

Mower County Planning Commission

Minutes of the Mower County Planning Commission – May 27, 2003

Members Present: Garry Ellingson, Myles Bendtsen, Brian McAlister, Diane Benson, Barb Hovde, Sheldon Lukes, Margaret Kirchner

Members Absent: Harold Boverhuis, Brian McAlister

Others Present: Daryl W. Franklin, Pat Flanagan, Citizens

Garry Ellingson called the regular meeting to order at 7:00 p.m. on Tuesday, May 27, 2003, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the April 29, 2003, meeting were approved as mailed on a motion made by Sheldon Lukes and seconded by Diane Benson. The motion passed unanimously.

CUP #628 – Lee Hansen, Hansen Hauling (Petitioner) and George Dress (Owner): Conditional Use Permit #628 to operate a gravel pit on property pursuant to Section 14-51(h) of the Mower County Zoning Ordinance on property located at: E ½ SW ¼ Exc. W 243.5 ft. S 357.78 ft. & Exc. E 600 ft. W 843.5 ft. S 435.6 ft. , Section 24, Austin Township (PIN #02-021-0020) Mower County, Minnesota.

It was explained that this hearing is being continued from the April 29, 2003 meeting and when a hearing is continued, the County does not have to republish the hearing notice a second time.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Barb Hovde on April 22, 2003. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site .

It was also explained that the DNR was contacted and their response wasn't available, but would be included as a recommended condition.

Applicant's Presentation: Lee Hansen and Steve Anderson, representing Hansen Hauling, spoke about the proposal and presented maps. A letter from them discussing the required items from Section 14-140.2 of the Mower County Code was presented.

Statements from the Public: A letter received from Del & Monica Hennessy was presented. They are opposed to the CUP request and discussion took place.

Jane Rhodes, who lives directly west of the proposed access road, spoke and is in opposition. She is concerned about traffic and how the dust and noise would impact her husband's health.

Ronald Oman, stated he had similar concerns as Del & Monica Hennessy. In addition, he was concerned about water quality, the impact of wildlife and possible damage to their wells and homes. He also felt the pit could increase flooding of Rose Creek. He was concerned about the safety of children playing in the area.

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Margaret Kirchner and seconded by Diane Benson to recommend approval of CUP #628 with the following conditions because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact:

**LEE HANSEN - HANSEN HAULING & EXCAVATING
(PETITIONER) AND GEORGE DRESS (OWNER) –
CUP #628**

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 Dress site by Lee Hansen will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted since the gravel pit will be operated in accordance with Mower County regulations.

- (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 operated in accordance with County regulations.

- (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.

- (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 on the Dress/Hansen 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 the CUP:

1. A "No Trespassing" sign shall be posted at the entrance.
2. A \$12,500 Restoration Bond (\$2,000 Restoration Bond for the first acre, plus \$750 for each additional acre or part of an acre based on a 15 acre parcel) must be posted with the County Auditor.
3. Comply with Article IV Excavation of Earth Products of the Mower County Code
4. Extraction of gravel/sand shall remain at least twenty (20) feet from all adjoining property lines and thirty (30) feet from the road right-of-way (see Map B).

5. Stockpiling of aggregate material shall be outside the designated floodplain.
6. The gravel pit sides when completed will have a slope no greater than 3:1 horizontal to vertical.
7. Hours of operation shall be Monday – Saturday 6:30 a.m. to 9:00 p.m.
8. Extraction of gravel shall be limited to area shown on Map B.
9. Comply with the Wetland Conservation Act.
10. Must obtain NPDES storm-water permit which includes stormwater pollution prevention plan (SWPPP) and submit to the Mower County Soil & Water Conservation District for review and approval.
11. Follow the MN Dept. of Natural Resources letter when received.
12. Comply with MN Dept. of Transportation letter and request MN Dept. of Transportation to place truck hauling signs on Hwy. 218.
13. 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.

The following was the vote: 5 Yeas; 0 Nays. Motion passed unanimously. Chair Garry Ellingson does not vote.

It was stated that the County Board would be acting on this petition at the Tuesday, June 3, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #632 – Ronda Hinck: CUP to operate a dog kennel and sell animal feed on property located at: W 618.5 ft. S 460 ft. NW ¼ NW ¼ , Section 10, Waltham Township pursuant to Section 14-51(e) of the Mower County Zoning Ordinance.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Brian McAlister on May 20, 2003. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site .

Applicant's Presentation: Mrs. Hinck explained their proposal. The Minnesota Department of Transportation was notified of this request and responded by email that they do not have a problem with the request.

Statement from the Public: Myles Bendtsen, Planning Commission member, spoke and thought the site was a good location.

