

## Mower County Planning Commission

### *Minutes of the Mower County Planning Commission – February 26, 2002*

Members Present: David Hillier, Bev Weness, Myles Bendtsen, Diane Benson, Sheldon Lukes, Harold Boverhuis, Vance Larson

Members Absent: Brian McAlister,

Others Present: Daryl W. Franklin, Pat Oman, Garry Ellingson

Chair David Hillier called the regular meeting to order at 7:00 p.m., on Tuesday, February 26, 2002, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the January 29, 2002, meeting was approved as mailed on a motion made by Myles Bendtsen and seconded by Sheldon Lukes. The motion passed unanimously.

**CUP #511 – Tim Koch:** Renewal of Conditional Use Permit #511 to continue quarry operation pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: NW ¼, Section 36, LeRoy Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the investigation performed by Myles Bendtsen and Harold Boverhuis on February 20, 2002. The Staff Report was presented with conditions and background information noted.

**Applicant's Presentation:** Tim Koch explained the proposed usage and maps for the site.

**Statement from the Public:** Ed Bunne stated that Mr. Koch has done a good job of following the rules of the County. Bill McCloud, LeRoy Township Chairman, stated they have no problems with the CUP. Harold Boverhuis stated he has no problem with the permit or hours of operation.

**Conclude the Public Hearing:** David Hillier closed the public hearing. After some discussion, a motion was made by Harold Boverhuis and seconded by Diane Benson to recommend approval of CUP #511 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.

## CUP #511 – TIM KOCH

### 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 continued operation of Conditional Use Permit #511 will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor diminish and impair property values. The quarry operation has had limited usage for the past several years and its operation has not impacted on property owners.**

- (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 operation of the quarry will not impede the normal and orderly development of vacant property in the area. Most of the property to the southeast and north is agricultural and the quarry will not impact on the operation.***

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

**The access road that has been installed to the facility is adequate for the facility. Drainage should also be handled by the appropriate DNR appropriations permit and MPCA-NPDES permit.**

- (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 is adequate parking, maneuvering and storage area for the proposed excavated material.***

- (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 Mr. Koch should not be a nuisance to adjoining property owners. Noise and dust should not be a problem with the hours of operation placed as condition on the permit. There will be no lighted signs on the property to disturb adjoining property owners.**

**The following are conditions of Conditional Use Permit #511:**

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, 2013.
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 be permanent.
10. Secure MPCA NPDES Permit and any DNR permits and provide copies to Mower County Planning Department.
11. Failure to comply with any and all the listed conditions shall result in revocation of this conditional use permit.

Summary of Roll Call: 7 Yeas; 0 Nays. Motion passed unanimously. Chair David Hillier does not vote.

It was stated that the County Board would be acting on this petition at the Tuesday, March 5, 2002 meeting at 1:30 p.m. at the Mower County Courthouse.

**CUP #554 – Tim & Lynda Koch:** Amend Conditional Use Permit #554 to use a new area of the property and operate a quarry pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: 47 Acres in SE ¼ SW ¼, Section 35, LeRoy Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Brian McAlister and Sheldon Lukes on January 23, 2002. The staff Report was presented with conditions and background information noted.

**Applicant's Presentation:** Tim Koch presented information and explained the maps for the site.

**Statement from Public:** Bill McCloud, LeRoy Township Chairman, stated they have no problems with the CUP.

**Conclude the Public Hearing:** Dave Hillier closed the public hearing. After some discussion, a motion was made by Vance Larson and seconded by Sheldon Lukes to recommend approval of CUP #554 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.

