

Mower County Planning Commission

Minutes of the Mower County Planning Commission – October 30, 2001

Members Present: Ray Tucker, Bev Weness, Myles Bendtsen, Diane Benson, Sheldon Lukes, Brian McAlister

Members Absent: Harold Boverhuis, Vance Larson

Others Present: Daryl W. Franklin, Pat Oman

Chair Ray Tucker called the regular meeting to order at 7:00 p.m., on Tuesday, October 30, 2001, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the Sept. 25, 2001, meeting were approved as mailed on a motion made by Diane Benson and seconded by Sheldon Lukes. The motion passed unanimously.

It was explained that CUP #593, #595, #596 and #597 would be acted upon with one hearing and motion. They are all for meteorological towers being proposed by Zilkha Renewable Energy on four sites in Mower County. The following are summaries of the four CUP's:

CUP #593 – Zilkha Renewable Energy (Petitioner) and Kenneth Sprau

(Owner): Conditional Use Permit #593 to install a 164 foot meteorological tower pursuant to Section 14-51(d) of the Mower County Zoning Ordinance on property located at: NW ¼ Exc. W 541.2' S 499.6' N 1699.5' W ½ NW ¼ , Section 20, Clayton Township, Mower County, Minnesota.

CUP #595 – Zilkha Renewable Energy (Petitioner) and Sue Dougan

(Owner): Conditional Use Permit #595 to install a 164 foot meteorological tower pursuant to Section 14-51(d) of the Mower County Zoning Ordinance on property located at: W ½ & SE ¼ & S ½ NE ¼ , Section 3, Bennington Township, Mower County, Minnesota.

CUP #596 – Zilkha Renewable Energy (Petitioner) and James Bustad

(Owner): Conditional Use Permit #596 to install a 164 foot meteorological tower pursuant to Section 14-51(d) of the Mower County Zoning Ordinance on property located at: NW ¼ Exc. 15 Ac. W ¼ & W ½ NE ¼ NW ¼ SE ¼ & W 1 Ac. of NE ¼ NE ¼ & SW ¼ , Section 35, Clayton Township, Mower County, Minnesota.

CUP #597 – Zilkha Renewable Energy (Petitioner) and Dan Gehling (Owner): Conditional Use Permit #597 to install a 164 foot meteorological tower pursuant to Section 14-51(d) of the Mower County Zoning Ordinance on property located at: SE ¼ Exc. N 479.9 ft. W 1377.3 ft. & Exc. S 45 Ac. , Section 27, Grand Meadow Township, Mower County, Minnesota.

Staff Presentation: The Staff Report for the above four CUP's was presented with conditions and background information noted.

Applicant's Presentation: John Cuddy, Zilkha Renewable Energy spoke about the four CUP's and the project. Zilkha Renewable Energy hopes to install the towers next year.

Statement from the Public: Paul Snyder, Grand Meadow Township, stated they are in favor of the CUP request in their Township (Dan Gehling property – CUP #597).

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Diane Benson and seconded by Brian McAlister to recommend approval of CUP #593, #595, #596 and #597 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.

ZILKHA RENEWABLE ENERGY (PETITIONER)

AND

KENNETH SPRAU (CUP #593)

SUE DOUGAN (CUP #595)

JAMES BUSTAD (CUP #596)

DAN GEHLING (CUP #597)

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 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 Permits #593, #595, #596 and #597:

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 12/31/03.

Summary of Roll Call: 5 Yeas; 0 Nays. Motion passed unanimously. Chair, Raymond Tucker does not vote.

It was stated that the County Board would be acting on these petitions at the Tuesday, November 6, 2001 meeting at 1:30 p.m. at the Mower County Courthouse.

CUP #594 – Lon Baldus: Conditional Use Permit #594 to do grading and filling in the Shoreland Area of Bear Creek and install an 8' x 120' retaining wall approximately 30 feet from the creek pursuant to Section 14-97(d) of the Mower County Zoning Ordinance on property located at: N ½ SE ¼, Exc. 6.7 Ac. NE ¼ SE ¼, Section 16, Grand Meadow Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Diane Benson and Myles Bendtsen on October 24, 2001. The staff Report was presented with conditions and background information noted.

Applicant's Presentation: Lon Baldus spoke and stated that if flooding happens the water goes south. He has been working with the SWCD on this project.

Statement from the Public: Grand Meadow Township does not have a problem with the CUP request. Bev Weness and Myles Bendtsen stated they don't see a problem with the project.

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Bev Weness and seconded by Myles Bendtsen to recommend approval of CUP #594 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.

