

Mower County Planning Commission

Minutes of the Mower County Planning Commission – February 26, 2008

Members Present: Richard Cummings, Jim Risius, Harlen Peck, Barb Hovde & Jane Thome

Members Absent: Margaret Kirchner

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

Richard Cummings called the regular meeting to order at 7:00 p.m. on Tuesday, February 26, 2008, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the January 22, 2008, special meeting were approved as mailed on a motion made by Jim Risius and seconded by Harlen Peck. The motion passed unanimously.

Amendment of CUP #554 – Tim Koch: Amendment of Conditional Use Permit to expand the area from the current 3 acres to 31 acres for the operation of a quarry and gravel pit operation to include bituminous and concrete storage and crushing on the property pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: SE ¼ SW ¼ , Section 35, LeRoy Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Jim Risius and Barb Hovde on February 20, 2008. The Staff Report was presented with conditions and background information noted.

Applicant's Presentation: Tim Koch was present and spoke about the CUP renewal 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.

Bob Maus, Attorney representing Gerald Brandau, a neighbor to the site, was present to speak on behalf of Mr. Brandau since he could not be present at the meeting because of his health. Gerald Brandau owns a 30-acre hobby farm and is concerned about the following:

- 1) Dust control coming off the gravel road. He requested the use of calcium chloride near the Brandau residence.
- 2) Follow the speed limit on the road which is 25 miles per hour.
- 3) Hours of operation.

Conclude the Public Hearing: Richard Cummings closed the public hearing. After some discussion, a motion was made by Jim Risius and seconded by Harlen Peck to recommend approval of the Amendment of CUP #554 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:

TIM KOCH – AMENDMENT OF CUP #554

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 & quarry on the Koch site will not 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.

Vacant property in the area would not be impacted by the establishment of the gravel pit, since it will be in accordance with the Mower County Zoning Ordinance Excavation of Earth Products.

- (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. An access road will be installed to the facility. When the pit operation is completed, the access road will be removed.

- (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 & quarry as proposed by Tim Koch on this 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 the conditions of the Amendment of CUP #554:

1. The quarry and gravel pit operation including stockpiles of material must remain out of the floodplain of the Upper Iowa River.
2. An \$8,750.00 Restoration Bond (\$2,000 Restoration Bond for the first acre, plus \$750 for each additional acre or part of an acre based on 10 acres) must be posted with the County Auditor valid until six months after the quarry ceases to operate. The bond for the Koch gravel pit/quarry will be based upon ten acre increments. The idea will be that they will be doing the operation in five acre parcels. They will work on a five acre parcel and then proceed to the next five acre parcel. When they are moving to the second one, they will then close out the first one and do the proper close-out procedures. So, the bond will be based on the ten acres and not the total project size.
3. A "No Trespassing" sign shall be posted at the entrance.
4. Comply with Article IV Excavation of Earth Products of the Mower County Code.
5. Extraction of materials shall be limited to areas as delineated on the site plan.
6. The quarry and gravel pit operation shall be limited to the site plan. Modifications shall require an amendment to this CUP.
7. Extraction of gravel/sand/limestone shall remain at least twenty (20) feet from all adjoining property lines and forty (40) feet from the road right-of-way.
8. A five foot berm on the south side of the pit within the forty foot setback and a three foot berm on the other side of the pit will be installed.
9. Provide dust treatment on state line road west from entrance to CSAH 12 a minimum of 300 feet per dwelling unit as needed only when hauling.
10. Hours of operation shall be 7:00 a.m. to 7:00 p.m. Monday – Saturday.

11. Blasting will be performed by a licensed and bonded operator and the blasting log (seismograph report) will be provided to Mower County Environmental Services Department within one month of the blasting.
12. Secure DNR Appropriations Permit.
13. Secure MPCA MPDES Permit.
14. 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.

It was stated that the County Board would be acting on this petition at their Tuesday, March 11, 2008, meeting at 11:30 a.m. at the Mower County Courthouse.

Amendment of CUP #528 – Tim Koch: Amendment of Conditional Use Permit to expand the area from the current 3 acres to 35 acres for the operation of a quarry and gravel pit operation to include bituminous and concrete storage and crushing on the property pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: S ½ SW ¼ Exc. W 758 ft. S 1159 ft., Section 22, LeRoy Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Jim Risius and Barb Hovde on February 20, 2008. The Staff Report was presented with conditions and background information noted.

Applicant's Presentation: Tim Koch 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.

Conclude the Public Hearing: Richard Cummings closed the public hearing. After some discussion, a motion was made by Barb Hovde and seconded by Harlen Peck to recommend approval of the Amendment of CUP #528 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:

TIM KOCH – AMENDMENT OF CUP #528

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 & quarry on the Koch site will not 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.

