

# Mower County Planning Commission

## Minutes of the Mower County Planning Commission – February 24, 2004

Members Present: Garry Ellingson, Myles Bendtsen, Barb Hovde, Margaret Kirchner, Sheldon Lukes

Members Absent: Brian McAlister

Others Present: Bill Buckley, Jeremy Clinefelter, Daryl W. Franklin, Lee Bonorden, Citizens

Garry Ellingson called the regular meeting to order at 7:00 p.m. on Tuesday, February 24, 2004, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the January 27, 2004, meeting were approved as mailed on a motion made by Barb Hovde and seconded by Myles Bendtsen. The motion passed unanimously.

Chair Garry Ellingson explained the hearing procedure.

**CUP #662 – Daniel Young:** Conditional Use Permit #662 to construct a building to operate an auto body shop, do front and rear suspension modifications, street rod and classic car building and rebuilding and do vehicle upholstery work on property pursuant to Section 14-51(o) and (p) of the Mower County Zoning Ordinance on property located at: E 14.19 Ac. Out Lot 12, Section 28, LeRoy Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Margaret Kirchner on February 18, 2004. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site. The Minnesota Dept. of Transportation sent an e-mail stating they didn't have a problem with the request.

**Applicant's Presentation:** Daniel Young spoke and talked about the proposal. Margaret Kirchner and Myles Bendtsen, Planning Commission members, spoke and stated they didn't have a problem with the request.

**Statement from the Public:** Bill McCloud, LeRoy Township Chairman, spoke and stated the Township has no problem with the CUP request.

**Conclude the Public Hearing:** Garry Ellingson closed the public hearing. After some discussion, a motion was made by Barb Hovde and seconded by

Myles Bendtsen to recommend approval of CUP #662 with the following conditions because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact.

## **DANIEL YOUNG – CUP #662**

### **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 issuing of the Conditional Use Permit to Daniel Young for an an agriculturally-oriented business will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted considering the repair will be conducted inside an existing structure.**

- (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 normal and orderly development of property in the Young area is farmland. This is an existing farmstead and the new building will be north of the mini-storage facility. Therefore, it will not impede the normal and orderly development and improvement of vacant property for uses predominant in the area.***

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

***This is an existing farmstead. There is a large area for working, maneuvering and storage of vehicles.***

- (d) That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

***Considering the size of the proposed building and the location of the mini-storage facility, there is ample room for off-street parking and loading space.***

- (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 establishment of the home occupation in an accessory building will not contribute any excessive odor, fumes, dust, noise or vibration and therefore will not constitute a nuisance to adjoining properties since Mr. Young will be following State and Federal guidelines. There will not be lighted signs on the property.**

**The following are conditions of Conditional Use Permit #662:**

- 1) A Zoning Permit must be obtained prior to construction of the new building.
- 2) Comply with MPCA Rules and Regulations for this type of facility.
- 3) Any floor drain must:
  - a. be discharged to the surface in an area that does not drain to a natural waterway or ditch;
  - b. be discharged to a holding tank and not connected to an Individual Sewage Treatment System, or
  - c. be discharged to a system approved as a Class V injection system by the EPA.
- 4) Batteries, used oil, antifreeze, etc. All business waste must be stored, recycled or disposed of in accordance with applicable MPCA solid and hazardous waste rules.
- 5) If construction of new buildings and gravel lots or

driveways disturbs more than one acre of land, then the business must apply for a construction stormwater permit.

- 6) Comply with E.P.A. Pamphlet 816-R-00-018 "Class IV Auto Disposal System" dated November, 2000.
- 7) 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.
- 8) Owner must provide a copy to the County of an Erosion Control Plan for the site by working with the Mower County SWCD or by hiring a private contractor.
- 9) Petitioner/Owner shall be required to cure the violations under procedures of the Mower County Zoning Ordinance as it exists or may hereafter be amended. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable statute.

The motion passed unanimously. Chair Ellingson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, March 2, 2004 meeting at 1:15 p.m. at the Mower County Courthouse.