LON BALDUS – CUP #594

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 Mr. Baldus will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted. The current land use in the area of Mr. Baldus is all agricultural land and the installation of the retaining wall and fill will not diminish or impair the property values in 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 two will not impede the normal and orderly development. The normal and orderly development of this area is primarily agricultural and this installation of the fill and retaining wall will not impede the normal and orderly development. The land can still be used for agricultural purposes with the improvements.

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

By complying with the requirements of the County and DNR, there will be adequate protection and measures are being taken to provide this.

- (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 farmstead, there is adequate room for the installation of the retaining wall and fill and there is sufficient room for loading and unloading during the construction process.

- (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.

Adequate measures will be taken to not contribute any excessive odor, fumes, dust, noise or vibration and this will not constitute a nuisance to adjoining properties.

The following are conditions of Conditional Use Permit #594:

1. Comply with all State and local laws regarding placement of fill in shoreland.
2. Fill material shall be clean earthen material – no demolition material.
3. Fill and wall shall be completed by December 31, 2004.
4. Comply with DNR requirements.
5. Owners must secure necessary zoning permits prior to constructing new buildings.
6. 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: 5 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, November 6, 2001 meeting at 1:30 p.m. at the Mower County Courthouse.

CUP #592 – Thomas Vavra: Conditional Use Permit #592 to plat a subdivision in residential lots pursuant to Section 14-51(y) of the Mower County Zoning Ordinance on property located at: S ½ NE ¼ & N ½ SE ¼ & 4 Ac. of NE ¼ SW ¼ , Section 22, Udolpho Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Diane Benson and Myles Bendtsen on October 24, 2001. The staff Report was presented with conditions and background information noted.

Applicant's Presentation: Tom Vavra spoke about his proposed plat of up to 18 lots. He stated that the CER on the property is approximately "56". He also

talked about the concept of shared wells for 4-5 homes. They are also working with a consultant on community-based ISTS system. He stated they would be looking at preparing specific covenants or deed restrictions on the project.

Statement from the Public: Gene Dennis was concerned about the feedlot in the location of the subdivision and how this may impact on future feedlot operations.

Lynette & Douglas Bruggeman, residents in the Township, are concerned about three feedlots in the area and even though they meet the setbacks, the people will still get odors and they are concerned about this.

Daryl Peterson, owner to the west of the property, stated he does not want more people in the area trespassing on his property and he is concerned about the additional people in the area.

Dwight Smith, farmer in the area, is concerned about run-off and flooding in the Austin area. He feels that because of this development, he feels there would be run-off from the roads, development, drive-ways.

Dave Bruggeman, property owner in the area, is concerned about the odor.

Keith Sayles, representing Udolpho Township, wanted to make a point that Udolpho Township has adopted an interim ordinance that addresses these issues. They also have appointed a Planning Commission.

Pat Oman, Mower County Attorney, spoke and stated that the County acts on their Ordinance. They do not enforce the Township Ordinance and we must go forward with the Vavra petition. Mr. Vavra would need to deal with Udolpho Township.

Bev Weness and Myles Bendtsen, Planning Commission Members, visited the site and they felt it was marginal farm land and thought this would be a good area for a subdivision. They didn't see it as a problem.

Conclude the Public Hearing: Ray Tucker closed the public hearing. After some discussion, a motion was made by Brian McAlister and seconded by Myles Bendtsen to recommend approval of CUP #592 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.

THOMAS VAVRA – CUP #592

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 development of the plat by Mr. Vavra will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted nor will it substantially diminish or impair the property values in the immediate area. The plat may actually enhance other property in the area and may be used for residential purposes.

- (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 plat will not impede the normal and orderly development. The property in the area is primarily agricultural and by going through the CUP process, there will be adequate safeguards for the area.

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

By complying with the Wetland Conservation Act and the MPDS Permit, there will be adequate access roads to serve the area. The floodplain will also be addressed.

- (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 there is sufficient access for off-street parking and development with the road system.

- (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.

By following the requirements of the County and MPCA, there will be adequate measures taken to not contribute any excessive odor, fumes, dust, noise or vibration and this will not constitute a nuisance to adjoining properties.

The following are conditions of Conditional Use Permit #592:

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 25 or 540th 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 setback requirements of the current Mower County Feedlot Ordinance as it exists on 10/30/01.
14. Comply with State and Local requirements in regard to wells.
15. Delineate the 100 year floodplain and no building in the 100 year floodplain.

Summary of Roll Call: 5 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, November 6, 2001 meeting at 1:30 p.m. at the Mower County Courthouse.

There being no further business, the meeting adjourned at 8:20 p.m. on a motion by Brian McAlister, seconded by Diane Benson. The motion passed unanimously.

Respectfully submitted,



Daryl W. Franklin
Mower County Planning Director

DWF:km