

Mower County Planning Commission

Minutes of the Mower County Planning Commission – August 28, 2007

Members Present: Tolly Tollefson, Myles Bendtsen, Jim Risius, Margaret Kirchner, Harlen Peck & Barb Hovde

Members Absent: None

Others Present: Daryl W. Franklin, Lee Bonorden, Tim Ruzek & Citizens

Dave “Tolly” Tollefson called the regular meeting to order at 7:00 p.m. on Tuesday, August 28, 2007, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the July 31, 2007, regular meeting were approved as mailed on a motion made by Myles Bendtsen and seconded by Barb Hovde. The motion passed unanimously.

CUP #726 – Tung Van Tran: Conditional Use Permit #726 to display and sell up to ten vehicles from the property pursuant to Section 14-51(y) of the Mower County Zoning Ordinance on property located at: N ½ S ½ N ½ SW ¼ SW ¼ - 5 Acres , Section 10, Lansing Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Margaret Kirchner and Myles Bendtsen on August 22, 2007. 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: Tung Van Tran was present at the meeting to speak about the CUP request and answer questions. He stated that he wouldn’t be renting the house to others but he wouldn’t be living there.

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, provided no vehicles are parked within the Hwy. 218 right-of-way. Myles and Margaret didn’t think the location was appropriate for a used car lot and were concerned about traffic. The following neighbors spoke and raised questions about: safety extra traffic and compatibility with the neighborhood land uses. Bill Stegemann was concerned that the necessary lighting would be a nuisance to neighbors, Lyle and Rose Engelhardt, Duane Rolfson, Jennifer Krachmer, Thomas Yates was concerned about an increase in vandalism. Mrs Krachmer stated that a couple of years ago a school bus was rear-ended because a driver was looking at Carney Auto, this would cause more

safety issues. Letters from Thomas O.Yates, Mildred and Richard Miller and Shaun and Jenny Kracher were presented and became part of the record.

Conclude the Public Hearing: Tolly Tollefson closed the public hearing. Harlen Peck stated that as a licensed sewer contractor Mr. Van Tran should be aware that by displaying the cars over his sewer system he would cause it to freeze and fail. After some discussion, a motion was made by Jim Risius seconded by Myles Bendtsen to recommend denial of CUP #726 because of traffic concerns raised by the neighbor who have a good understanding of the traffic on 218 and that the lot was too small to allow adequate parking for people viewing the vehicles because it isn't in accordance with Section 14-51 of the Mower County Zoning Regulations and adopting the following Findings of Fact.

**TUNG VAN TRAN
CUP #726**

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 display and sale of vehicles would be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted.

- (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 displaying and selling of vehicles would 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 wouldn't be adequate safeguards for the area.

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

By allowing the CUP there wouldn't be adequate access to serve the area based upon the statements for residence who live in 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 and small lot on 218, there isn't 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.

Based upon general knowledge used car lot have extensive lighting which would constitute a nuisance to the adjoining properties.

The motion passed unanimously. Chair Tolly Tollefson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, September 4, 2007 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #727 – Don & Laura Tolner, Beaver Trails Campground: Conditional Use Permit #727 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 Exc. S 661 ft. & Exc. 33.3 Ac., Section 6, Marshall Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Margaret Kirchner and Myles Bendtsen on August 22, 2007. 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: Don & Laura Tolner son was present at the meeting and spoke about the CUP request. He stated that his sister and family would be living there and helping with the campgrounds. Margaret and Myles felt it was a very appropriate place for the additional dwelling.

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: Tolly Tollefson closed the public hearing. After some discussion, a motion was made by Margaret Kirchner and seconded by Barb Hovde to recommend approval of CUP #727 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.

DON & LAURA TOLNER, BEAVER TRAILS CAMPGROUND - CUP #727

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 *and orderly development and improvement of surrounding vacant properties for uses predominant in the area.*

The development of this additional dwelling will not impede the normal and orderly development. The property in the area is currently being used as Beaver Trails Campground 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 #727:

1. A Zoning Permit and ISTS Permit must be obtained prior to construction.
2. The CUP shall become void on 04/30/09 if no construction has begun or the use has not been established. However, the County Board may extend the CUP for an additional twelve (12) months by a motion if the conditions are the same as the approved CUP.

