and loading space to serve the proposed tower during the construction phases and afterwards.

- (e) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

The installation of the tower will not create excessive noise. There will be no odor, fumes, dust, or vibration and therefore will not constitute a nuisance to adjoining properties. There also will not be any lighted signs on the tower except those lights which may be required by the FAA.

The following are conditions of Conditional Use Permit #591:

1. Secure the necessary State, Federal or Local Permits.
2. Follow all applicable Federal and State safety and health regulations during construction process.
3. The tower must be removed by November 1, 2003.

Summary of Roll Call: 6 Yeas; 0 Nays. Motion passed unanimously. Chair, Raymond Tucker does not vote.

It was stated that the Mower County Board of Commissioners will be acting on this petition at their October 2, 2001 meeting at 1:30 p.m. in the Mower County Courthouse.

There being no further business, the meeting adjourned at 8:17 p.m. on a motion by Sheldon Lukes, seconded by Diane Benson. The motion passed unanimously.

Respectfully submitted,



Daryl W. Franklin
Mower County Planning Director