**CUP #663 – Ulland Brothers, Inc. (Petitioner) and Sandra Laganieri (Owner):** Conditional Use Permit #663 to operate a gravel pit and recycle concrete and bituminous material to be crushed as an aggregate base material on property pursuant to Section 14-56 & 14-51(h) of the Mower County Zoning Ordinance on property located at: S 110 Ac. of NE ¼ Exc. 11.34 Ac. Hwy., Section 7, Racine Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Margaret Kirchner on February 18, 2004. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site. The Minnesota Dept. of Transportation sent an e-mail stating they didn't have a problem with the request. Margaret Kirchner and Myles Bendtsen, Planning Commission Members, spoke and felt this is a good location. It was explained that at the investigation tour last week, William Henke, Chair of Racine Township, was present and stated the Township doesn't have any concerns.

**Applicant's Presentation:** Wayne Thompson, representing Ulland Brothers, Inc., spoke and talked about the proposal and explained the maps that were prepared.

**Statement from the Public:** None

**Conclude the Public Hearing:** Garry Ellingson closed the public hearing. After some discussion, a motion was made by Margaret Kirchner and seconded by Sheldon Lukes to recommend approval of CUP #663 with the following conditions because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact.

## **ULLAND BROTHERS, INC. (PETITIONER) AND SANDRA LAGANIERE (OWNER) – CUP #663**

### **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 and the crushing operation on the Laganriere site will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted since the gravel pit and crushing will be operated in accordance with Mower County regulations.**

- (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 and crushing operation since it will be operated in accordance with County regulations.***

- ( 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 and crushing operation as proposed on the Laganiere 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 conditions of Conditional Use Permit #663:**

1. An \$7,250 Restoration Bond (\$2,000 Restoration Bond for the first acre, plus \$750 for each additional acre or part of an acre based on a 10 acre parcel) must be posted with the county Auditor valid through June 30, 2009.
2. Permit will expire on December 31, 2008 if the operation has started. If it isn't started before this time, it is permanent.
3. Comply with Article IV Excavation of Earth Products of the Mower County Code.
4. Extraction of gravel shall be limited to area shown on Map B.
5. Stock piling of aggregate material shall be at least 40 feet from residential property lines.
6. The gravel pit sides when completed will have a slope no greater than 3:1 horizontal to vertical.
7. Hours of operation shall be Monday – Saturday 5:00 a.m. to 9:00 p.m. (2 shifts).

8. 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.
9. Owner must provide a copy to the County of an Erosion Control Plan for the site by working with the Mower County SWCD or by hiring a private contractor.
10. Petitioner/Owner shall be required to cure the violations under procedures of the Mower County Zoning Ordinance as it exists or may hereafter be amended. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable statute.

The motion passed unanimously. Chair Ellingson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, March 2, 2004 meeting at 1:15 p.m. at the Mower County Courthouse.

**CUP #664 – Edward & Evelyn Drenth:** Conditional Use Permit #664 to construct an additional dwelling on property pursuant to Section 14-18.4 of the Mower County Zoning Ordinance on property located at: 53.62 Ac. N of S Line Old Rtwy. NE ¼ , Section 12 , Frankford Township, Mower County, Minnesota.

**Staff Presentation:** Reference was made to the site investigation performed by Myles Bendtsen and Margaret Kirchner on February 18, 2004. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site. The Minnesota Dept. of Transportation sent an e-mail stating they didn’t have a problem with the request. Margaret Kirchner and Myles Bendtsen, Planning Commission Members, spoke and felt this was an appropriate site for a home.

**Applicant’s Presentation:** Edward Drenth spoke and talked about the proposal for an additional dwelling on the property.

**Statement from the Public:** None – It was explained that a neighbor called and spoke with Daryl Franklin prior to the meeting. This neighbor was opposed to the CUP and was told to fax a letter with his comments. No fax was received from the concerned citizen.