## **TIM KOCH – CUP #554**

### **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 gravel pit on the Koch site will not be injurious to the use and enjoyment of other property in the immediate vicinity 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 in the area would not be impacted by the establishment of the gravel pit, since it will be in accordance with the Mower County Zoning Ordinance Excavation of Earth Products.***

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

***There will be adequate access and utility roads to the property. An access road will be installed to the facility. When the pit operation is completed, the access road will be removed.***

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

***Based on the drawing and testimony submitted, the petitioner is providing sufficient parking and loading space to serve the proposed use.***

- (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 of the gravel pit as proposed by Tim Koch on this property, includes taking measures and following requirements under Excavation of Earthen Products to control any excessive odor, fumes, dust, noise or vibration. Therefore, it will not constitute a nuisance to adjoining properties.**

**The following are conditions of Conditional Use Permit #554:**

1. The quarry and gravel pit operation including stockpiles of material must remain out of the floodplain of the Upper Iowa River.
2. A \$3,500.00 Restoration Bond (\$2,000 Restoration Bond for the first acre, plus \$750 for each additional acre or part of an acre based on 3 acres) must be posted with the County Auditor valid through June 30, 2010. The bond does not need to be posted until operation starts.
3. A "No Trespassing" sign shall be posted at the entrance.
4. Comply with Article IV Excavation of Earth Products of the Mower County Code.
5. Extraction of materials shall be limited to areas as delineated on the site plan.
6. The quarry and gravel pit operation shall be limited to the site plan. Modifications shall require an amendment to this CUP.
7. Extraction of gravel/sand/limestone shall remain at least twenty (20) feet from all adjoining property lines and forty (40) feet from the road right-of-way.

8. Provide dust treatment on state line road west from entrance to CSAH 12 a minimum of 300 feet per dwelling unit as needed only when hauling.
9. Hours of operation shall be 7:00 a.m. to 7:00 p.m. Monday – Saturday.
10. Blasting will be performed by a licensed and bonded operator.
11. Secure DNR Appropriations Permit and provide copy to Mower County Planning Department.
12. Secure MPCA NPDES Permit and provide copy to Mower County Planning Department.
13. Mower County staff shall inspect the site at least once a year to guarantee compliance with conditions.
14. Permit will expire on December 8, 2009.
15. Access/Driveway to be cost of petitioner.
16. A five foot berm on the south side of the pit within the forty foot setback and a three foot berm on the other side of the pit will be installed.
17. 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: 7 Yeas; 0 Nays. Motion passed. Chair David Hillier does not vote.

It was stated that the County Board would be acting on this petition at the Tuesday, February 5, 2002 meeting at 1:30 p.m. at the Mower County Courthouse.

**CUP #520 – Ed Bunne (Petitioner) and CJ & Joe Mayer (Owner):** Renew Conditional Use Permit #520 to continue quarry operation pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at NE ¼ NE ¼, Section 28, LeRoy Township.

**Staff Presentation:** Reference was made to the investigation performed by Myles Bendtsen and Harold Boverhuis on February 20, 2002. The Staff Report was presented with conditions and background information noted.

**Applicant's Presentation:** Ed Bunne presented maps and drawings of the site and explained his proposal. He also stated he would be dewatering and disposing of the water into nearby sinkholes.

**Statement from the Public:** Lynda Koch stated Mr. Bunne does a good job at the site. Written comments were received from Mr. Grass and Mr. Newton who were concerned about water run-off and wells in the area (letters are in file).

**Conclude the Public Hearing:** David Hillier closed the public hearing. After some discussion, a motion was made by Harold Boverhuis and seconded by Diane Benson to recommend approval of CUP #520 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.

## **CUP #520 – ED BUNNE**

### **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 continued operation of Conditional Use Permit #520 will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor diminish and impair property values. The operation has not impacted on property owners. The operation will be in accordance with the Mower County Zoning Ordinance Excavation of Earth Products.**

- (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 operation of the quarry will not impede the normal and orderly development of vacant property in the area. To the north and west is Lake Louise State Park and to the south it is residential.***

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

**The access road that will be installed to the facility is adequate for the facility. Drainage should also be handled by the appropriate DNR appropriations permit and MPCA-NPDES permit.**

- (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 is adequate parking, maneuvering and storage area for the existing top soil and for the proposed excavated material.***

- (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 Mr. Bunne should not be a nuisance to adjoining property owners. Noise and dust should not be a problem with the hours of operation placed as condition on the permit. There will be no lighted signs on the property to disturb adjoining property owners.**

The following are conditions of Conditional Use Permit #520:

1. The quarry operation must remain at least 200 yards from the residential property.
2. A \$7,250 Restoration Bond (\$2,000 Restoration Bond for the first acre, plus \$750 for each additional acre or part of an acre based on 8 acres) must be posted with the County Auditor valid through June 30, 2013.
3. A "No Trespassing" sign shall be posted at the entrance.
4. Comply with Article IV Excavation of Earth Products of the Mower County Code.
5. Extraction of materials shall be limited to areas as delineated on the site plan.
6. Extraction of material shall be limited to areas delineated on the site plan and the quarry operation

shall be limited to this site plan. Modifications shall require an amendment to this CUP.

