

# Mower County Planning Commission

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

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

Members Absent: Barb Hovde,

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

Dave Hillier called the regular meeting to order at 7:00 p.m. on Tuesday, November 29, 2005, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the October 25, 2005, regular meeting were approved as mailed on a motion made by Myles Bendtsen and seconded by Sheldon Lukes. The motion passed unanimously.

### **CUP #689 – Jeff Kappers (Petitioner) and Wilbur Brandt Revocable Trust**

**(Owner):** Conditional Use Permit #689 to construct a dwelling in a wooded area on property pursuant to Section 14-18.4 of the Mower County Zoning Ordinance on property located at: SE ¼ NE ¼, Section 14, Frankford Township, Mower County, Minnesota (Parcel #06-008-0011).

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on November 23, 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:** Jeff Kappers and Wilbur Brandt were present at the meeting and stated they want to build a log cabin on the property. They feel it will take a longer time to complete the home.

**Statements from the Public:** The Rochester Minnesota Department of Transportation Office sent an e-mail stating the proposal will have no significant impact on MN/DOT roadways.

Jim Risius and Myles Bendtsen, Planning Commission Members, both felt the site was a great location for a home. They don't want the homeowner to come back later and ask for a subdivision on the site. The property would then have to be rezoned.

**Conclude the Public Hearing:** Dave Hillier closed the public hearing. After some discussion, a motion was made by Margaret Kirchner and seconded by Jim Risius to recommend approval of CUP #689 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.

## **JEFF KAPPERS (PETITIONER) AND WILBUR BRANDT REVOCABLE TRUST (OWNER) - CUP #689**

### **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 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 #689:**

1. A Zoning Permit and ISTS Permit must be obtained prior to construction.
2. The CUP shall become void on 12/31/09 if no construction has begun or the use has not been established.
3. 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.
4. Owner must contact the Mower County SWCD regarding the Wetland Conservation Act and provide the County a copy of one of the following:
  - a. A "No Loss Determination" (no wetlands on site).
  - b. A "Wetland Exemption" (the act does not apply).
  - c. A "Wetland Replacement Plan" approval.
5. Owner must sign a "Rural and Agricultural Home Owners Assumption of Risk Assessment Form" and have it recorded at the Mower County Recorder's Office.

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 1, 2005 meeting at 3:00 p.m. at the Mower County Courthouse.

**CUP #690 – Michael & Shirley Adams:** Conditional Use Permit #690 to operate an “assisted living facility” on property pursuant to Section 14-77(d) of the Mower County Zoning Ordinance on property located at: SW ¼ SW ¼ S & E of Hwy., Section 34, Dexter Township, Mower County, MN (Parcel #05-034-0010).

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on November 23, 2005. The Staff Report was presented with conditions and background information noted. A powerpoint presentation was shown, including photos of the surrounding area. Myles Bendtsen stated he felt this was a good location.

**Applicant’s Presentation:** Michael & Shirley Adams were present and spoke about the CUP request. They stated there is a need for this facility. They plan on renting the home to a person who wants to establish an “assisted living facility”. They talked about the additional employment opportunities the facility would create.

**Statements from the Public:** The Rochester Minnesota Department of Transportation Office sent an e-mail stating the proposal will have no significant impact on MN/DOT roadways.

**Conclude the Public Hearing:** Dave Hillier closed the public hearing. After some discussion, a motion was made by Myles Bendtsen and seconded by Sheldon Lukes to recommend approval of CUP #690. Jim Risius then made a motion to amend the CUP recommendation to include a third condition that the owner sign the “Agricultural Home Owners Assumption of Risk Assessment Form” and have it recorded at the Mower County Recorder’s Office.

A vote was taken on the amendment and the motion passed unanimously. A vote was taken on the amended motion and passed unanimously 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

## **MICHAEL & SHIRLEY ADAMS - CUP #690**

### **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 parcel as an “assisted living facility” 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 “assisted living facility” will not impede the normal and orderly development. The property in the area is a mixed usage of a Bed & Breakfast Business, a church, a single-family residence 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 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 #690:**

- 1) Comply with Minnesota Department of Health (MDH) rules and regulations for this type of facility.
- 2) Submit copies of certificate of compliance with MDH rules to the Mower County Environmental Services Office.
- 3) Owner must sign a "Rural and Agricultural Home Owners Assumption of Risk Assessment Form" and have it recorded at the Mower County Recorder's Office.

