

Mower County Planning Commission

Minutes of the Mower County Planning Commission – November 25, 2003

Members Present: Dave Hillier, Myles Bendtsen, Brian McAlister, Sheldon Lukes, Barb Hovde, Margaret Kirchner, Harold Boverhuis

Members Absent: Diane Benson

Others Present: Lee Bonorden, Daryl W. Franklin, Citizens

Dave Hillier called the regular meeting to order at 7:00 p.m. on Tuesday, November 25, 2003, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the October 28, 2003, meeting were approved as mailed on a motion made by Barb Hovde and seconded by Brian McAlister. The motion passed unanimously.

Renewal of Six CUP's – Zilkha Renewable Energy: Renewal of Conditional Use Permits to retain meteorological towers pursuant to Section 14-51(d) of the Mower County Zoning Ordinance. The following are the parcels and property owners in question:

<u>CUP No#</u>	<u>Property Owner</u>	<u>Legal Description</u>
595	Sue Dougan	W ½ & SE ¼ & S ½ NE ¼ Section 3, Bennington Twp.
579	Robert Hanson	SW ¼ SW ¼ Section 6, Clayton Twp.
593	Kenneth Sprau	NW ¼ Exc. W 541.2' S 499' N 1699' W ½ NW ¼ Section 20, Clayton Twp.
578	James Kellogg	SW ¼ SE ¼ Section 28, Clayton Twp.
596	James Bustad	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 Twp.
597	Daniel Gehling	SE ¼ Exc. N 479.9 ft. W 1377.3 ft. & Exc. S 45 Ac. Section 27, Grand Meadow Twp.

The Mower County Planning Commission acted on requests for a Conditional Use Permit to install a meteorological tower on the above six sites in 2001. The

Mower County Board of Commissioners approved all CUP 's and the towers were to be removed by 12/31/03. Zilkha Renewable Energy is requesting that the CUP's now be renewed to be able to retain the towers at each site.

Staff Presentation: 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: Doug Jones, representing Zilkha Renewable Energy, spoke and stated that they have 30,000 acres in options at this time. They are gathering additional data for wind turbines to help them market the energy to utilities.

Statement from the Public: None

Conclude the Public Hearing: Dave Hillier closed the public hearing. After some discussion, a motion was made by Margaret Kirchner and seconded by Brian McAlister to recommend approval of the above six CUP renewals 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.

ZILKHA RENEWABLE ENERGY (PETITIONER) AND
CUP #595 - SUE DOUGAN CUP #578 – JAMES KELLOGG
CUP #579 – ROBERT HANSON CUP #596 – JAMES BUSTAD
CUP #593 – KENNETH SPRAU CUP #597 – DANIEL GEHLING

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 the renewal of Conditional Use Permit #595, #579, #593, #578, #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.

The motion passed unanimously. Chair Dave Hillier does not vote.

It was stated that the County Board would be acting on this petition at their Thursday, December 4, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #653 – Zilkha Renewable Energy (Petitioner) and Griffel Family Farms (Owner): Conditional Use Permit #653 to install a meteorological tower on property pursuant to Section 14-51(t) of the Mower County Zoning Ordinance on property located at: W ½ , Section 24, Clayton Township (PIN #04-024-0010) Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Brian McAlister on November 19, 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: Douglas Jones, representing Zilkha Renewable Energy, spoke and talked about the proposal. He stated there is a need for data from other areas. Currently there is the potential for 300 MW of energy and it will be done in phases. The tower will be 164 feet in height and have four guyed wires. This shows the commitment from Zilkha Renewable Energy to developing a project in Mower County.

Statement from the Public: None

Conclude the Public Hearing: Dave Hillier closed the public hearing. After some discussion, a motion was made by Harold Boverhuis and seconded by Sheldon Lukes to recommend approval of CUP #653 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.

Zilkha Renewable Energy (Petitioner) and Griffel Family Farm (Owner) – 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 in Section 24 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 #653:

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 Hillier does not vote.

It was stated that the County Board would be acting on this petition at their Thursday, December 4, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #654 – Garwin McNeilus (Petitioner) and Matthias & Viola Klassen (Owner): Conditional Use Permit #654 to construct up to six wind turbines pursuant to Section 14-51(t) of the Mower County Zoning Ordinance on property located at: SW ¼ & S ½ NW ¼ Exc. W 1358 ft. N 336 ft., Section 22, Adams Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Brian McAlister on November 19, 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: Garwin McNeilus spoke and talked about the proposal. Approximately 4.9 acres of land will be taken out of production and this site is an extension of the Roger Schwartz line-up of wind turbines.

Statement from the Public: Dave Hanson, neighbor, wanted to know how much traffic would be on the township road. Mr. McNeilus stated the construction workers will be entering from the Schwartz property so there shouldn't be any traffic at this site.

Myles Bendtsen stated some farmland is being taken out of production, but we are gaining needed energy.

Conclude the Public Hearing: Dave Hillier closed the public hearing. After some discussion, a motion was made by Brian McAlister and seconded by Myles Bendtsen to recommend approval of CUP #654 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.