7. Extraction of gravel/sand/limestone shall remain at least twenty (20) 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. A system called "two strikes and out" is established. If two damages occur during blasting then all future blasting is prohibited.
11. Mower County staff shall inspect the site at least once a year to guarantee compliance with conditions.
12. The Minnesota Department of Natural Resources (DNR) be involved in the restoration of the area when the quarry is completed.
13. A temporary berm be constructed on the north and west side of the quarry of at least 5 feet in height, seeded, and kept clear of noxious weeds. (The DNR shall be consulted on what will be compatible with Lake Louise State Park on the seeding.)
14. Permit will expire on December 31, 2012.
15. Failure to comply with any and all the listed conditions shall result in revocation of this conditional use permit.
16. Access and hauling will be approximately 300 feet south of the north property line and directly to CSAH 14.
17. Comply with and receive all required DNR & PCA permits and regulations and submit copies to the Mower County Planning Department.
18. No pumping of water in County road ditches.
19. No refueling of equipment in the excavation site (pit).
20. Crushing and blasting will be limited to 6:00 a.m. to 8:00 p.m. Monday through Friday.
21. Maximum depth of the pit shall be 35 feet.
22. Secure MPCA NPDES and DNR Appropriations permits and provide copies to Mower County Planning Department.

23. 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: 7 Yeas; 0 Nays. Motion passed unanimously. Chair David Hillier does not vote.

It was stated that the County Board would be acting on this petition at the Tuesday, March 5, 2002 meeting at 1:30 p.m. at the Mower County Courthouse.

**CUP #601 – David & Lisa Williamson:** Conditional Use Permit #601 to plat a subdivision into residential lots pursuant to Section 14-51(y) of the Mower County Zoning Ordinance on property located at: SE ¼ E RR Exc. 35.04 Ac., Section 23, Austin Township.

**Staff Presentation:** Reference was made to the investigation performed by Myles Bendtsen and Harold Boverhuis on February 20, 2002. The Staff Report was presented with conditions and background information noted.

**Applicant's Presentation:** David & Lisa Williamson discussed their proposal and maps and stated the property has recently been tiled.

**Statement from Public:** Tom Graff spoke and feels this is a good idea and thinks there is a need for it. Bill Wilde spoke and is concerned about the road into the subdivision and the dust. Richard Anderson spoke and is concerned about the water in the ditches and is concerned about the wells.

**Conclude the Public Hearing:** David Hillier closed the public hearing. After some discussion, a motion was made by Vance Larson and seconded by Harold Boverhuis to recommend approval of CUP #601 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.

## **DAVID & LISA WILLIAMSON – CUP #601**

### **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. Williamson 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 a mixed usage of residential and 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.***

- (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 #601:

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 Utilities & others will be shown on plat.
4. All pipeline easements shall be delineated on plat.
5. No access for lots directly on to MN Hwy. 218. 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. 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.
12. Comply with setback requirements of the current Mower County Feedlot Ordinance as it exists on 10/30/01.
13. Comply with State and Local requirements in regard to wells.
14. Complete and submit NPDES Permit for subdivision and submit copy to Mower County Planning Department.
15. Petitioner must comply with Minnesota Department of Transportation letter dated Feb. 25, 2002.

16. 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: 7 Yeas; 0 Nays. Motion passed unanimously. Chair Hillier does not vote.

It was stated that the County Board would be acting on this petition at the Tuesday, March 5, 2002 meeting at 1:30 p.m. at the Mower County Courthouse.

There being no further business, the meeting adjourned at 9:10 p.m. on a motion by Diane Benson, seconded by Sheldon Lukes. The motion passed unanimously.

Respectfully submitted,

Daryl W. Franklin  
Mower County Planning Director

DWF:km