

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
November 26, 2012

A meeting of the Planning Commission was held on November 26, 2012 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Gerald Beninga, Mark Rogan, Becky Randall, Wayne Steinhauer, Mike Cypher and Susie O'Hara.

STAFF PRESENT:

Scott Anderson, Pat Herman and Dustin Powers - County Planning
Kersten Kappmeyer – Office of the State's Attorney

The meeting was chaired by Susie O'Hara.

CONSENT AGENDA

A motion was made by Beninga and seconded by Rogan to **approve** the consent agenda. The motion passed unanimously.

ITEM 1. Approval of Minutes – October 22, 2012

A motion was made by Beninga and seconded by Rogan to **approve** the minutes from October 22, 2012. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #12-59 to transfer 2 building eligibilities from the NW ¼ NW ¼ & SW ¼ NW ¼ to the SW ¼ SW ¼ and to allow a single family dwelling; all in Section 7-T101N-R47W.

Petitioner: Ronald Williams

Property Owner: same

Location: 484th Ave. & 264th Street intersection; 2.5 miles southeast of Brandon

General Information

Legal Description – W ½ W ½ (Except H-1 & Except Williams Tract 1) of Section 7-T101N-R47W

Present Zoning – A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size – 149.24 Acres

Staff Report: Scott Anderson

Staff Analysis

The applicant wants to transfer two (2) building eligibilities from the NW ¼ of the NW ¼ and the SW ¼ of the NW ¼ to the SW ¼ of the SW ¼ to allow for the development of residential lots.

On November 14, 2012, staff conducted a site visit. There are no animal confinement operations near the location of the transfer. There are approximately twelve (12) single family residences located within a half (1/2) mile radius of the subject property, primarily to the south along 264th

Street.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The transfer of the building eligibility does not increase the number of dwelling units allowed in this section.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Rural water is available in the area and a waste water system will be utilized. Staff is recommending that the two lots closest to the intersection of 484th Avenue and 264th Street have a shared access from 264th Street.

4) That the off-street parking and loading requirements are met.

Off-street parking requirements will be provided for once a single-family residence is constructed on the subject property.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance.

Recommendation

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #12-59 with the following condition:

1. The lots shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.
2. That the two lots nearest the intersection of 484th Avenue and 264th Street has a shared approach from 264th Street.

Action

A motion was made by Beninga and seconded by Rogen to **approve** Conditional Use Permit #12-59 with the stated conditions. The motion passed unanimously.

CUP #12-59 - APPROVED

ITEM 3. MAJOR TEXT AMENDMENT #12-01 to allow banquet/reception halls in Subarea F of Perry Planned Development.

Petitioner: RCM Services, Inc.

Property Owner: VFS, LLC

Location: Iverson Crossing Intersection

General Information

Legal Description – Tract 1 Jeanne's Addition NE ¼ & SE ¼ of Section 28-T101N-R48W

Present Zoning – Perry PD

Existing Land Use - Vacant

Parcel Size – 12.53 Acres

Staff Report: Dustin Powers

Staff Analysis

In the spring of 1996 the Perry Planned Development District was created in Split Rock Township. This unique development consists of land dedicated to residential, commercial, park and agricultural uses. Located west of State Hwy 11 and County Hwy 115, the area encompasses the Perry Nature Area, the Arboretum, and Iverson's Crossing Subdivision on the north side of Hwy 42 and predominately agricultural and flood plain land south of the highway.

In the southwest corner of the Hwy 42/Hwy 11 intersection, a 12.53 acres tract was zoned for commercial use. Labeled as Subarea F, this area allows for commercial uses which promote aesthetically attractive commercial development where screening and landscaping are used and outside storage is prohibited. Also, this land is located in the Red Rock Corridor area in which future land use and development standards have been adopted by the county. The following zoning regulations apply to Subarea F.

SUBAREA F.

