

## Mower County Planning Commission

### Minutes of the Mower County Planning Commission – May 26, 2009

Members Present: Tim Gabrielson, Jim Risius, Harlen Peck, Margaret Kirchner, & Jane Thome

Members Absent: Barb Hovde

Others Present: Mike Rose, Lee Bonorden, Wallace Bustad, James Yerhart, David Yerhart, Jeanne L Parmenter, & Angela M. Knish

Tim Gabrielson called the regular meeting to order at 7:00 p.m. on Tuesday, May 26, 2009, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota.

The printed agenda for this meeting and Minutes of the April 28, 2009, regular meeting were approved as mailed on a motion made by Margaret Kirchner and seconded by Jim Risius. The motion passed unanimously.

The printed minutes of the April 28, 2009 meeting were sent to the Planning Commission for review. Motion was made by Jim Risius to approve the minutes as printed; second by Harlen Peck. The motion passed unanimously.

#### **CUP #746 – Y Waste Removal, Inc. (Petitioner) and David Yerhart (Property Owner):**

Conditional Use Permit #746 to operate solid waste handling pursuant to Section 14-51(j) of the Mower County Zoning Ordinance on property located at: E 924 ft. N 660 ft. NE ¼ SW ¼ , Section 15, Lyle Township, Mower County, Minnesota.

**Staff Presentation:** This CUP request was tabled at the 4/28/09 meeting as Lyle Township requested time to meet with the applicant and make a recommendation to the Mower County Planning Commission.

Knish read the letter submitted by the Lyle Township Board.

**Applicant's Presentation:** James Yerhart and David Yerhart were present at the meeting and spoke about the CUP request.

The applicant stated that this would be a temporary site until the business was better established; then they would probably locate closer to town. Because of that reason, it was not in their immediate plan to provide water and sewer to the site. Immediately they plan to construct a shed on the property of David Yerhart. To be leased to the business of James Yerhart.

The applicant's stated they had met with the Township Board and that the main issue would be to work directly with the township regarding any road damage and issues related to weight limitations due to road postings in the spring of the year.

J. Thome asked if washing of the bins/containers would occur on site and if they would be bringing in a new well and septic. Applicant's stated they would be utilizing wash facilities in Austin and that the first priority was to get the shed up for office space. Sewer and water may follow later; but not in the immediate plan.

**Statements from the Public:** The Chair asked for anyone from the public speaking in favor of the request: No one from the audience chose to speak in favor of the request.

The Chair asked for anyone from the public wishing to speak against the request:  
No one from the audience chose to speak against the request.

**Conclude the Public Hearing:** Tim Gabrielson concluded the public hearing. After some discussion, a motion was made by Harlan Peck and seconded by Jim Risius to recommend approval of CUP #746 with the following thirteen conditions because it is in accordance with Section 14-51 of the Mower County Zoning Regulations and adopting the attached Findings of Fact.

**The following are the recommended conditions of Conditional Use Permit #746:**

1. Applicant shall follow all state and federal regulations regarding the proposed use; and
2. The Owner/Applicant shall keep the site in a neat, orderly and aesthetically pleasing condition; and
3. The Owner/Applicant shall contain any blowing or loose garbage/debris onsite by any means necessary which may include perimeter fencing; and
4. The Owner/Applicant shall work cooperatively with Mower County to mitigate any issues brought to the attention of the County that are found to be legitimate and valid that may create a nuisance to adjoining landowners from the proposed use, and
5. The Owner/ Applicant shall provide adequate area onsite to park, back, turn-around or etc so as to not create a nuisance or hazard to the traveling public. The trucks can not be parked or backed onto the premises from the road or its right-of-way; and
6. The Owner/Applicant shall be required to provide dust control (not to utilize used oil (illegal)) so as not to create a nuisance to neighboring property from the additional traffic; and
7. Waste shall not be contained, stored or kept on the property for more than 24 hours. The waste may be contained overnight in some circumstances when it can not be immediately disposed of at a licensed waste facility; and
8. This Conditional Use Permit shall lapse, and shall be no longer valid upon one-year of non-use; and
9. The Owner/Applicant shall abide by all road and bridge weight restrictions or postings that apply to roads used as an ingress/egress to the property; and
10. The Owner/Applicant shall be liable for any road damages as a result of this operation as stated under MN Statute 169.88; and
11. Any vermin, flies, or other pests shall be controlled; and
12. No burying of waste material is allowed and to do so would be in violation of MPCA Regulations and Mower County Solid Waste Ordinance; and
13. 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 (4-0) unanimously. (Chair Gabrielson does not vote.)

