

**Town of May  
Washington County  
Planning Commission  
June 25, 2009**

The Planning Commission of the Town of May met for their regular meeting on Thursday, June 25, 2009, at 7:00 p.m. at the May Town Hall. Members in attendance included: John Arnason, Chairman; Don Rolf, Steve Magner, Mark Dupre, Jyneen Thatcher, Kate Donner, and Lester Rydeen. Absent: Alternates Chad Nelson and Mike Dupont. Also present: Carie Fuhrman, NAC Planning Consultant; Bill Voedisch, Town Board Chairman, and citizens of the Town of May. Chairman Arnason called the meeting to order at 7:00 p.m.

**Approval of Minutes**

Arnason moved, seconded by Rydeen, to approve minutes of the May 28, 2009, regular meeting as presented with edits from Arnason. All approved.

**Public Hearing**

**Tattoo Haven Small Business**

Mark C. Chookiatsirichai has submitted an application for a conditional use permit to operate a small business on the property located at 14980 May Ave N. The applicant is interested in operating a tattoo parlor out of the existing home owned by Zachary David Gockenbach Cole. The parcel is 20 acres in size, is zoned RR, Rural Residential and is located within the Shoreland Management District. It contains frontage on May Avenue North to the east. The home and detached garage were recently constructed on a parcel that was subdivided from a larger parcel. According to the applicant, the name of the operation is to be "Tattoo Haven" and will be a discreet, appointment-only tattoo shop that follows national guidelines for health and safety. The business will be operated in the finished basement of the home.

The operator, Mr. Chookiatsirichai, is not the property owner, nor is he related by blood, marriage, or adoption to the owner of the property, Mr. Zachary Cole. The applicant proposes to operate the business from noon to 6pm. The applicant is proposing one three (3) foot by ten (10) inch sign, to be set back twenty (20) feet from the street .

The planner reiterated that the proposed operator is clearly not the owner of the property, nor is he related by blood, marriage, or adoption. When originally establishing this Ordinance, the goal of the Town was that the property owner would be operating the business. The reasoning being that a property owner is more accountable than a renter or lessee for the use, upkeep, and maintenance of his/her property because the property owner is the person with final responsibility for that property. A renter/lessee does not have the financial burden and long-standing commitment like a property owner does. The proposal for a renter to be operating the business is in violation of the purpose and intent of the Ordinance.

Arnason moved, seconded by Donner, to open the public hearing. All approved.

Arnason stated that this is a significant issue, in that the Town Code requires that the business owner must also be the property owner. Dupre agreed that it is a fundamental breach of the

ordinance. Rolf wondered what other kinds of applications might come forward if this small business was allowed. Rydeen stated that ownership is an important issue.

Town Board Chairman Bill Voedisch commented that two months ago, the applicant and owner came forward with their idea. The applicant stated that he had been advised that perhaps the owner could be a co-applicant, which would mean that the owner would also be involved in running the business. Voedisch stated that perhaps he had fielded this call and had not made it clear that the co-applicant would also need to be involved in the business.

Arnason moved, seconded by Donner, to close the public hearing. All approved.

Rydeen moved, seconded by Donner, to recommend to the Town Board that the application be denied based on non ownership of the property, with a friendly amendment from Arnason to include the following Findings of Fact from the planner as justification for the denial:

1. The proposed small business operation does not meet the standards established by Article 402, governing small business permits, since the proposed business operator is not the owner of the property.
2. The proposed small business operation does not meet the standards established by Section 704.04, governing conditional use permits, because the proposal is not in harmony with the purpose and intent of the Ordinance, which was to establish and keep the business operator as the property owner.
3. Approval of this conditional use permit application would be in violation of the Municipal Code.
4. Approval of this conditional use permit application would be setting a precedent for future similar applications. All approved.

**Tom Hoffer  
Public Hearing  
Conditional Use Permit WECS**

Thomas Hoffer has submitted an application for a conditional use permit to install a Wind Energy Conversion System (WECS) on his property. The property is located at 13380 Lynch Road and is zoned RR, Rural Residential. Mr. Hoffer has been diligently working with the Township for the past two years on this project.

Section 604.02 of the Town Code requires a minimum lot size of 10 acres for the operation of a WECS. The subject site is 9.875 acres in area, but the applicant owns the adjacent 6.05 acre property to the north. To eliminate the need for the variance to lot size, the Town shall require the applicant to adjust the lot line abutting the two separate parcels in a manner that adds the needed 0.13 acres to the southern lot. This appears to be the most viable option, versus entirely combining the two lots together. The planner recommended that a revised Certificate of Survey and legal description be submitted to the Town for the adjusted parcels. The lot line adjustment and new legal descriptions shall be recorded with the County via two new deeds.