- 1) **USES PERMITTED.** A building or premises shall be permitted to be used for the following purposes:
 - a) Convenience store with gas dispensing.
 - b) Restaurant with drive-thru.
 - c) Bank with drive-thru.
 - d) Office. Personal services including barber shop, beauty salon, dry cleaning, coin-operated laundry, photographic and art studio, shoe repair.
 - e) Custom services including woodworking, and hobby and craftmaking.
 - f) Garden center, greenhouse and nursery.
 - g) Group day care, day care center.
 - h) Veterinarian clinic provided there is not outside kenneling of animals.
- 2) **ACCESSORY USES.** Accessory uses and buildings permitted are those accessory buildings and uses customarily incident to any use permitted in subsection E (1) above.

- 3) PARKING REGULATIONS. Parking shall be regulated in conformance with the provisions of Article 15.00.
- 4) SIGN REGULATIONS. Signs shall be regulated in conformance with the provisions of Article 16.00.
- 5) YARD AND HEIGHT REGULATIONS. The maximum height and minimum lot requirements shall be the same as the C zoning district.
- 6) OTHER REGULATIONS. Other regulations for Subarea F shall be:
 - a) All parking areas and driving lanes shall be hard surfaced.
 - b) Outdoor product display is prohibited.
 - c) Outdoor storage of parts, equipment, supplies or similar material is prohibited.
 - d) Outdoor trash dumpster areas shall be screened.
 - e) Off-premise signage is prohibited in all cases except for:
 - (a). Multi-Tenant Signs in Commercial Centers:
 - (i). One multi-tenant sign shall be allowed within a commercial center to act as a directory for the businesses located within the commercial center.
 - a. The sign area shall not exceed 200 square feet.
 - b. The maximum height shall be 30 feet.
 - c. No part of the sign face or structure shall be located in or overlap into the required side or rear yard setbacks or public right-of-way.
 - d. The light from any illuminated sign shall be so shielded, shaded or directed so that the light intensity shall not adversely affect surrounding or facing premises or the safe vision of operators of vehicles on public roads.
 - f) Shoebox style lighting shall be used when illuminating structures, including canopies and parking areas. All lighting systems shall be designed to reduce glare and light trespass on to adjacent residential uses.
 - g) Access and landscaping plans shall be submitted as part of the Final Development Plan.

Amendment

The applicant is requesting to allow banquet/reception halls to accommodate future development in Subarea F. This addition of an allowable land use in Subarea F is considered a major amendment and must be decided upon by the Minnehaha County Commission. The Planning Commission's responsibility is to make a recommendation to the County Commission, which they will consider the major amendment on December 18th.

The addition would add item (i) as follows:

i) Banquet/Reception Hall

By adding this use to Subarea F, Article 26.00 Definitions of the Zoning Ordinance will be amended to add the following definition:

- **An establishment which is rented by individuals or groups to accommodate private functions, such as banquets, weddings, anniversaries and other similar celebrations. Such use may or may not include kitchen facilities for the preparation or catering of food, the sale of alcoholic beverages for on-premises consumption only during scheduled events and not open to the general public, and/or outdoor gardens or reception facilities.**

Recommendation

The request to amend the PD is consistent with the other permitted uses within Subarea F. Staff recommends **approval** of Text Amendment #12-01.

Action

A motion was made by Beninga and seconded by Rogen to **recommend approval** of Text Amendment #12-01. The motion passed unanimously.

TEXT AMENDMENT #12-01 – APPROVAL RECOMMENDED

ITEM 4. CONDITIONAL USE PERMIT #12-60 to allow an ag related business for seed sales.

