

Mower County Planning Commission

Minutes of the Mower County Planning Commission – July 28, 2009

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

Members Absent: None

Others Present: Jeffrey R Neese, Morgan Pratt, Anthony Curtains, Logan Ledcox, Alex Kinnear, Braydon, Mariah Constancio, Lynn Kinnear, Lylie Gehring, Denise Norris, Alex Norris, Autumn Norris, Terry Culton, Barbara Phillips, Tonya Phillips, Fred Phillips, Vicki Manger, Jordan Vano, Wyatt Maugez, Pastor Joey Vano, Cletus Ratigan, Peggy Ratigan, Mark Ratigan, Jeanne & Orville Moran, Sydney Sayles, David Hillier, County Commissioner, (plus 4 unreadable signatures – please see file), Angela M. Knish Environmental Services Director.

Tim Gabrielson called the regular meeting to order at 7:00 p.m. on Tuesday, July 28, 2009, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota.

Motion was made by Margaret Kirchner to accept the agenda as printed. Second by Barb Hovde. Motion carried unanimously.

Minutes of the June 30, 2009, regular meeting were approved as mailed (correcting Commissioner Cummings to Gabrielson) on a motion made by Jim Risius and seconded by Harlan Peck. The motion passed unanimously.

CUP #751 – Cletus G. & Peggy Ratigan: Conditional Use Permit #751 to construct an additional dwelling in the quarter section of land on property for a relative to live in pursuant to Section 14-18.4 of the Mower County Zoning Ordinance on property located at: N ½ NE ¼, Section 29, Lansing Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Margaret Kirchner and Jim Risius on July 22, 2009. The Staff Report was presented with conditions and background information noted.

Applicant's Presentation: Cletus & Peggy addressed the board regarding their CUP request.

Statements from the Public: none, for or against.

Conclude the Public Hearing: Tim Gabrielson closed the public hearing. After discussion and a creation of findings of fact, a motion was made by Harlan Peck and seconded by Margaret Kirschner to recommend approval of CUP # 751 with the 6 staff recommended conditions because the request is in accordance with Section 14-51 of the Mower County Zoning Regulations as adopted and became effective 01/01/03.

CUP #752 – Terald D. Culton: Conditional Use Permit #752 to operate a commercial outdoor recreation area encompassing the following activities and services: paintball recreational facility, paintball marker repair, paintball product supply & sales, airsoft products and supply sales, laser tag, laser tag products, supply sales, rental gear, pop and candy sales on property pursuant to Section 14-18.4 of the Mower County Zoning Ordinance on property located at: W13 ac. SW1/4 NW1/4 exc S 11 ac., Section 25, Austin Township, Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Margaret Kirchner and Jim Risius on July 22, 2009. The Staff Report was presented with conditions and background information noted.

Applicant's Presentation: Mr. Culton addressed the board regarding his CUP request. Mr. Culton explained how his business grew from a hobby to a passion for paintball. Mr. Culton discussed his conversation with Anne Claflin, MPCA Noise specialist, along with Angie Knish, Environmental Services Director which discussion was made about the noise impacts to the adjoining landowners. Ms. Claflin stated that a 6ft high, solid wooden fence would lower the noise level apx 3-5 dcb. Mr. Culton expressed he would be willing to construct a fence but asked for a year to complete. Note: Applicant submitted additional documents dated 7/28/09.

Statements from the Public:

For: Jeffrey Neece, Tony Pastanzio, Pastor Joey Vano, Lynn Kinnear, Vicky Magnus, Mirah Nagle, Steve Richardson, Dave Ulfers, National Wildlife Federation, Monte Hegna, Alex Kennear;

Comments include: Encouraged the use of this facility at this location as a safe, regulated, family oriented (fun for ages 6-61), fun place for kids, adults, families, church groups, boy scouts, etc. Commented the Culton not only encourages fun, but safe play. Teaches kids responsibility and respect. Hope board will find ways to allow this use to continue.

Against: Barb Phillips, Tonya Phillips, Fred Phillips, Orville Moran, Jean Moran:
Comments include: Tired of the noise, everyday, any night, use doesn't belong in area; it's disruptive. Feel the use is "out of place". People come out to this area to be free from city – area is now an amusement park. Hope is that Board will not approve this commercial enterprise. Note: Phillips submitted additional documents submitted 7/28/09.

Conclude the Public Hearing: Tim Gabrielson closed the public hearing. After much discussion and a creation of findings of fact, a motion was made by Jim Risius and seconded by Jane Thome to recommend approval of CUP # 752 with the 12 recommended conditions because the request is in accordance with Section 14-51 of the Mower County Zoning Regulations as adopted and became effective 01/01/03.

The following are conditions of Conditional Use Permit #752:

1. Certificate of Liability Insurance shall be kept in effect for the duration of this use and a copy shall be provided to the Mower County Planning and Zoning Office on an annual basis.
2. Rules at the facility for patrons shall include: A) No use of alcohol; B) No use of profanity or swearing C) create an acceptable policy to the Planning Commission for being “a good-neighbor” (I.E. – loud music blaring from patrons cars) and strict consequences for violations of these policies, which may include expulsion from the game or site.

The Phillips and/or successors shall notify the owner/operator of the paintball facility no less than two weeks in advance of special occasions in which they request “quiet time” and expect to have certain activities which could be interrupted by commercial activities on the adjoining property. The owner/operator shall work cooperatively with the Phillips, and/or successors to accommodate this need when given two weeks advance notice and when an event has not already been scheduled for such date. The calendar is available online for review of booked and open dates and is available for all interested parties to see.

3. Days of operation: Days of operation shall be limited to a maximum of 3 days per week:

Hours of operation: Sunday hours of operation are limited from 9:00 a.m. to 5:00 p.m. Other days of week hours of operation are limited from 9:00 a.m. to ½ hour prior to sunset.

Season of operation: Season of operation shall be limited from April 1 to November 30. Operation shall not occur on Thanksgiving Day.

4. All parking and backing shall be contained on-site so as not to pose a danger to the traveling public.
5. Illumination of the site for night-time play shall be prohibited. Night-time play is also prohibited.
6. An impermeable, solid 6 foot fence shall be constructed and maintained between adjoining residential property to protect the use and enjoyment of all property owners involved. The fence shall be constructed and maintained in an aesthetically pleasing manner and made from generally accepted fencing materials. The fence shall be fully constructed and completed by the beginning of the 2010 season.

7. The owner/operator shall not fill or alter the natural stream bed running through the property. Protection measures shall be implemented to protect its natural state.
8. Any advertising sign on this property shall be limited to 12 square feet or less, shall **not** be illuminated and shall follow the applicable sign ordinance of Mower County.
9. Zoning Permits shall be required as according to the Zoning Ordinance for structures; the owner/operator shall contact the zoning office for applicable requirements and obtain permits if necessary.
10. Human waste generated from the porta-pottie shall be pumped and properly disposed of by a licensed contractor. No waste can be deposited into the existing septic system.
11. 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.
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 3-2. Chair Gabrielson does not vote.

It was stated that the County Board would be acting on these petitions at their Tuesday, August 4, 2009 meeting at 1:15 p.m. at the Mower County Courthouse.

The wind turbine discussion issue is set aside until the City of Austin determines their wind tower ordinance.

There being no further business, the meeting adjourned at 10:40 p.m. on a motion by Harlan Peck seconded by Jim Risius. The motion passed unanimously.

Respectfully submitted,

Angela M. Knish, Director
Mower County Environmental Services