

# Mower County Planning Commission

## Minutes of the Mower County Planning Commission – August 29, 2006

Members Present: Ray Tucker, Myles Bendtsen, Jim Risius, Barb Hovde, Margaret Kirchner & Harlen Peck (arrived at 8:05)

Members Absent: None

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

Ray Tucker called the regular meeting to order at 7:00 p.m. on Tuesday, August 29, 2006, in the Board of Commissioners Room at the Mower County Courthouse, 201 1<sup>st</sup> Street N.E., Austin, Minnesota. Minutes of the July 25, 2006, regular meeting were approved as mailed on a motion made by Margaret Kirchner and seconded by Myles Bendtsen. The motion passed unanimously.

**CUP #706 – FPL Energy Mower County, LLC (Petitioner) and Carmel & Thelma Start Rev. Living Trust (Owner):** Conditional Use Permit to install a 50-meter freestanding meteorological tower on property pursuant to Section 14-51(g) of the Mower County Zoning Ordinance on property located at: SW ¼ , Section 16, Bennington Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on August 22, 2006. 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:** Dave Tenan, FPL Energy, was present at the meeting and spoke about the CUP request for the meteorological tower.

**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:** Ray Tucker closed the public hearing. After some discussion, a motion was made by made by Jim Risius and seconded by Myles Bendtsen to recommend approval of CUP #706 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:

**FPL Energy Mower County, LLC (Petitioner) and Carmel &  
Thelma Start Rev. Trust (Owner) –  
CUP #706**

**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 16 of Bennington 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.***

- (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 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 the conditions of CUP #706:**

1. Secure the necessary State, Federal or Local Permits.
2. Follow all applicable Federal and State safety and health regulations during the 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.

It was stated that the County Board would be acting on this petition at their Tuesday, September 5, 2006, meeting at 1:15 p.m. at the Mower County Courthouse.

**CUP #709 – FPL Energy Mower County, LLC (Petitioner) and Daniel & Raymond**

**Kiefer (Owner):** Conditional Use Permit to install a 50-meter freestanding meteorological tower on property pursuant to Section 14-51(g) of the Mower County Zoning Ordinance on property located at: S ½ Exc. 6.99 Ac. RR & Exc. E 350 ft. N 300 ft. SE ¼ , Section 16, Lodi Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on August 22, 2006. 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:** Dave Tenan, FPL Energy, was present at the meeting and spoke about the CUP request.

**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:** Ray Tucker closed the public hearing. After some discussion, a motion was made by made by Jim Risius and seconded by Myles Bendtsen to recommend approval of CUP #709 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:

**FPL Energy Mower County, LLC (Petitioner) and Daniel &  
Raymond Kiefer (Owner) –  
CUP #709**

**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 16 of Lodi 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.***

- (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 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 the conditions of CUP #709:**

1. Secure the necessary State, Federal or Local Permits.
2. Follow all applicable Federal and State safety and health regulations during the 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.

It was stated that the County Board would be acting on this petition at their Tuesday, September 5, 2006, meeting at 1:15 p.m. at the Mower County Courthouse.

**CUP #707 – Dan & Nicki Lohuis (Petitioner) and Danny W. Swenson (Owner):**

Conditional Use Permit to construct an additional dwelling in the quarter section of land on property pursuant to Section 14-18.4 of the Mower County Zoning Ordinance on property located at: NE ¼ , Section 16, LeRoy Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on August 22, 2006. 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:** Dan & Nicki Lohuis were present at the meeting and spoke about the CUP request for an additional dwelling on the property. Dan Lohuis stated he was aware that there was a concern about taking agricultural land out of production, but he had twenty reasons to take the agricultural land out of production (see attached). A question was raised to Danny Swenson, property owner, about whether he would be selling any other lots in that area. He stated he would be selling the remaining 70 acres as one unit.

Jim Risius and Myles Bendtsen, Planning Commission members, spoke and were concerned about taking agricultural land out of production.