Petitioner: Larry Sax
Property Owner: Roger Benson
Location: ¼ mile south of Lyons

General Information

Legal Description – Southwest 3 acres of W ½ SW ¼ (except H-2 & except Willie's Addition & except Central States Addition) of Section 17-T103N-R50W
Present Zoning – A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size – 3 Acres

Staff Report: Dustin Powers

Staff Analysis

The applicant is requesting a conditional use permit to allow an Ag related operation for seed sales. The proposal is for a 4,800 square foot warehouse and office (60' x 80') facility that will operate on a 3-acre parcel located ¼ mile south of Lyons in Section 17 of Lyons Township. The facility will be located at the intersection of 253rd Street and 467th Avenue (County Highway 143) and will be used for the storage and sale of crop seed.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

There is a variety of land uses in the area, with agriculture to the west and south, light industrial to the north, and residential to the east. The proposed site for the structure meets all applicable setbacks and the placement of the structure will not impact the neighboring properties. The construction of this building should not impede on the enjoyment or use of the surrounding properties or affect property values.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The construction and use of the proposed building should have no impact on further construction or development within the general area.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Access to the property is off of 253rd Street. The applicant is proposing two (2) driveways that access the facilities. The petitioner has also proposed (1) restroom that will serve the facility and an onsite wastewater system will be installed.

4) That the off-street parking and loading requirements are met.

The property will be required to have one 14' x 35' designated loading space and two (2) off-street parking spots for the receiving and selling of seed. No on-street parking will be allowed along 253rd Street or any adjacent roadways. The proposed site has sufficient space to meet these requirements.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and

lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

There should be little odor or additional dust from the facility and no fumes, vibration, or lighting issues from the proposed use. If dust becomes a nuisance the petitioner will apply a dust control agent to the property frontage along 253rd Street. Lighting will not affect adjacent property owners because of the distance between homes in the area will further prevent any potential light spillage. With proper maintenance odor and dust should not reach a level that would constitute a nuisance.

Recommendation

Staff finds that any potential impact of this use to neighboring properties will be minimal and that this use is appropriate in the A-1 Agricultural District. Staff recommends approval of the conditional use permit #12-60 with the following conditions:

1. That the lot shall adhere to the submitted site plan and application dated 11/15/2012.
2. That all materials, supplies, and products associated with the facility shall be stored within a building or screened appropriately.
3. That there shall be no sales or production of fertilizer or chemicals on the property.
4. That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
5. That if dust becomes a nuisance the petitioner will apply a dust control agent to the property frontage along 253rd Street.
6. All onsite wastewater systems shall be constructed and operated in conformance with state regulations and with the Minnehaha County On-Site Wastewater Treatment Ordinance. No dumping of any wastewater shall be allowed at the site unless disposed into a properly sized and maintained wastewater system.
7. That one 14' x 35' designated loading space and two (2) off-street parking spaces must be provided. The parking lot must be setback 15 feet from the property line.
8. That a sign permit shall be obtained prior to the installation of any sign. A maximum of 32 sq. ft (4' x 8') shall be allowed for on-premise signage.
9. That the Planning & Zoning Department reserves the right to enter and inspect the buildings at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.
10. That the applicant obtains and maintains a South Dakota Sales Tax License.
11. That the applicant notifies Lyons Township of the proposed use and determines what is needed for driveway approaches to the property.
12. That a building permit is required.
13. That the applicant submits building plans to the County Building Inspector for review prior to issuance of a building permit.
14. That all inspections required by the County Building Inspector are completed before operation of the facility begins.

Action

A motion was made by Beninga and seconded by Rogen to **approve** Conditional Use Permit #12-60 with the stated conditions. The motion passed unanimously.

CUP #12-60 - APPROVED

ITEM 5. CONDITIONAL USE PERMIT #12-61 to allow two (2) single family homes.

Petitioner: Joe & Mindy Skibinski
Property Owner: same
Location: ½ mile north of Wild Water West

General Information

Legal Description – S ½ NW ¼ SE ¼ & SW ¼ SE ¼ & SE ¼ SE ¼ (Ex. S995' & Ex. H-1, H-4 & R-1) of Section 25-T101N-R51W
Present Zoning – A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size – 69.84 Acres

Staff Report: Scott Anderson

Staff Analysis

The applicant wants to utilize two (2) building eligibilities in the SE ¼ of Section 25 of Wall Lake Township to allow for the development of a residence. There are two existing eligibilities that require conditional use permit approval. The applicant only has plans to use one at this time and will use the other eligibility in the future.