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Barb Hovde and seconded by Diane Benson to recommend approval of CUP #632 with the following conditions because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact:

RONDA HINCK – CUP #632

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 boarding kennel 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 327th Street and State Hwy. 56 and the distance back on the property, any noise from the dogs would not be a problem to adjoining 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 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 residential homes.

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

There is currently adequate access at the farmstead off of the township road and State Hwy. 56.

- (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.

- (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 the CUP:

- 1.) The kennel would be limited to 15 dogs.
- 2.) Comply with Minnesota Statute 325F.791, 346.39, 343.40 and any applicable MN Statute and amendments thereof.
- 3.) The Mower County Sheriff's Department, Mower County Planning Department or Minnesota Federated Humane Society agent has the right to make periodic inspections of the facility and of required record keeping.
- 4.) Petitioner must provide the Mower County Planning Department a letter from the Minnesota Federated Humane Society agent stating that the facility is in accordance with all applicable statutes and regulations by December 31, 2003 or the CUP is void.
- 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.

The following was the vote: 5 Yeas; 0 Nays. Motion passed unanimously. Chair Garry Ellingson does not vote.

It was stated that the County Board would be acting on this petition at the Tuesday, June 3, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #633 – Richard Koch: Conditional Use Permit #633 to construct one wind tower on property pursuant to Section 14-51(t) of the Mower County Zoning Ordinance on property located at: NE ¼ , Section 31, LeRoy Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Brian McAlister on May 20, 2003. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site. The Minnesota Dept. of Transportation sent an e-mail stating they didn't have a problem with the request.

Applicant's Presentation: Richard Koch spoke and talked about the proposal.

Statement from the Public: None

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Diane Benson and seconded by Sheldon Lukes to recommend approval of CUP #633 with the following conditions because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact.

RICHARD KOCH – CUP #633

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.

<p>The installation of a wind turbine in Section 31 of LeRoy 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 is being installed within the limits for the farmstead and elevator operation.</p>

- (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 a wind 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 off a county 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 #626:

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 CUP shall become void two years from the date of approval by the County Board if no construction has begun or the use has not been established.

The motion passed unanimously. Chair Garry Ellingson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, June 3, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #634 – Leon Lipkie (Petitioner) and Norman Laabs (Owner):

Conditional Use Permit #634 to construct a home on property not suitable for economical agricultural use on property pursuant to Section 14-18.4 of the Mower County Zoning Ordinance on property located at: W ½ SW ¼ Exc. N ½ Ac., Section 15, Racine Township; Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Brian McAlister on May 20, 2003. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site. The Minnesota Dept. of Transportation sent an e-mail stating they didn't have a problem with the request.

Applicant's Presentation: Leon Lipkie and Mrs. Norman Laabs spoke and talked about the proposal.

Statement from the Public: None

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Diane Benson and seconded by Margaret Kirchner to recommend approval of CUP #634 with the following

conditions because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact.

**LEON LIPKIE (PETITIONER) AND NORMAN
LAABS (OWNER) – CUP #634**

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 this single parcel 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.

- (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 development of this single residential parcel 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 Mower County conditions of the CUP, there will be adequate utilities, access roads, and drainage 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 area for off-street parking and loading spaces.

- (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 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 #634:

1. Each new dwelling is to retain a separate lot.
2. Each lot shall contain a minimum of 1 ½ acres (excludes road right-of-way).
3. Each lot shall contain 150 feet along the publicly dedicated road.
4. A Zoning Permit and ISTS permit must be obtained prior to construction.
5. The CUP shall become void two years from the date of approval by the County Board if no construction has begun or the use has not been established.

The motion passed unanimously. Chair Garry Ellingson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, June 3, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

Amend Mower County Zoning Ordinance: Add to Section 14-66 Conditional Uses (R-1 Rural Residence District) – Page 67 of Zoning Ordinance – Add (f) Platting of Property.

It is also proposed to change the following under Section 14-140.2 (b) (3) Excavation of Earth Products (page 138 of Zoning Ordinance). It currently states maps shall be drawn at a scale of fifty (50) feet to one (1) inch. It is recommended to have the maps drawn at a scale of one hundred (100) feet to one (1) inch.

Daryl Franklin spoke and talked about the two recommended changes.

After some discussion, a motion was made by Barb Hovde and seconded by Sheldon Lukes to add (f) Platting of Property to Section 14-66 Conditional Uses in the Rural Residence District of the Mower County Zoning Ordinance (page 67) and to change Section 14-140.2 (b) (3) to reflect a scale of one hundred (100) feet to one (1) inch for maps needing to be prepared. The motion passed unanimously.

It was stated that the County Board would be acting on this matter at their Tuesday, June 3, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

There being no further business, the meeting adjourned at 8:10 p.m. on a motion by Myles Bendtsen, seconded by Sheldon Lukes. The motion passed unanimously.

Respectfully submitted,

Daryl W. Franklin
Mower County Environmental Services Director