**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:** Ray Tucker closed the public hearing. After some discussion, a motion was made by Barb Hovde and seconded by Margaret Kirchner to recommend approval of CUP #707 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:

**DAN & NICKI LOHUIS (PETITONER) AND DANNY W.  
SWENSON (OWNER) - CUP #707**

**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 wooded 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 the conditions of CUP #707:**

1. A Zoning Permit and ISTS Permit must be obtained prior to construction.
2. The CUP shall become void on 12/31/08 if no construction has begun or the use has not been established.
3. The Petitioner shall be responsible for obtaining 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 provide a copy to the County of an Erosion Control Plan for the site by working with the Mower County SWCD or by hiring a private contractor.
6. Petitioner must sign a form entitled, "Rural and Agricultural Home Owners Assumption of Risk Assessment" and pay for recording fee to have it recorded at the Mower County Recorder's Office.

The motion passed on a 3 – 1 vote with Jim Risius voting nay.

It was stated that the County Board would be acting on this petition at their Tuesday, September 5, 2006, meeting at 1:15 p.m. at the Mower County Courthouse.

**Rezoning of Property – Jeremy & Lisa Reese (Petitioner) and Jim Royer (Owner):**

Amend future land use plan and rezone property to allow the applicant to apply for a Conditional Use Permit to allow the sales of trailers and vehicle and do vehicle repair on property pursuant to Section 14-82(h) of the Mower County Zoning Ordinance on property located at: Lots 5, 6, 7, 8 & 9, St. Michaels Subdivision and Area E, St. Michaels Subdivision Lot 31, Section 22, Lansing Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on August 22, 2006. 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:** Jeremy & Lisa Reese were present at the meeting and spoke about the rezoning request. They stated that they wanted to clean up the area, construct a fence on the property, have an office and shop area to do limited repairs (installing trailer hitches, wiring, harnesses, etc.). They also stated they wanted to remove the concrete from the site and have it disposed of properly.

**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.

Dean Sheely, property owner in the area, was concerned that this property had previously been a dump and felt there were problems with the concrete and should be removed.

Kathryn Winsky, neighbor, spoke and was concerned about the impact on property values.

Edward Langan, adjoining property owner, was concerned it would impact their enjoyment of their existing property.

**Conclude the Public Hearing:** Ray Tucker closed the public hearing.

After some discussion, a motion was made by Margaret Kirchner and seconded by Jim Risius to recommend approval of the rezoning request because it would be compatible with the area. Also, they would be removing the previously placed concrete.

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

1. If the property is not developed within 24 months from the date of the change, the property shall revert back to "R-1".
2. Applicant must apply for and receive a conditional use permit from Mower County for the sales of trailers and vehicles and do vehicle repair on the property.

The motion passed unanimously.

It was stated that the County Board would be acting on this petition at their Tuesday, September 5, 2006, meeting at 1:30 p.m. at the Mower County Courthouse.

**CUP #708 – Jeremy & Lisa Reese (Petitioner) and Jim Royer (Owner):** Conditional Use Permit to allow the sales of trailers and vehicles and do vehicle repair on property pursuant to Section 14-82(h) of the Mower County Zoning Ordinance on property located at: Lots 5, 6, 7, 8 & 9, St. Michaels Subdivision and Area E, St. Michaels Subdivision Lot 31, Section 22, Lansing Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on August 22, 2006. 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:** Jeremy & Lisa Reese were present at the meeting and spoke about the CUP request. They stated that they wanted to clean up the area, construct a fence on the property, have an office and shop area to do limited repairs (installing trailer hitches, wiring, harnesses, etc.). They also stated they wanted to remove the concrete from the site and have it disposed of properly.

**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:** Ray Tucker closed the public hearing.

After some discussion, a motion was made by Barb Hovde and seconded by Myles Bendtsen to recommend approval of CUP #708 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:

## **JEREMY & LISA REESE (PETITIONER) AND JIM ROYER (OWNER) – CUP #708**

### **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 issuing of the Conditional Use Permit to Jeremy & Lisa Reese for a business will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted considering the repair will be conducted inside an existing structure.***

- (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.

***This property is vacant land that is adjacent to an Industrial and R-1 zoned area. The new building and business will not impede the normal and orderly development and improvement of vacant property for uses predominant in the area.***

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

***This is vacant land. There is a township road on the north side of the area and there are adequate utilities to the site.***

(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 ample room for off-street parking and loading space.***

(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 establishment of the trailer and vehicles sales and vehicle repair will not contribute any excessive odor, fumes, dust, noise or vibration and therefore will not constitute a nuisance to adjoining properties. There will not be lighted signs on the property.***

**The following are the conditions of CUP #708:**

1. If the property is not developed within 24 months from the date of the change, the CUP is void.
2. Comply with EPA Small Entity Compliance Guide.
3. The Petitioner shall be responsible for obtaining 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. Install a five foot chain link fence around the perimeter of the property.
5. Remove the existing concrete from the property and properly dispose of it.