On November 14, 2012, staff conducted a site visit. There are no animal confinement operations near the location of the transfer. There are approximately four (4) existing single family residences located within a half (1/2) mile radius of the subject property, primarily to the southeast of the subject property. There is an existing larger accessory on the subject property now and an approach and driveway to the building.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The placement of a single family residence does not increase the number of dwelling units allowed in this section.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Rural water is available in the area and a waste water system will be utilized. The applicant will be using the existing driveway and approach from 267th Street.

4) That the off-street parking and loading requirements are met.

Off-street parking requirements will be provided for once a single-family residence is constructed on the subject property.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance.

Recommendation

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #12-61 with the following condition:

1. The lots shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.

Action

A motion was made by Beninga and seconded by Rogen to **approve** Conditional Use Permit #12-61 with the stated conditions. The motion passed unanimously.

CUP #12-61 - APPROVED

OLD BUSINESS

Pat Herman presented amendments to the ordinance regarding home occupations.

A. Home Occupations

The Planning Staff is bringing forward proposed amendments for the Home Occupation portion of the zoning ordinance. These amendments address the two areas of the ordinance that have been discussed by the Planning Commission this year – size of the accessory building area and the types of uses allowed. The recommendations reflect the discussions of the Planning Commission.

The first amendment is found in **section 12.03**, the introductory section for home occupations. Text would be added to better define the types of uses allowed as home occupations. Those uses which require a conditional use permit in the zoning ordinance would not be allowed. The most difficult area in which to describe limitations is for retail uses. Staff proposing uses the county's land use codes for extensive and intensive retail to define the types of retail uses which would not be allowed. These codes would need to be adopted as part of the zoning ordinance.

The objective of these regulations is to allow limited commercial type activities associated with a residence only to the extent that the activity is clearly subordinate to the residential or agricultural use of the property. ~~Uses such as motor vehicle repair or body shop, motor vehicle sales, recycling center, retail business or similar type uses shall not be considered a home occupation.~~ Due to the diverse pattern of development in the rural area, the regulations provide for both minor and major home occupations. Uses defined in the Conditional Uses sections of the C Commercial District 6.00, I-1 Light Industrial District 7.00, I-2 and Heavy Industrial District 8.00; storage units, warehousing, repair services, and extensive and intensive retail uses as defined by the Minnehaha County Land Use Code shall not be allowed as a home occupation.

530 Extensive retail - building supplies including; lumber, home repair

540 Extensive retail - Farm Equipment

550 Extensive retail - new and used car dealer

560 Extensive retail - recreational vehicle, marine

570 Extensive retail - tires, batteries, auto accessories

580 Extensive retail - auto repair, body shop

590 Extensive retail - other w/ outside storage

Intensive Retail:

610 Food Store

620 Neighborhood commercial, hardware, drug store, laundromat, beauty parlor

630 Gasoline, auto service station

640 Department store, discount store, regional shopping center

650 Clothing and apparel

660 Specialty retail -jewelry, gifts, etc.

670 Furniture, household appliances.

680 Other retail

In **section 12.0301** Minor Home occupations, staff is proposing adding one new standard to the regulations:

15) The structure shall meet the standards of the adopted building code.

Increasing the size of accessory building area which may be used for a home occupation is addressed in **Section 12.0302 (A) 4** Major Home occupations. Currently the ordinance recommends only 750 square feet of accessory building area. The proposed amendment would allow a larger size area based on the size of the parcel.

- (4) ~~In addition to the dwelling, up to 750 square feet of accessory building space may be used for the occupation.~~ Accessory Building Square Footage
- i. For land located in a residential zoning district; or a parcel of 5 acres or less; up to 1,200 square feet of accessory building area may be used for the home occupation.
 - ii. For a parcel of 5.01 acres -10.00 acres size up to 1,800 square feet of accessory building area may be used for the home occupation.
 - iii. For a parcel of 10.01 acres or larger in size up to 2,400 square feet of accessory building area may be used for the home occupation.

This section would not eliminate the need for a conditional use permit to allow an accessory building to exceed 1200 square feet in a subdivided area.

