

Mower County Planning Commission

Minutes of the Mower County Planning Commission – May 25, 2004

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

Members Absent: None

Others Present: Daryl W. Franklin, Citizens

Garry Ellingson called the regular meeting to order at 7:00 p.m. on Tuesday, May 25, 2004, in the Board of Commissioners Room at the Mower County Courthouse, 201 1st Street NE, Austin, Minnesota. Minutes of the April 27, 2004, meeting were approved as mailed on a motion made by Brian McAlister and seconded by Margaret Kirchner. The motion passed unanimously.

CUP #666 – Robert Kvam: Conditional Use Permit #666 to allow the construction of a home in a wooded area with healthy and mature trees on land not currently used for agricultural purposes or suitable for economical agricultural use because of poor soils, rough or steep topography or other natural features on property pursuant to Section 14-18.4 of the Mower County Zoning Ordinance on property located at: N 1264.9 ft. S 2993.9 ft. W ½ W of River, Exc. W 703.9 ft., Section 33, Lyle Township (PIN #11-033-0010) Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on May 20, 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: Robert Kvam spoke and talked about the proposal. He stated they hope to build the home in 2005.

Statement from the Public:
None

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Brian McAlister and seconded by Sheldon Lukes to recommend approval of CUP #666 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.

ROBERT KVAM - CUP #666

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 #666:

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. A Zoning Permit and ISTS Permit must be obtained prior to construction.
4. 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.
5. 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.
6. 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.

7. 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.
8. Dwelling must be located 1,000 feet from any licensed feedlot.
9. Dwelling must be located outside the delineated floodplain.

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, June 1, 2004 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #667 – Dave Lewison (Petitioner) and Brian & Sherry Schotanus (Owner): Conditional Use Permit #666 to allow the construction of a home in a wooded area with healthy and mature trees on land not currently used for agricultural purposes or suitable for economical agricultural use because of poor soils, rough or steep topography or other natural features on property pursuant to Section 14-18.4 of the Mower County Zoning Ordinance on property located at: E 697 ft. S 995 ft. Exc. W 300 ft. N 597 ft. & E 1050 ft. N 444 ft. & E 16 ft. N 1629 ft., Section 34, Marshall Township (PIN #12-034-0040) Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on May 20, 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: Dave Lewison had no additional comments.

Statement from the Public: Jim Goergen spoke as he wanted to know where the location of the new home would be from the property lines.

Larry Larson spoke and asked how this would impact future livestock operations.

Ted Frank, Mower County Pork producer, feels we need to protect existing producers.

Gary Thome spoke and is concerned about the adverse impact on animal agriculture. He stated there are several feedlots within one mile of the site. He wanted to know what the requirements were for spreading manure near this location. He feels this usage impedes future uses.

Harold Stanislawski, Minnesota Department of Agriculture, presented a letter from Perry Aasness, Minnesota Department of Agriculture, regarding the importance of agriculture in Mower County.

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Margaret Kirchner and seconded by Myles Bendtsen to recommend approval of CUP #667 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.

DAVE LEWISON (PETITIONER) AND BRIAN & SHERRY SCHOTANUS (OWNER) - CUP #667

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 #667:

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. A Zoning Permit and ISTS Permit must be obtained prior to construction.
4. 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.
5. 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.
6. 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.
 7. 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.
 8. Dwelling must be located 1,000 feet from any licensed feedlot.
 9. Owner/Petitioner is responsible for installation of driveway including culvert and fill.

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, June 1, 2004 meeting at 1:15 p.m. at the Mower County Courthouse.

Amendment of CUP #535 – Ulland Brothers, Inc. (Petitioner) and Janice Shade (Owner): Amendment of conditional Use Permit #535 to allow washing of sand, gravel and imported aggregate on property in addition to their current gravel pit operation pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: N ½ NW ¼ W of River, Exc. 1.2 Ac. to State, Section 4, Lyle Township (PIN #11-004-0080) Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on May 20, 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: Dave Beckel, Ulland Brothers, Inc. spoke and talked about the proposal.