3. Petitioner must sign a "Rural and Agricultural Home Owners Assumption of Risk Assessment Form" and have it recorded at the Mower County Recorder's Office.
4. This permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit.

The motion passed unanimously. Chair Tolly Tollefson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, September 4, 2007 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #728 – Horizon Wind Energy (Petitioner) and Luvern & Judith Hanson (Property Owner): Conditional Use Permit #728 to construct a permanent freestanding 80 meter meteorological tower on the property pursuant to Section 14-51(t) of the Mower County Zoning Ordinance on property located at: SW ¼, Section 24, Marshall Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Margaret Kirchner and Myles Bendtsen on August 22, 2007. 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: Doug Jones and Tinra Smith of Horizon Wind Energy, were present to speak about the CUP request. They stated the two permanent met. towers would be located in the wind farm.

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: Tolly Tollefson closed the public hearing. After some discussion, a motion was made by Jim Risius seconded by Harlan Peck to recommend approval of CUP #728 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.

Horizon Wind Energy (Petitioner) and Luvern & Judith Hanson (Owner) – CUP #728

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 Marshall 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 recommended conditions of CUP #728:

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.

4. Petitioner 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. The tower will have the required FAA synchronized flashing red lights at night, as well as being painted white.
6. The permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit.

The motion passed unanimously. Chair Tolly Tollefson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, September 4, 2007 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #729 – Horizon Wind Energy (Petitioner) and Gerald & Marcia Carmen (Property Owner): Conditional Use Permit #729 to construct a permanent freestanding 80 meter meteorological tower on the property pursuant to Section 14-51(t) of the Mower County Zoning Ordinance on property located at: NW ¼ Exc. W 650 ft. S 460 ft. N 1055 ft., Section 4, Bennington Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Margaret Kirchner and Myles Bendtsen on August 22, 2007. 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: Doug Jones and Teran Smith, Horizon Wind Energy, were present and spoke about the CUP request. They stated that the met towers would be located in the wind farm and have the red light and painted.

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: Tolly Tollefson closed the public hearing. After some discussion, a motion was made by Barb Hovde seconded by Margaret Kirchner to recommend approval of CUP #729 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.

Horizon Wind Energy (Petitioner) and Gerald & Marcia Carmen (Owner) –CUP #729

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 4 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 recommended conditions of CUP #729:

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.
4. Petitioner 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. The tower will have the required FAA synchronized flashing red lights at night, as well as being painted white.
6. The permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit.

The motion passed unanimously. Chair Tolly Tollefson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, September 4, 2007 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #730 – Jay Gaskill: Conditional Use Permit #730 to display and sell up to ten vehicles from the property pursuant to Section 14-51(y) of the Mower County Zoning Ordinance on property located at: E 404.49 ft. S 2063 ft. SW ¼ Exc. 33 ft., Section 19, Adams Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Margaret Kirchner and Myles Bendtsen on August 22, 2007. 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: The applicant was present.

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. Margaret and Myles stated that from their perspective and considering the location of the property this would be an appropriate location for the used car sales.

Conclude the Public Hearing: Tolly Tollefson closed the public hearing. After some discussion, a motion was made by Harlen Peck seconded by Jim Risius to recommend approval of CUP #730 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.

JAY GASKILL - CUP #730

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 display and sale of vehicles 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 displaying and selling of vehicles 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 the recommended conditions of CUP #730:

1. No more than ten vehicles may be displayed on the property.
2. No inoperable vehicles will be allowed on the site.
3. No vehicles will be allowed in the right-of-way of the township road.
4. This permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit.

The motion passed unanimously. Chair Tolly Tollefson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, September 4, 2007 meeting at 1:15 p.m. at the Mower County Courthouse.

There being no further business, the meeting adjourned at 7:45 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