Amendments adding **section 12.032 A (12) and B (9)** would add the following statement to major home occupations Class 1 and Class 2:

The structure shall meet the standards of the adopted building code.

The last amendment proposed by staff is to add Section 12.0304 Minor Home Occupation – Permit Procedure. This requires that people who are operating minor home occupation to get a zoning permit from our office. This one- time \$50 permit will allow the Planning Department to have a record of where these businesses are operating in the county. This will also provide the department a signed form which states the occupation owner will abide by the regulations of the ordinance.

12.0304 Minor Home Occupation - Permit Procedure. A zoning permit is required for a minor home occupation in accordance with the requirements of Article 23.00. The application shall be evaluated and conditions established using the criteria in Section 12.0301.

ADDITIONAL USE REGULATIONS

12.03 HOME OCCUPATIONS. It is deemed appropriate to allow limited nonresidential activities to operate in conjunction with a residence in those zoning districts where residential dwellings are permitted, provided the regulations protect the character and integrity of the unincorporated area.

The objective of these regulations is to allow limited commercial type activities associated with a residence only to the extent that the activity is clearly subordinate to the residential or agricultural use of the property. ~~Uses such as motor vehicle repair or body shop, motor vehicle sales, recycling center, retail business or similar type uses shall not be considered a home occupation.~~ Due to the diverse pattern of development in the rural area, the regulations provide for both minor and major home occupations. Uses defined in the Conditional Uses sections of the C Commercial District 6.00, I-1 Light Industrial District 7.00, I-2 and Heavy Industrial District 8.00; storage units, warehousing, repair services, and extensive and intensive retail uses as defined by the Minnehaha County Land Use Code shall not be allowed as a home occupation.

12.0301 Minor Home Occupation. In all zoning districts permitting residential dwellings, minor home occupations in compliance with each of the following standards are permitted as accessory uses. Due to their incidental and residential nature, minor home occupations are relatively common accessory uses which are not easily detectable and are not reasonable or desirable to regulate through a conditional use permit.

- 1) The occupation shall be conducted entirely within a dwelling and clearly incidental to the use of the structure for residential purposes.
- 2) There shall be no change in the outside appearance of the dwelling or any visible evidence of the conduct of the occupation.
- 3) Only residents of the dwelling shall be employed by or participate in the occupation.
- 4) The storage of equipment, vehicles, or supplies associated with the occupation shall not occur outside the dwelling. Accessory buildings or structures shall not be used for storage.
- 5) There shall be no display of products visible in any manner when viewed from outside the dwelling.
- 6) No advertising or display signs shall be permitted other than a nameplate attached to the dwelling. The nameplate shall not be illuminated and shall not be more than two square feet in area. No off premise signs shall be used.
- 7) The occupation shall not require internal alterations or involve construction features not customary in a dwelling. External alterations intended to create a separate entrance or other feature exclusively for the occupation is prohibited.
- 8) There shall be only limited and incidental sale of products conducted on the premise.
- 9) The occupation shall not generate more than four (4) visits per day from clients or customers averaged over a period of seven (7) consecutive days.
- 10) The occupation shall not result in additional off-street parking spaces for clients or customers.

- 11) Toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials are prohibited.
- 12) No equipment or process shall be used in the occupation which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the property.
- 13) No equipment or process shall be used in the occupation which creates visual or audible electrical interference in any radio or television receiver or causes fluctuations in line voltage off the property.
- 14) The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.
- 15) The structure shall meet the standards of the adopted building code.