Statement from the Public: Mark Chrz, spoke about the proposal and didn't have a problem with the request.

Tom and Patty Munk, neighbors in the area, spoke and were concerned about the groundwater and depth of the pit and bedrock at the site.

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Brian McAlister and seconded by Sheldon Lukes to recommend approval of the Amendment of CUP #535 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
JANICE SHADE (OWNER) – AMENDMENT OF
CUP #535**

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 washing facility at the existing gravel pit area on the Shade 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 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 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 washing facility at the existing gravel pit as proposed on the Shade 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 Amendment of Conditional Use Permit #535:

1. A \$8,750.00 Restoration Bond (\$2,000.00 Restoration Bond for the first acre, plus \$750.00 for each additional acre or part of an acre based on 10 acres) shall be in effect at all times when the conditional use permit is operational and must be posted with the County Auditor as long as the pit is in operation.
2. A "No trespassing" sign shall be posted at the entrance.
3. Comply with Article IV Excavation of Earth Products of the Mower County Code.'
4. Extraction of materials shall be limited to areas as delineated on the site plan. Extraction of sand and gravel shall remain at least twenty (20) feet from all adjoining property lines and forty (40) feet from the road right-of-way.
5. Prior to opening as a gravel and sand pit, petitioner must submit a detailed site plan that accurately shows limits of gravel and sand pit operation. The gravel and sand pit operation shall be limited to this site plan. Modifications shall require an amendment to this CUP.

6. Petitioner is responsible for any damage to the township road.
7. Access to the site be limited to the north township road with all trucks going directly to Highway 105.
8. 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.
9. Secure a Water Appropriations Permit from the Minnesota Department of Natural Resources and submit copy to Mower County Environmental Services Dept. prior to commencing the washing operation.
10. Petitioner must submit bore hole log results to Mower County Environmental Services which will be forwarded to the Minnesota Department of Natural Resources as they consider the Water Appropriations Permit.

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, June 1, 2004 meeting at 1:15 p.m. at the Mower County Courthouse.

Rezoning of Property – Ulland Brothers, Inc.: Rezoning of Property from Agricultural District to Industrial District to allow the operation of a Readymix Facility on the site on property pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: 61.0 Ac. NE ¼ E & S of Cedar River, Section 27, Austin Township (PIN #02-024-0021) Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on May 20, 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: Dave Beckel, Ulland Brothers, Inc., spoke and talked about the rezoning request.

Statement from the Public: Tom & Pat Higgins, resident living in the area, wanted to know why Ulland Brother's was requesting a CUP since their current CUP is valid through 2007. He feels noise is an issue, as well as truck traffic all year long and is concerned about environmental issues. He stated he has an artesian well on his property.

Jim Goergen, spoke and is concerned about noise and dust from the crushing operation.

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Myles Bendtsen and seconded by Brian McAlister to recommend approval of the Rezoning of Property because it is in accordance with Section 14-31 of the Mower County Zoning Regulations.

The following are conditions of the Rezoning of Property:

1. If the property is not developed within 24 months from the date of change, the property shall revert back to the Rural Management District.
2. The property can only be used for the Readymix Facility. Any other industrial use would require a new change of zoning with all necessary public hearings.
3. The rezoning is limited to the north area as shown on drawings. Petitioner must submit a legal description and map which will become part of the rezoning.

The motion passed on a 4-1 vote. Chair Garry Ellingson does not vote.

Role Call

Brian McAlister – Aye
Barb Hovde – Aye
Sheldon Lukes - Aye
Myles Bendtsen – Aye

Margaret Kirchner - Nay

It was stated that the County Board would be acting on this petition at their Tuesday, May 6, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #670 – Ulland Brothers, Inc.: Conditional Use Permit #670 to allow the operation of a Readymix Facility on the site, washing of sand, gravel and imported aggregate materials and crushing of concrete and bituminous materials on property pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: 61.0 Ac. NE ¼ E & S of Cedar River, Section 27, Austin Township (PIN #02-024-0021) Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on May 20, 2004. The Staff Report was

presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site. Barb Hovde, Planning Commission Member, spoke and is concerned about noise generated from the crushing operation. The Minnesota Dept. of Transportation sent an e-mail stating they didn't have a problem with the request.