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 1, 2005 meeting at 3:00 p.m. at the Mower County Courthouse.

**CUP #691 – Roger Bentzin:** Conditional Use Permit #691 to construct a detached 50 x 60 foot (3,000 square foot) accessory building on property pursuant to Section 14-12 of the Mower County Zoning Ordinance on property located at: Lot 5, Block 2, Suburban Estates, Section 32, Red Rock Township, Mower County, MN (Parcel #16-042-0160).

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on November 23, 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:** Roger Bentzin was present and spoke about the CUP request. He stated there was an error by the contractor who poured the cement foundation too big for the storage building to keep construction equipment.

**Statements from the Public:** The Rochester Minnesota Department of Transportation Office sent an e-mail stating the proposal will have no significant impact on MN/DOT roadways.

**Conclude the Public Hearing:** Dave Hillier closed the public hearing. After some discussion, a motion was made by Margaret Kirchner and seconded by Jim Risius to recommend approval of CUP #691 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

## **ROGER BENTZIN – CUP #691**

### **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 construction of the storage shed 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 size of the lot will help the structure fit in.**

- (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 construction of this storage shed 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 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 #691:**

- 1) A Zoning Permit must be obtained prior to construction.

- 2) 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 Dave Hillier does not vote.

It was stated that the County Board would be acting on this petition at their Thursday, December 1, 2005 meeting at 3:00 a.m. at the Mower County Courthouse.

**CUP #692 – Douglas & Kay Weseman:** Conditional Use Permit #692 to operate a gravel pit and do grading and filling in the shoreland area on a portion of property pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: S ½ SW ¼ & NW ¼ SW ¼ , Section 4, Lyle Township, Mower County, Minnesota (Parcel #11-004-0100).

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on November 23, 2005. The Staff Report was presented with conditions and background information noted. A powerpoint presentation was shown, including photos of the surrounding area. Jim Risius spoke and stated he was concerned about removing the old building site for a gravel pit.

**Applicant's Presentation:** Douglas Weseman was present at the meeting and talked about the proposed CUP request.

**Statements from the Public:** None

**Conclude the Public Hearing:** Dave Hillier closed the public hearing. After some discussion, a motion was made by Jim Risius and seconded by Sheldon Lukes to recommend approval of CUP #692 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.

## **DOUGLAS & KAY WESEMAN - CUP #692**

### **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 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 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 as proposed on the 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 #689:**

1. A minimum of a \$5,000.00 Restoration Bond shall be posted with the Mower County Auditor based on 5-acre phases (based on \$2,000 for the first acre and \$750 for each additional acre).
2. Comply with Article IV Excavation of Earth Products of the Mower County Code.
3. Extraction of gravel shall be limited to the area shown on Map B & C.
4. Must obtain NPDES stormwater 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.
7. Petitioner is responsible for excessive damage to the township road to the south from Hwy. 105 (150<sup>th</sup> Street).
8. Petitioner must place “Trucks Hauling” signs on the road when hauling.
9. Comply with MN Department of Transportation letter dated 11/24/05.

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 1, 2005 meeting at 3:00 p.m. at the Mower County Courthouse.

**Amendment to the Mower County Zoning Ordinance – Wind Energy Conversion Language:** Discussion took place regarding Section 14-18.5 and Section 14-18.6 of the Mower County Zoning Ordinance which relates to requirements for wind energy conversion systems. There is a need to add additional prohibited locations to both sections of the Zoning Ordinance. The additional prohibited locations to be added are end points from the Freeborn County MN DOT Tower and the Olmsted County MN DOT Towers.

After some discussion, a motion was made by Margaret Kirchner and seconded by Myles Bendtsen to recommend approval of the recommended additional prohibited locations. The motion passed unanimously. This recommendation will be forwarded to the Mower County Board of Commissioners.

There being no further business, the meeting adjourned at 8:07 p.m. on a motion by Sheldon Lukes, seconded by Jim Risius. The motion passed unanimously.

Respectfully submitted,

Daryl W. Franklin  
Mower County Planning Director