The recent Ordinance amendment has increased the maximum height of a WECS from 100 to 110 feet, which is measured from the base of the tower to the top of the rotor. The application materials propose the installation of a 110 foot total height WECS, which meets the new

Ordinance requirement. However, drawings have not been submitted, showing the actual tower height. These shall be submitted prior to building permit approval to verify conformance with the Ordinance. As a condition of approval, the height of the WECS must comply with FAA Regulation Part 77 and/or MnDOT Rule 14, MCAR 1.3015.

The recent Ordinance amendment also revised the required setback. The setback requirement is that the base of a WECS must be no closer to any lot line than the height of the WECS. The proposed WECS location meets this requirement as it is proposed to be located approximately 400 feet from Lynch Road, 110 feet from the southern lot line, over 250 feet from the northern lot line, and over 700 feet from the rear lot line.

Upon review and analysis of the application materials, the planner recommended approval of the conditional use permit request to install a Wind Energy Conversion System (WECS) on the property located at 13380 Lynch Road, based on the findings of fact and subject to the listed conditions.

Rolf asked if it is necessary to require the fence around the tower, per town ordinances. Rydeen wondered if, given that he owns both lots and his first lot is 9.87, that if either parcel was sold, the lot line would need to be readjusted.

Arnason moved, seconded by Rydeen, to open the public hearing. All approved.

Magner asked the applicant if he is satisfied with the location. He stated that he is okay with the placement, even though he might have found a better location if given the option.

Arnason moved, seconded by Rydeen, to close the public hearing. All approved.

Arnason moved, seconded by Dupre, to recommend to the Town Board that they approve the application for a CUP for a WECS for Tom Hoffer based on the following Findings and Fact and subject to the following conditions:

Findings of Fact:

1. The proposed usage is generally consistent with the performance standards from Article 604 governing Wind Energy Conversion Systems, provided the following conditions are met; and
2. The proposed usage is generally consistent with the review standards from Section 704.04 for a conditional use permit in general, provided the following conditions are met.

Conditions:

1. The north lot line shall be adjusted in a manner that adds the needed acreage to the southern lot in order to meet the 10 acre minimum standard. A revised Certificate of Survey and legal descriptions shall be submitted to the Town. The lot line adjustment and new legal descriptions shall be recorded with the County and copies provided to the Town.
2. The applicant shall provide the required drawings of the structural components of the WECS and support structures, along with engineering data and calculations in compliance with the provisions of the State Building Code. If the applicant is unable to provide the manufacturer's drawings, the applicant shall submit his own drawings. The Building Inspector and Engineer shall review and approve the drawings.
3. All electrical equipment and connections shall adhere to the National Electrical Code.
4. The height of the WECS shall comply with FAA Regulation Part 77 and/or MnDOT Rule 14, MCAR 1.3015.
5. The WECS shall be equipped with both a manual and an automatic breaking device capable of stopping the operation in high winds (40 mph or greater).
6. The WECS shall be grounded to protect against lightning strikes.
7. Unauthorized climbing shall be prevented by enclosing the area in a fence of suitable design.
8. The WECS shall have one sign, not to exceed two square feet, posted at the base of the tower, containing the required information from the Ordinance.
9. The only illumination devices allowed are those required by FAA Regulations Part 77 and FAA Advisory Circular 70/7480-1F.
10. The WECS shall be designed and constructed so as not to cause radio and television interference.
11. Any noise shall be in compliance with and regulated by the MPCA standards.
12. The WECS shall not be interconnected with an electrical utility company, unless the Utility Company has reviewed and made written comments on it.
13. Manufacturer's colors shall not be altered, and color must be one of the following: white, gray, or blue.
14. If the WECS tower is not operable for six (6) months, it shall be abandoned and shall be dismantled and removed from the property at the expense of the property owner.
15. The WECS owner shall carry liability insurance in the amount of \$500,000 and shall provide a copy of said policy to the Town.
16. The applicant shall provide proof to the Township that the above-mentioned standards have been met prior to the issuance of a building permit. All approved.

Hearing no further business, Arnason moved, seconded by Rolf , to adjourn. All approved.

Respectfully submitted,

Linda L. Klein  
Town Clerk