Applicant's Presentation: Dave Beckel, Ulland Brothers, Inc., spoke and talked about the proposal.

Statement from the Public: Kent Harrington, spoke and is concerned about the impact of the Readymix Facility on similar smaller operations.

Barb Hovde, Planning Commission Member, stated she was concerned about the sound. Dave Beckel, Ulland Brothers, Inc. responded and stated they would be following OSHA rules and regulations.

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Sheldon Lukes and seconded by Brian McAlister to recommend approval of CUP #670 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. - CUP #670
(Readymix Facility, Washing & Crushing)
(Section 27, Austin Twp.)

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 Readymix Facility, washing and crushing on the 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 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 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. There is an "All Weather" road adjacent to the facility.

- (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 Readymix Facility, washing and crushing as proposed on the Ulland Brothers' 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 the conditions of CUP #670:

1. Stock piling of aggregate material shall be at least 40 feet from residential property lines.
2. 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.
3. 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.
4. Ulland Brothers must maintain a low water mist during crushing operation.
5. Any runoff that would be present from this low water mist during the crushing operation must be contained and disposed by Ulland's.
6. Hours of operation would be from 7:00 a.m. to 7:00 p.m. When crushing begins, Ulland Bros. Inc. shall notify the Environmental Services Office in writing.
7. Crushing is limited to twenty (20) working days per year. However, additional days can be granted if the Mower County Board of Commissioners approves after notification of neighbors.
8. Readymix Facility shall follow site plan submitted with the application.
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 on a 3-2 vote. Chair Garry Ellingson does not vote.

Role Call

Brian McAlister – Aye
Sheldon Lukes – Aye
Myles Bendtsen - Aye

Barb Hovde - Nay
Margaret Kirchner - Nay

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

Rezoning of Property – Ulland Brothers, Inc. (Petitioner) and Dorothy Sheedy (Owner): Rezoning of Property from Rural Management District to Industrial District to allow the operation of a Readymix Facility and Bituminous Drum Mix Plant on the site on property pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: N ½ NE ¼ , Section 22, Lansing Township (PIN #08-022-0100) Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on May 20, 2004. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site.

Applicant's Presentation: Dave Beckel, Ulland Brothers, Inc., spoke and talked about the rezoning request.

Statement from the Public: Harold Boverhuis, Lansing Township, spoke and feels this is a good location. However, he stated this request needs to be approved by Lansing Township. He questioned whether two locations were needed.

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Brian McAlister and seconded by Barb Hovde to recommend approval of the Rezoning of Property because it is in accordance with Section 14-31 of the Mower County Zoning Regulations

The following are conditions of the Rezoning of Property:

1. If the property is not developed within 24 months from the date of change, the property shall revert back to the Rural Management District.
2. The property can only be used for the Readymix Facility. Any other industrial use would require a new change of zoning with all necessary public hearings.
3. Petitioner must submit a legal description and map which will become part of the rezoning.

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, May 6, 2003 meeting at 1:15 p.m. at the Mower County Courthouse.

CUP #669 – Ulland Brothers, Inc. (Petitioner) and Dorothy Sheedy (Owner): Conditional Use Permit #669 to allow the operation of a Readymix

Facility and Bituminous Drum Mix Plant on the site, operate a gravel pit, washing of sand, gravel and imported aggregate materials and crushing of concrete and bituminous materials on property pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: N ½ NE ¼ , Section 22, Lansing Township (PIN #08-022-0100) Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on May 20, 2004. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site.

