

APPROVED

LAKE ELMO PLANNING COMMISSION SPECIAL MEETING

MAY 4, 1987

Chairman DeLapp called the special Planning Commission meeting to order at 7:00 p.m. in the City Council Chambers. Present: DeLapp, Williams, Bucheck, Stevens, Simpson, Haacke, Johnson, Raleigh (arrived 7:12 p.m.), Reuther (arrived 7:21 p.m.), City Administrator Overby. Absent: Hunt, Enes.

1. PUBLIC HEARING: Request by Richard and Eileen Bergman to allow Anderson Brothers Construction Company to set up a temporary asphalt mix plant operation on the Bergman property for six months while MN TH36 is reconstructed.

Chairman DeLapp opened up the public hearing at 7:03 p.m. in the City Council chambers.

Trunk Highway 36 will be reconstructed this Summer. The old blacktop surface will be stripped off and reused with new aggregate and oil. This mixing process must be done in an asphalt processing plant.

The contractor for the highway project, Anderson Brothers Construction, wants to locate this plant on land owned by the Bergmans. The site is approximately 1/4 mile south of TH36 and 1/4 mile east of Co. 17. The Bergman's have applied for a temporary Conditional Use Permit under the Alternative Uses Section of the Agricultural zoning district.

Dick Bergman explained that there was a new location (200' x 200' primary area) proposed for the plant site. It would be right behind his retail garden center (all on his private property) in a low spot with trees around it. The natural lay of the land on the site location drops down and the plant will be hidden. Also, this will shorten the distance to Hwy 36.

Don Anderson explained the procedure that will be used in the asphalt resurfacing and that they will need less than 3 acres. He has a 70-day project completion deadline which will be the end of July. The hours of operation are proposed to be 7 a.m. to 7 p.m., not on Sundays and not during inclement weather. The diesel generator will be contained in a metal building. There will probably be eight trucks coming and going basically all the time. These eight trucks would be stored on the property next to the asphalt plant. The fine spray of water will be used to knock down the larger smoke particles before they leave the stack. The water used in this process is recycled through two holding ponds. They had no plans to put fencing around these areas. The possibility of spillage of asphalt is minimal since the material is only in liquid form when it is hot.

Steve Raleigh asked if a drainage system is going to be installed to contain possible spills of fuel oil used to fire the mix plant.

He asked what is normally done and what would be done here. Anderson responded they could look at berming.

Commission member Tom Simpson asked if runoff from the site could flow towards the pond. Eileen Bergman said the pond is lower than the site.

At this particular time, there was a break in the discussion so that everyone could look at pictures of a typical asphalt plant operation. The two holding ponds would be about 10 feet wide by 30 feet long by 6 feet deep. Particulates and water settle into vinyl-lined ponds. This material is hauled away later.

Leroy Campeau, 5535 Lake Elmo Avenue N., had a concern that the employees would be staying on the property. Anderson responded that nobody will camp out at the site. There will be one or two trailers on the site used as testing laboratories and office for the State of Minnesota.

Pauline Enberg, 5531 Lake Elmo Avenue N., had a concern on the dust level, as her son is an asmatic. She will be submitting a letter from her doctor. Anderson said the plant has emission controls and the haul road would be watered down at least daily.

Commissionmember Stevens asked if the trucks can get in and out without resurfacing the road. Anderson said they hoped this will not be necessary.

Paul Wolff, representing the Campeau's, pointed out the criteria under the alternate use CUP provision and this is a non-agricultural use. The criteria under the non-agricultural use should be looked at to see if they can be satisfied. Such as, the property has to be 40 acres in size and that the non-agricultural business should not exceed use of an area larger than 1 1/2 acres per 40 acres. A site plan should be received to show the proposed use area. It appears they cannot meet the resident owner/operator criteria. Landscaping and screening factor should be addressed. This may be met by the trees around the new site in a low area.

Joe Gould, 5799 Lake Elmo Avenue, had two concerns: locating it north of the powerlines puts it into a ponding area and noise was the second. Anderson said the drum was quieter than the traffic on highway 36.

Chairman DeLapp asked if the two ponds would be fenced. Anderson said a snow fence could be installed, and that the pond was a vertical drop with no slope. Jean Lundquist said there are at least six ponds about 6 feet deep.

Ron Reuther asked if Joe Gould had children. Gould said that he has an 8-year old boy and that he wants the site north of the powerlines. Attorney Wolff said there is approximately 250 feet between the powerline right of line and the south right-of-way line of highway 36.

Robert Engberg, 5531 Lake Elmo Avenue, asked when the workers would be coming to work and leaving work. Anderson said the plant operator is there about one hour before and one hour after the plant is running. Engberg also asked if any other sites were looked at. Anderson said a gravel pit north of Bergman's was looked at, but it was considered a potential conflict of interest, as the contractor and the gravel pit owner are in the same business. The contract with MnDOT does not specify working hours, other than no working during morning and afternoon rush hours.