**CUP #748 – Wallace Bustad, Wallace Bustad Crane Service:** Conditional Use Permit #748 to store and crush concrete and bituminous material, operate a demolition debris grinding facility, and operate a transfer station up to 200 cubic yards capacity pursuant to Section 14-83(k) (m) & (n) of the Mower County Zoning Ordinance on property located at: W 330 ft. NW ¼ NW ¼ N of RR, Exc. N 65.9 ft. W 66 ft. Exc. E 30 ft., Section 27, Lansing Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Margaret Kirchner on May 20, 2009. The Staff Report was presented with conditions and background information noted.

**Applicant’s Presentation:** Wallace Bustad, Wallace Bustad Crane Service was present at the meeting and spoke about the CUP request.

**Planning Commission Questions:**

The planning commission asked Knish what changes were made to the conditions and why they were made. Knish responded that some of the conditions were stale and no longer applied; some were not in compliance with the law.

**Statements from the Public:** The Chair asked for anyone from the public speaking in favor of the request: No one from the audience spoke in favor of the request.

The Chair asked for anyone from the public wishing to speak against the request: No one from the audience spoke against the request.

Conclude the Public Hearing: Tim Gabrielson concluded the public hearing. After some discussion, a motion was made by Jim Risius and seconded by Harlan Peck to recommend approval of CUP #748 with the following twenty conditions because it is in accordance with Section 14-51 of the Mower County Zoning Regulations and adopting the attached Findings of Fact.

**The following are the recommended conditions of Conditional Use Permit #748:**

1. CUP No. 748 shall replace all preceding CUPs for the property including CUP No 471 and amendments dated November 12, 1996 & March 2, 1999.
2. Petitioner/Applicant/Owner shall maintain a low water mist during crushing operation.
3. Any runoff that would be present from this low water mist during the crushing must be contained and disposed of by Petitioner/Applicant/Owner.
4. Demolition material shall be limited to material as specified in the Minnesota Pollution Control Agency (MPCA) Rules.
5. No disposal or transfer of municipal solid waste allowed on this site. Demolition material can be stored for no longer then 72 hours at the site. For the purposes of this condition demolition material does not include the concrete and bituminous material stored for crushing or metal stored for recycling.
6. Tipping (sorting) must be on an impervious concrete pad with bunkers on at least three (3) sides.

7. No more than 200 cubic yards of demolition material can be at this site at any one time. For the purposes of this condition demolition material does not include the concrete and bituminous material stored for crushing or metal stored for recycling.
8. A certified operator must be present at site when facility is open. Wallace Bustad shall provide a list of certified operators to Mower County Planning and Zoning and update this list as new operators are added or deleted.
9. Final disposal site for demolition material transferred at this site must be Federal/State licensed and approved demolition landfill.
10. Petitioner/Owner must secure and annually maintain a Mower County Waste Permit.
11. Petitioner must secure or make application for all applicable MPCA permits by prior to operation under this CUP.
12. Staff shall be allowed access to the site during normal business hours to determine if the operation is in compliance with this permit and Mower County Zoning Ordinance. Mower County reserves the right to request MPCA staff to accompany their staff at any given time to assist in this determination.
13. Hours of operation shall be from 7:00 am to 7:00 p.m. daily – Monday – Saturday.
14. Comply with EPA and MPCA Rules and Regulations for this type of facility.
15. Comply with Mower County Zoning Ordinance(s).
16. 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.
17. The use of the site for crushing of asphalt and bituminous material is ongoing and intermittent and does not expire unless the CUP lapses as determined below in the following condition.
18. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of three-hundred and sixty-five (365) days
19. Failure to comply with any and all listed conditions may result in penalties, fines or revocation of this conditional use permit thereby resulting in closure of the demolition transfer site and crushing of concrete and asphalt materials.
20. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable Statute, Rule or Ordinance.

The motion passed unanimously (4-0). (Chair Gabrielson does not vote.)

**Other:** The planning commission requests an update of what the County Board decisions are regarding their recommendations. Knish is to include this either in the staff report or provide updates at the meeting.

There being no further business, the meeting adjourned at 8:00 p.m. on a motion by Harlan Peck seconded by Jane Thome The motion passed unanimously.

Respectfully submitted,  
Angela M. Knish, Director  
Mower County Environmental Services