The motion passed unanimously.

It was stated that the County Board would be acting on this petition at their Tuesday, September 5, 2006, meeting at 1:30 p.m. at the Mower County Courthouse.

Harlen Peck, Planning Commission member, arrived to the meeting at approximately 8:05 p.m.

**Amendment of CUP #699 – Brian Dolan (Petitioner) and Judith A. Orning (Owner):**

Amendment of Conditional Use Permit #699 to allow the sales of spas and pools and to clarify conditions #2 and #9 of CUP approved for property pursuant to Section 14-51(g) of the Mower County Zoning Ordinance on property located at: S ½ NE ¼ Exc. W 245 ft. N 125 ft., Section 27, Lansing Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Jim Risius on August 22, 2006. 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:** Brian Dolan was present at the meeting and spoke about the CUP amendment request.

**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.

Denny Boysen spoke and stated he had been talking with Brian Dolan and didn't have any problems with the changes. He stated his only concern was about the dust.

**Conclude the Public Hearing:** Ray Tucker closed the public hearing. After some discussion, a motion was made by made by Jim Risius and seconded by Barb Hovde to recommend approval of the CUP amendment 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:

**BRIAN DOLAN (PETITIONER) AND JUDITH ORNING  
(OWNER) - CUP #699**

**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 area in question is currently zoned “urban expansion” and this request is to have the property rezoned “rural management.” Property in the immediate vicinity includes farmland, a business (Morem Tree Service) and a residence. The operation of a landscaping business and nursery is a relatively low-impact business that should not in any way affect the existing business, farming operation or residence. Steps will be taken to insure that the residence located adjacent to the property will not be adversely affected. The applicant has discussed development plans with the residents, Barb & Denny Boysen, and they appeared to be comfortable with the proposed use of the property. For instance, applicants will provide shrubbery for screening the residence from business activity. The proposed ingress for business trucks will be located away from the residence. Applicant contends that the rezoning will enhance property values in the area by helping to make this main artery more desirable for other business ventures. The area is in the flow of the main business development for the City of Austin, which is to the north.***

- (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.

***There is not any “vacant” property in the area. It is all used for either farming, business or a residence. Dolan’s will not impede the current use, nor any development which is likely to happen, which is destined to be more businesses as Austin spreads north toward Cook farm.***

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

***The property has a well for water supply. Gas and electric can be provided by Austin Utilities. The County Engineer, Mike Hanson, has indicated that he does not see access as a problem. One access road can be put in off Co. 25 and another approach lane off of 4<sup>th</sup> Street N.W. Applicant understands that the County Engineer has applied for a grant from the State of Minnesota to upgrade 4<sup>th</sup> Street N.W. in this vicinity.***

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

***The property is over 9 acres in size, more than sufficient to accommodate sufficient parking for the retail customers as well as vehicles used in the landscaping aspect of the business. At applicant’s current location, which is less than***

- (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.

***Applicant has never had a nuisance complaint at the existing location next to the Oaks Condominiums, a much higher density area than the subject property. Most of the landscaping work occurs off-site. While there is some loading activity, such as loading landscape rock on a truck, it is not constant and creates no more dust or vibration than a farming operation. Trucks load materials and travel to the work sites. The business does not operate any shredders or rock crushing machines. If a lighted sign were erected, it would be on a timer so as not to cause glare to the residence late at night.***

**The previous conditions for CUP #699 that were approved should be modified to include:**

1. Delete condition #2.
2. Clarify condition #9, to read: "A 4-foot vegetative barrier shall be planted around the Boysen property on the north, east and south sides of the property."
3. Add a condition, "The sales of spas and pools on the property will be allowed."

The motion passed unanimously.

It was stated that the County Board would be acting on this petition at their Tuesday, September 5, 2006, meeting at 1:15 p.m. at the Mower County Courthouse.

There being no further business, the meeting adjourned at 8:25 p.m. on a motion by Jim Risius, seconded by Harlen Peck. The motion passed unanimously.

Respectfully submitted,

Daryl W. Franklin  
Mower County Planning Director