Councilmember Richard Johnson asked if the contractor could operate within the 7 a.m.-7 p.m. operating hours. Anderson said that an exception needs to be included for about 10 percent on both ends.

Commission member Dave Johnson felt that conditions should be identified to meet the concerns of the residents and still get the project done.

Kathy Weber, 5577 Lake Elmo Avenue N., asked if the contractor looked at areas without homes and asked Anderson if he would be willing to look at other sites. Anderson said he wanted to pursue this site only. Leroy Campeau asked if the contractor has put the plant closer to homes than this one. Anderson said one was located 350 feet from homes.

Chairman DeLapp closed the public hearing at 8:30 p.m.

Two petitions were introduced into the record; one against and one in favor of the project.

Marge Williams listed the pros of the project: temporary use and benefit to the landowner; and cons of the project: land area exceeds the 1.5 acres per 40 acres, landowner is not the operator of the use, and questions on hours, dust, etc. have not been answered. She is also concerned about glossing over ordinances when the vote is taken.

Steve Raleigh talked about the previous highway 36 resurfacing project when trucks travelled between the highway and the old landfill area, via Keats Avenue and Jamaca Avenue. There is the point of another public good being serviced since the traffic problem will be all but eliminated in this case. Raleigh would like to see a provision for temporary use permits built into the City ordinances. He also felt there should be controls to minimize damage from spills and liability from the open ponds.

Tom Simpson offered the following limitations: 7 a.m. to 7 p.m. with up to 10 days to allow operating until 8 p.m., dust control and spill management.

Ann Bucheck noted that Gary Reinhardt, 5471 Lake Elmo Avenue N., signed both petitions. She felt this should follow city rules as to alternate use requirements. Ann had the following concerns: knowing the size and location of the plant site and wants to put

in the requirement for a performance bond, farm light only, agreement with the City on land restoration, and something to monitor dust control efforts, and controlling access to the ponds by fencing or berming.

Dave Johnson felt this is a necessary project and the least intrusive way of doing it.

Barb Haacke listed her restriction as part of granting the permit.

Ed Stevens was in favor of the CUP with all the provisions mentioned so far. Steve Raleigh asked that one condition for release of the performance bond be based on an inspection by City staff to verify compliance.

Marge Williams said the decision should not be made on the basis of economic benefit and felt that this does not meet alternate agricultural code. Ed Stevens felt that this kind of a temporary use was not foreseen in the code.

Ron Reuther did not disagree with the neighbor, but has the greatest concern for Joe Gould's property. Reuther saw one favorable factor was that truck traffic would be kept off Co. 17, but felt the site should have been approved prior to bidding.

Chairman DeLapp would vote against it, but would request deference to Mrs. Engberg's son who has asthma, believes that the operating hours are excessive (felt that 6 p.m. would be better), feels that the CUP should only be for 70 days with extension based on public input at that time.

M/S/P Johnson/Haacke - to recommend City Council approval in granting Richard and Eileen Bergman the Alternative Uses CUP to allow the operation for 70 working days of an asphalt mix plant by Anderson Brothers Construction, subject to the following permit requirements. (Motion carried 6-3<Reuther, Williams, DeLapp>).

1. Berming shall be placed around the diesel and fuel oil tanks.
2. The temporary use permit period shall be for 70 working days, Mondays through Saturdays, exclusive of rainy days.
3. The operating hours shall be from 7:00 a.m. to 7:00 p.m., Mondays through Saturdays; with 10 days allowed where work may continue until 8:30 p.m.
4. No overnight camping or residence by workers shall be allowed on the work site.
5. Dust control measures shall be implemented for the access road and the area where the asphalt plant will be operated.
6. A performance bond shall be posted by the contractor with the City.

7. A map indicating the actual location of the temporary use area and the access road shall be provided.
8. Security lighting shall be directed on the work site and not shine towards adjacent property.
9. A snow fence shall be erected around the entire work site to restrict access by unauthorized persons.
10. The land at the work site shall be reclaimed to the original or better-than original conditions existing prior to operation of this temporary use.

Ed Stevens felt they should not be maneuvered into last minute decisions.

Ron Reuther voted no because he felt there might be better alternative sites. There were enough neighbors against it and it does not fit into the kind of temporary situations we want to see.

Marge Williams voted against this as being strictly a matter of economic benefit to the applicant.

M/S/P Haacke/Bucheck - to adjourn the Planning Commission meeting at 9:29 p.m. (Motion carried 9-0).

Amended 6-18-87

Commission member Barb Haacke stated that her decision was not based on economic benefit, but based on the good of the community.