12.0302 Major Home Occupation. It is recognized that home occupations which exceed the requirements of Section 12.0301 may be appropriate in a low density residential setting or if associated with an agricultural use. For the purpose of this ordinance, such uses are classified as either a Class 1 or Class 2 major home occupation, and shall be evaluated giving consideration to the following criteria:

(A) Class 1:

- (1) The occupation shall be conducted entirely within a dwelling or accessory building and clearly incidental to the use of the structure for residential purposes.
- (2) The occupation shall be operated by a member of the family residing in the dwelling.
- (3) Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
- (4) ~~In addition to the dwelling, up to 750 square feet of accessory building space may be used for the occupation.~~ Accessory Building Square Footage
 - i. For land located in a residential zoning district; or a parcel of 5 acres or less; up to 1,200 square feet of accessory building area may be used for the home occupation.
 - ii. For a parcel of 5.01 acres -10.00 acres size up to 1,800 square feet of accessory building area may be used for the home occupation.
 - iii. For a parcel of 10.01 acres or larger in size up to 2,400 square feet of accessory building area may be used for the home occupation.
- (5) The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
- (6) The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
- (7) No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
- (8) A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not

exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.

- (9) The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
 - (10) There shall be only limited and incidental sale of products conducted on the premise.
 - (11) The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.
 - (12) The structure shall meet the standards of the adopted building code.
- (B) Class 2:
- (1) The occupation shall be conducted in a dwelling or agricultural building accessory to the dwelling which comprise the headquarters for the agricultural use, and such agricultural use is conducted on one or more parcels of land with a total area of at least one-half of a quarter section or equivalent area which must be contiguous to or in close proximity to the headquarters.
 - (2) The occupation shall be clearly secondary to the principal use of the land for agricultural purposes.
 - (3) The owner or occupant of the dwelling shall be engaged in the occupation.
 - (4) The occupation shall have no more than five (5) employees, including residents of the property.
 - (5) The occupation shall be conducted within a completely enclosed building typical of farm buildings. Such building shall be located behind the dwelling, or shall be located at least 200 feet from the nearest road right-of-way.
 - (6) All materials, supplies and products associated with the occupation shall be stored within a building or if open storage of materials or equipment is required it shall be concealed with appropriate screening or landscaping.
 - (7) A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or agricultural building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
 - (8) The use shall cease operating when the property is no longer in conformance with Section 12.03.02 (B) (1).
 - (9) The structure shall meet the standards of the adopted building code.

12.0303 Major Home Occupation - Permit Procedure. A conditional use application is required for a major home occupation in accordance with the requirements of Article 19.00. The application shall be evaluated and conditions established using the criteria in Section 12.0302 (A) or (B).

12.0304 Minor Home Occupation - Permit Procedure. A zoning permit is required for a minor home occupation in accordance with the requirements of Article 23.00. The application shall be evaluated and conditions established using the criteria in Section 12.0301.

NEW BUSINESS

Pat Herman presented amendments to the ordinance regarding conditional use permits.

B. Conditional Use Permits

The Planning Department is purposing some text amendments to Article 19.00 the Conditional Use Permits portion of the Zoning Ordinance. The first revision would allow some administrative approval for changes to an approved conditional use. The second change would clarify the Planning Commission's authority to review and add conditions to an existing CU permit.

19.07 AMENDMENTS. ~~Amendments shall be processed in the same manner as required for a separate conditional use permit.~~

(a) Any approved conditional use plan or conditional use plan addendum may be amended as provided in this section, or entirely withdrawn by the applicant. The Planning Director may approve minor changes to an approved plan without notice or hearings, after consideration of the record from the original public hearing on the plan.

(b) Minor changes to an approved conditional use plan shall be done administratively. Minor changes may include but are not limited to minor relocation or reorientation of buildings, lot lines, or easements; relocation of points of access if approved by the appropriate road authority; relocation of internal access and circulation; or relocation or rearrangement or parking areas; reduction in the designated parking spaces, but not less than required under Article 15.00; reorientation of landscaping.

(c) Major changes to an approved conditional use plan shall follow the public hearing approval process in Section 19.05. Major changes may include but are not limited to major relocation or reorientation of buildings which have external impacts on adjacent property; reduction in landscaping, an increase in the provision of utilities or infrastructure demands; increase in sign height or sign size.

