

# Mower County Planning Commission

## Minutes of the Mower County Planning Commission – March 29, 2005

Members Present: Dave Hillier, Myles Bendtsen, Barb Hovde, Jim Risius, Margaret Kirchner, Sheldon Lukes

Members Absent: None

Others Present: Daryl W. Franklin, Citizens

Dave Hillier called the regular meeting to order at 7:00 p.m. on Tuesday, March 29, 2005, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the February 22<sup>nd</sup> and March 14<sup>th</sup>, 2005, meetings were approved as mailed on a motion made by Sheldon Lukes and seconded by Myles Bendtsen. The motion passed unanimously.

**CUP #677 – Joe White, Tri-County Aggregate (Petitioner) and Lance Pogones, Turtle Creek Estates, Inc. (Owner):** Conditional Use Permit #677 to operate a gravel pit and process aggregate material to create a pond on a portion of the property pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: A portion of lots 14, 15, 16, 17, 18 & 19, Block 2, Turtle Creek Estates, Section 5, Austin Township, Mower County, Minnesota (Parcel #02-850-0140 through 02-850-0190).

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on March 22, 2005. The Staff Report was presented with conditions and background information noted. A powerpoint presentation was shown, including photos of the surrounding area.

**Applicant's Presentation:** John Schulte V, Jones Haugh & Smith, and Joe White, Tri-County Aggregate, spoke about the proposed operation. They currently have an NPDES Permit.

**Statement from the Public:** Daryl Franklin presented a letter he received from Larry Hilgendorf, neighbor in the area who could not attend the meeting, which outlined his concerns.

Bob Collier, property owner of a portion of the pond location, spoke and is in favor of the CUP request.

Ron Skjeveland, Austin Township Supervisor, spoke and stated the township is concerned about possible damage to the internal roads of the subdivision and to 31<sup>st</sup> Street N.W.

Myles Bendtsen and Sheldon Lukes, Planning Commission Members, both felt this was a good location.

**Conclude the Public Hearing:** Dave Hillier closed the public hearing. After some discussion, a motion was made by Barb Hovde and seconded by Margaret Kirchner to recommend approval of CUP #677 with the following conditions because it is in accordance with Section 14-51 of the Mower County Zoning Regulations and adopting the following Findings of Fact.

**TRI-COUNTY AGGREGATE (PETITIONER) AND TURTLE CREEK  
ESTATES, INC. (OWNER) - CUP #677**

**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 and pond on the site will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted since the uses 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 and pond 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. There is an "All Weather" road adjacent to the facility.***

- (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 and End Use Pond as proposed on the Turtle Creek Estates 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 #677:**

1. A minimum of a \$5,000.00 Restoration Bond shall be posted with the Mower County Auditor.
2. Comply with Article IV Excavation of Earth Products of the Mower County Code.
3. Extraction of gravel and final pond shall be limited to area shown on Map B & C.
4. Must obtain NPDES storm-water permit which includes stormwater pollution prevention plan (SWPPP) and submit to Mower County Soil & Water Conservation District for review and approval.

5. No storage of equipment and fuel or refueling of equipment in the excavation site (pit).
6. Hours of operation shall be Monday – Friday, 7:00 a.m. to 8:00 p.m. and Saturday, 7:00 a.m. to 6:00 p.m.

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 Tuesday, April 5, 2005 meeting at 1:15 p.m. at the Mower County Courthouse.

**Rezoning of Propety – Wallace Bustad & Argus Nelson Properties LLC:**

Rezoning of Property to Planned Unit Development (PUD) to allow platting of property into a residential subdivision on property pursuant to Division 11 of the Mower County Zoning Ordinance on property located at: N 44.44 Ac. E ½ NE ¼ Exc. N 4 Ac., Section 15, Austin Township, Mower County, Minnesota (Parcel #02-012-0390).

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on March 22, 2005. The Staff Report was presented with conditions and background information noted. A powerpoint presentation was shown, including photos of the surrounding area.

**Applicant's Presentation:** John Schulte IV & V, Jones Haugh & Smith Engineering, spoke about the proposal and explained what was being considered for the Planned Unit Development. They discussed the community wells, the ten lots and individual sewage treatment systems.

**Statements from the Public:** Commissioner Hillier called for questions from the audience.

Jim Jensen wanted to know if the ponds would be fenced and wanted to know who would be responsible for the ponds. John Schulte explained that the ponds would be a cooperative agreement for individuals in the area and would not be fenced. They would be approximately one acre in size and would have maybe three feet of water on a regular basis.

Ron Clark spoke and wanted to know if the City of Austin had been approached about getting sewer and water to the area.

Barry Andrees spoke and was concerned about the runoff.

Nancy Bakke-McGonigle spoke was concerned about the additional homes and proposed traffic onto South Main Street which is just a cart-way. It was discussed that the plat, if it was approved, would be requested to provide additional right-of-way on the west side so there would be more right-of-way there.

Ron Skjeveland, Austin Township Supervisor, stated the Township was concerned about access on to Main Street and about access on to County State Aid Hwy. 540<sup>th</sup> or 29<sup>th</sup> . He feels there should strictly be an east/west road and that access should come off that road. Also, he stated that in order for the Town Board to accept a road, the road needs to be built to their specifications and should be blacktopped.

Commissioner Hillier asked for comments from the site visit committee of Myles Bendtsen and Sheldon Lukes. They both felt it was a reasonable area for development and that based on today's standards, it is too small for agricultural purposes.

**Conclude the Public Hearing:** Dave Hillier closed the public hearing. After some discussion, a motion was made by Sheldon Lukes and seconded by Myles Bendtsen to recommend approval of the rezoning request with the following conditions because it is in accordance with the Mower County Zoning Regulations.

**The following are conditions of the Rezoning request:**

1. Comply with Mower County Subdivision Ordinance.
2. Site evaluations will be conducted on the "primary" sewage treatment site for each lot. The site evaluations shall be submitted to the Mower County Environmental Services Department prior to selling any lots.
3. Easements as requested by local Utilities & others will be shown on plat.
4. All pipeline easements shall be delineated on plat.
5. No access for lots directly on 540<sup>th</sup> Avenue (CSAH #29).
6. Developer will pay all cost associated with roads and driveway installations including culverts and fill.
7. Developer will install road according to Township specifications.
8. Complete wetland inventory and evaluation, according to the 1987 Army Corps of Engineers Wetland Delineation Manual of area and submit with preliminary plat to the Mower County Planning Department.
9. The platting must be completed by March 31, 2007, 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 State requirements in regard to wells.
13. Complete and submit NPDES Permit for subdivision.
14. Any cost for residential 911 signing for rural addressing of streets and homes shall be born by the developer.

15. All individuals purchasing a lot in the subdivision must sign a form entitled, "Rural and Agricultural Home Owners Assumption of Risk Assessment" and this must be on file with the Mower County Environmental Services Office.

There being no further business, the meeting adjourned at 8:35 p.m. on a motion by Sheldon Lukes, seconded by Barb Hovde. The motion passed unanimously.

Respectfully submitted,

Daryl W. Franklin  
Mower County Planning Director