Vacant property in the area would not be impacted by the establishment of the gravel pit, since it will be in accordance with the Mower County Zoning Ordinance Excavation of Earth Products.

- (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. An access road will be installed to the facility. When the pit operation is completed, the access road will be removed.

- (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 & quarry as proposed by Tim Koch on this 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 the conditions of the Amendment of CUP #528:

1. The quarry operation must remain at least 200 yards from the residential property.
2. An \$8,750 Restoration Bond (\$2,000 Restoration Bond for the first acre, plus \$750 for each additional acre or part of an acre based on 10 acres) must be posted with the county Auditor valid until six months after the quarry ceases to operate. The bond for the Koch gravel pit/quarry will be based upon ten acre increments. The idea will be that they will be doing the operation in five acre parcels. They will work on a five acre parcel and then proceed to the next five acre parcel. When they are moving to the second one, they will then close out the first one and do the proper close-out procedures. So, the bond will be based on the ten acres and not the total project size.
3. A "No Trespassing" sign shall be posted at the entrance.
4. Comply with Article IV Excavation of Earth Products of the Mower County Code
5. Extraction of materials shall be limited to areas as delineated on the site plan.
6. Extraction of gravel/sand/limestone shall remain at least twenty (20) feet from all adjoining property lines and forty (40) feet from the road right-of-

way and out of areas that would have lateral draining effects on wetlands.

7. Blasting will be performed by a licensed and bonded operator and the blasting log (seismograph report) will be provided to Mower County Environmental Services Department within one month of the blasting.
8. Secure DNR Appropriations permit if required.
9. Secure MPCA NPDES permit if required and submit to Mower County Environmental Services Department.
10. Burying of concrete or bituminous material will not be allowed on the property.
11. Hours of crushing operation shall be from 7:00 a.m. to 7:00 p.m. daily Monday – Saturday.
12. 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 Cummings does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, March 11, 2008, meeting at 11:30 a.m. at the Mower County Courthouse.

CUP #737 – EnXco (Petitioner) and Edna Knobbe Trust (Property Owner):

EnXco proposes to construct, operate, maintain and own a new 161kV substation on property in Section 7 of Grand Meadow Township pursuant to Section 14-51(g) of the Mower County Zoning Ordinance.

Staff Presentation: Reference was made to the site investigation performed by Jim Risius and Barb Hovde on February 20, 2008. The Staff Report was presented with conditions and background information noted.

Applicant's Presentation: Ian Krygowski, EnXco, was present and spoke about the CUP request. He explained that they are purchasing approximately 5 acres from the Edna Knobbe Trust and that out of that he believes 3-4 acres would be for the substation.

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 spoke and feels the substation and Operations & Maintenance buildings should be located inside a city. He was concerned about taking agricultural land out of production for the usage.

Conclude the Public Hearing: Richard Cummings closed the public hearing. After some discussion, a motion was made by Harlen Peck and seconded by Jane Thome to recommend approval of CUP #737 because it is in accordance with Section 14-51 of the Mower County Zoning Regulations and adopting the following Findings of Fact.

**ENXCO (PETITIONER) AND EDNA KNOBBE TRUST
(OWNER) - CUP #737**

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.

There is no evidence to substantiate the substation will cause significant devaluation of property.

- (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 surrounding vacant properties are predominantly farmland. The substation will not interfere with development of surrounding vacant property.

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

Adequate utilities, access roads, drainage, etc. are not needed for the substation. There is adequate access roads and drainage for the substation.

- (d) provide sufficient off-street parking and loading spaces to serve the proposed use.

There will be adequate off-street parking provided to serve the substation. Petitioners will be using County roads during construction of the substation..

- (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 substation will not produce any light, odor, fumes, or vibration. Low level noise will not cause disturbance to neighboring properties.

The following are conditions of Conditional Use Permit #734:

1. Prior to construction, a Zoning Permit must be obtained.
2. 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.
3. Secure and submit MPCA (NPDES) General Stormwater Permit for Construction Activities.
4. Comply with all State and Federal rules and regulations.
5. Contact the Mower County Engineer to secure and install a “911” rural address and sign for the substation. Petitioner is responsible for all costs associated.
6. 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 Richard Cummings does not vote. It was stated that the County Board would be acting on this petition at their Tuesday, March 11, 2008 meeting at 11:30 a.m. The meeting will be held at the Mower County Courthouse.

Other Business:

Jim Risius wanted to know the status of the Mower County Planning Commission's request that the Mower County Board of Commissioners look into limiting subdivisions and additional dwellings. The recommendation was forwarded to the Mower County Board on April 29, 2007. Commissioner Cummings stated he would look into this matter and get back to the Planning Commission members.

There being no further business, the meeting adjourned at 8:05 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