**GARWIN MCNEILUS (PETITIONER) and MATTHIAS & VIOLA
KLASSEN (OWNER) – CUP #654**

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 wind turbines in Section 22 of Adams 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 may actually enhance the property values because if these wind turbines are successful, additional property may be acquired for more 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 wind turbines 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 turbine location is off 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 #654:

1. Secure the necessary State, Federal or Local Permits.
2. Follow all applicable Federal and State safety and health regulations during construction process.
3. Petitioner will be required to provide the latitude and longitude of each tower and the elevation of the ground and tower site to the Environmental Services Office.
4. The Petitioner shall be responsible for obtaining a 9-1-1 rural address from the Mower County Engineer and for obtaining proper signage for the property. Any and all costs associated with 9-1-1 addressing and signage are the responsibility of the Petitioner.
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.
6. The Petitioner will comply with wind turbine construction and zoning standards in effect at the time of the construction of the wind turbines.

The motion passed unanimously. Chair Dave Hillier does not vote.

It was stated that the County Board would be acting on this petition at their Thursday, December 4, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #655 – Garwin McNeilus (Petitioner) and Harold & Georgiana Canterbury (Owner): Conditional Use Permit #655 to construct up to four wind turbines on property pursuant to Section 14-51(t) of the Mower County Zoning Ordinance on property located at: S ½ NW ¼ & W ½ SW ¼ , Section 23, Adams Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Brian McAlister on November 19, 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: Garwin McNeilus spoke and talked about the proposal. Approximately three acres will be taken out of production and they will be doing dust control on the township road. This site for wind turbines should complete most of the development in this area.

Statement from the Public: Curtis Krebsbach, neighbor, spoke and is concerned about the tower noise and township road damage.

Dan Noterman, spoke and wanted to know how this would impact future wind.

Dave and Sherry Heimer spoke and are concerned about the noise generated from the towers.

Grant McNeilus spoke about maintenance on the towers. He said the towers are maintained every six months and have a life expectancy of 25 years.

Conclude the Public Hearing: Dave Hillier closed the public hearing. After some discussion, a motion was made by Brian McAlister and seconded by Harold Boverhuis to recommend approval of CUP #655 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.

GARWIN MCNEILUS (PETITIONER) and HAROLD & GEORGIANA CANTERBURY (OWNER) – CUP #655

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 wind turbines in Section 23 of Adams 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 may actually enhance the property values because if these wind turbines are successful, additional property may be acquired for more 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 wind turbines 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 turbine location is off 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 #655:

1. Secure the necessary State, Federal or Local Permits.
2. Follow all applicable Federal and State safety and health regulations during construction process.
3. Petitioner will be required to provide the latitude and longitude of each tower and the elevation of the ground and tower site to the Environmental Services Office.
4. The Petitioner shall be responsible for obtaining a 9-1-1 rural address from the Mower County Engineer and for obtaining proper signage for the property. Any and all costs associated with 9-1-1 addressing and signage are the responsibility of the Petitioner.
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.
6. The Petitioner will comply with wind turbine construction and zoning standards in effect at the time of the construction of the wind turbine.

The motion passed unanimously. Chair Dave Hillier does not vote.

It was stated that the County Board would be acting on this petition at their Thursday, December 4, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

Discussion of Draft Wind Ordinance: Background was presented on the draft wind ordinance. It was explained that it was originally one ordinance, but after discussions and receiving input, it was decided to go with two ordinances. One for the smaller wind turbines with a recommended size of 100 KW and under and the second ordinance for over 100 KW to 2.5 MG. It was explained that comments have been received from a variety of people and we have attempted to incorporate these comments.

Suggestions were made by Garwin McNeilus that we do need the \$3,000.00 decommissioning fee for the larger wind turbines. His recommendation also was for the smaller turbines to have them be 250 KW and under and have a separate ordinance for over 250 KW for the break point.

Fred Noterman wanted to know more about setbacks from property lines and was concerned on liability.

John Kloeckner, Adams Township, discussed the liability issue where ice was thrown from one of the wind turbines. He was also concerned about the height of the overhead lines.

Les Keifer wanted to know about the spacing. Mr. McNeilus explained that they are currently 1,000 – 1,200 feet.

Mr. Hanson spoke and was concerned about ice being thrown onto the road. He was wondering if it would be possible to have a setback based on half of the spacing from turbines from each property line.

Dan Noterman questioned whether it is possible to have wind turbines placed directly on property lines so that two people could actually be impacted by it and share.

Brian McAlister questioned why setbacks would be based on the megawatt capacity. He feels it would be more appropriate to have setbacks based on the rotor diameter.

Commissioner Hillier stated we would be mailing out copies of the two current drafts based on the size differential and that people need to have their comments returned by December 19th so they can be mailed to the Planning Commission members for the December 30th meeting. It is hoped that the ordinance can be completed in early 2004.

There being no further business, the meeting adjourned at 8:30 p.m. on a motion by Barb Hovde, seconded by Harold Boverhuis. The motion passed unanimously.

Respectfully submitted,

Daryl W. Franklin
Mower County Planning Director