Applicant's Presentation: Dave Beckel, Ulland Brothers, Inc., spoke and talked about the proposal.

Statement from the Public: A letter was received from the Minnesota Department of Transportation stating they are concerned about the amount of truck traffic that could be generated on Hwy. 218.

Lyle & Carol Eggum spoke and were concerned about the hours of operation.

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Barb Hovde and seconded by Sheldon Lukes to recommend approval of CUP #669 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 DOROTHY SHEEDY (OWNER) - CUP #669

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 Readymix Facility, Bituminous Drum Mix Plant, gravel pit, washing and crushing on the Sheedy 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 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 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. There is an "All Weather" road adjacent to the facility.

(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 Readymix Facility, Bituminous Drum Mix Plant and Gravel Pit as proposed on the Ulland Brothers' 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 the conditions of CUP #669:

1. A \$26,750 Restoration Bond (\$2,000 Restoration Bond for the first acre, plus \$750 for each additional acre or part of an acre based on a 34 acre parcel) must be posted with the County Auditor while the pit is in operation.
2. Stock piling of aggregate material shall be at least 40 feet from residential property lines.
3. 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.
4. 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.
5. There shall be no ingress or egress from CSAH #25 or 540th Avenue. All access shall be from Highway 218 except when local townships are hauling Class 5 maintenance gravel then CSAH #25 or 540th Avenue may be used.
6. Ulland Brothers must maintain a low water mist during crushing operation.
7. Any runoff that would be present from this low water mist during the crushing operation must be contained and disposed by Ulland’s.
8. Hours of operation would be from 7:00 a.m. to 7:00 p.m.
9. Readymix Facility and Bituminous Drum Mix Plant shall follow site plan submitted with the application.
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 Garry Ellingson does not vote.

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

CUP #668 – Ulland Brothers, Inc. (Petitioner) and Michael Bell (Owner):

Conditional Use Permit #668 to operate a gravel pit, washing of sand, gravel and imported aggregate materials and crushing of concrete and bituminous materials on approximately 15 acres of the property pursuant to Section 14-51(i) of the Mower County Zoning Ordinance on property located at: S ½ SE ¼ Exc. E 840 ft. N 520 ft. & Exc. E 290 ft. S 700 ft., Section 15, Lansing Township (PIN #08-015-0283) Mower County, Minnesota.

Staff Presentation: Reference was made to the site investigation performed by Myles Bendtsen and Sheldon Lukes on May 20, 2004. The Staff Report was presented with conditions and background information noted. A power point presentation was shown, including pictures of the surrounding site.

Applicant's Presentation: Dave Beckel, Ulland Brothers, Inc., spoke and talked about the proposal.

Statement from the Public: None

Conclude the Public Hearing: Garry Ellingson closed the public hearing. After some discussion, a motion was made by Brian McAlister and seconded by Sheldon Lukes to recommend approval of CUP #668 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
MICHAEL BELL (OWNER) - CUP #668**

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 Readymix Facility, gravel pit, washing and crushing on the Shade site will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted since the uses 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 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. There is an "All Weather" road adjacent to the facility.

(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 Readymix Facility and Gravel Pit as proposed on the Ulland Brothers' 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 the conditions of CUP #668:

1. A \$12,500 Restoration Bond (\$2,000 Restoration Bond for the first acre, plus \$750 for each additional acre or part of an acre based on a 15 acre parcel) must be posted with the County Auditor while the pit is in operation.
2. 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 v 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).
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. Ulland Brothers must maintain a low water mist during crushing operation.
10. Any runoff that would be present from this low water mist during the crushing operation must be contained and disposed by Ulland’s.
11. 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, June 1, 2004 meeting at 1:15 p.m. at the Mower County Courthouse.

There being no further business, the meeting adjourned at 9:30 p.m. on a motion by Myles Bendtsen, seconded by Barb Hovde. The motion passed unanimously.

Respectfully submitted,

Daryl W. Franklin
Mower County Planning Director