**Conclude the Public Hearing:** Garry Ellingson closed the public hearing. After some discussion, a motion was made by Margaret Kirchner and seconded by Barb Hovde to recommend approval for the additional dwelling of CUP #664 with the following conditions because it is in accordance with Section 14-31 of the Mower County Zoning Regulations and adopting the following Findings of Fact.

## **EDWARD & EVELYN DRENTH - CUP #664**

### **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 development of this single parcel will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted nor will it substantially diminish or impair the property values in the immediate area.**

- (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 development of this single residential parcel will not impede the normal and orderly development. The property in the area is a mixed usage of residential and agricultural and by going through the CUP process, there will be adequate safeguards for the area.***

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

***By complying with the conditions of the CUP, there will be adequate utilities, access roads, and drainage to serve the area.***

- (d) That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

***Considering the location, there is sufficient area for off-street parking and loading spaces.***

- (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.

**By following the requirements of the County there will be adequate measures taken to not contribute any excessive odor, fumes, dust, noise or vibration and this will not constitute a nuisance to adjoining properties.**

**The following are conditions of Conditional Use Permit #664:**

1. The new dwelling is to retain a separate lot.
2. The lot shall contain a minimum of 1 ½ acres (excludes road right-of way).
3. Each lot shall contain 150 feet along the publicly dedicated road.
4. A Zoning Permit and ISTS Permit must be obtained prior to construction.
5. The CUP shall become void two years from the date of approval by the County Board if no construction has begun or the use has not been established.
6. The Petitioner shall be responsible for obtaining a 9-1-1 rural address from the Mower County Engineer and for obtaining proper signage for the property. Any and all costs associated with 9-1-1 addressing and signage are the responsibility of the Petitioner.
7. 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.

8. Owner must provide a copy to the County of an Erosion Control Plan for the site by working with the Mower County SWCD or by hiring a private contractor.
9. Petitioner/Owner shall be required to cure the violations under procedures of the Mower County Zoning Ordinance as it exists or may hereafter be amended. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable statute.

The motion passed unanimously. Chair Garry Ellingson does not vote.

It was stated that the County Board would be acting on this petition at their Tuesday, March 2, 2004 meeting at 1:15 p.m. at the Mower County Courthouse.

**Discussion of Draft Wind Ordinances:** Discussion took place on two draft Wind Ordinances being proposed for Mower County. After receiving input for the past three months from wind organizations, the general public and concerned citizens, it is felt that there should be an ordinance for smaller wind turbines being 100 kW or less and a second ordinance for those greater than 100 kW but less than 5 MW.

After much discussion and some minor changes, a motion was made by Margaret Kirchner and seconded by Barb Hove to recommend approval of the Ordinance for a "Wind Turbine 100 kW or Less". The motion passed unanimously. Chair Ellingson does not vote.

After much discussion and some minor changes, a motion was made by Myles Bendtsen and seconded by Sheldon Lukes to recommend approval of the Ordinance "Greater than 100 kW but Less than 5MW". The motion passed unanimously. Chair Ellingson does not vote.

It was stated that the County Board would be setting a hearing on these Ordinances at their Tuesday, March 2, 2004 meeting at 1:15 p.m. at the Mower County Courthouse.

**Review and Recommend Proposed Individual Sewage Treatment System Ordinance (ISTS):**

Much discussion took place regarding the proposed Individual Sewage Treatment System Ordinance (ISTS). Bill Buckley explained the changes being proposed and answered questions. Contractors were in attendance and also spoke and recommended changes in the areas of soil evaluations, required maintenance and tank sizes.

A motion was made by Barb Hovde and seconded by Margaret Kirchner to make the revisions discussed above and to forward this recommendation to the Mower County Board of Commissioners.

There being no further business, the meeting adjourned at 10:10 p.m. on a motion by Barb Hovde, seconded by Sheldon Lukes. The motion passed unanimously.

Respectfully submitted,

Daryl Franklin  
Mower County Planning Director