This amendment delineates when the Planning Director could approve changes to an issued conditional use permit as outlined in (b) in the paragraph above. For example, in many instances a CUP has the condition that the property must meet the approved site plan, however during the development phase limitations with the property may arise. The amendment would allow approval to relocate an access point or re-arrange buildings without holding a public hearing before the Planning Commission. As noted about in (c), major changes would still require approval of the Planning Commission.

19.11 RECALL & REVIEW. If the County Planning Director finds that at any time that the terms, conditions, or requirements of the conditional use permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, or that the use endangers the health and welfare of the public, the Director may recall the conditional use permit for a review by the Minnehaha County Planning Commission. The permittee, landowner and/or operator and other impacted persons shall be notified 15 days prior to the County Planning Commission hearing. The County Planning

Commission shall have the authority to amend, revise, delete or add conditions to the conditional use permit in event that they determine the terms, conditions, or requirements of the conditional use permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, or that the use endangers the health and welfare of the public.

The addition of this section would clarify the Planning Commission's authority to manage conditional use permits which are out of compliance or which cause a public threat. Currently, Section 19.00 only stipulates that the Planning Commission can revoke a conditional use permit. This limits the Commission's ability to invoke measures which would address the issues with a conditional use permit without having to shut down an operation. This paragraph makes clear the Planning Commission can made amendments, such as addition conditions, to previously issued conditional use permits

ARTICLE 19.00
CONDITIONAL USE PERMITS

- SECTIONS: 19.01 Procedure
19.02 Application
19.03 Fees
19.04 Information on Site Plan
19.05 Planning Commission Hearing
19.06 Appeal of Planning Commission Decision
19.07 Amendments
19.08 Expiration
19.09 Preexisting Uses
19.10 Reapplication
19.11 Revocation

19.01 PROCEDURE. The Planning Commission may authorize by conditional use permit the uses designated in this ordinance when located in a zoning district allowing such use. The Planning Commission shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and to protect the health, safety, and general welfare in the issuance of such conditional use permit.

19.02 APPLICATION. To obtain a conditional use permit, the applicant shall file an application with the Office of Planning and Zoning on a form as provided. Every application shall contain the following information:

- (A). Legal description of the land on which such conditional use is requested.
- (B). Name, address, phone number, and signature of the owner of the property which is the subject of such application. (*amended MC16-94-07 07-17-07*)
- (C). Name, address and phone number of the person making the application if made by anyone other than the owner.
- (D). Zoning district classification under which the property is regulated at the time of such application.
- (E). Any other information concerning the property as may be requested by the Office of Planning and Zoning.

19.03 FEES. Upon the filing of any application for conditional use with the Office of Planning and Zoning, the applicant shall pay to the County the appropriate fee as designated in Article 24.00.

19.04 INFORMATION ON SITE PLAN. In addition to the following information, plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the

location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance and all relevant laws, rules, and regulations.

EXCEPTION: The Planning Director may waive the submission of plans, if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this title.

- (A). The address of the property and the legal description.
- (B). The name of the project and/or business.
- (C). The scale and north arrow.
- (D). All existing and proposed buildings or additions.
- (E). Dimensions of all buildings.
- (F). Distance from all building lines to the property lines at the closest points.
- (G). Building height and number of stories.
- (H). Dimensions of all property lines.
- (I). Parking lots or spaces; designate each space, give dimensions of the lot, stalls, and aisles.
- (J). Screening; show height, location, and type of material to be used.
- (K). The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
- (L). Name and location of all adjacent streets, alleys, waterways and other public places.

Approved plans shall not be changed, modified, or altered and all work shall be done in accordance with the approved plans.

19.05 PLANNING COMMISSION HEARING. Upon the filing of an application for a conditional use permit, the Planning Director shall set a date for public hearing on such requested conditional use, at which time and place the Minnehaha County Planning Commission shall meet to consider the conditional use request.

- (A). NOTIFICATION. A good faith effort must be made by the applicant to notify all property owners (inclusive of Contract for Deed buyers) of land laying within five hundred (500) feet, inclusive of right-of-way, of the outer boundaries of the

property involved in the request. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department shall provide the applicant with "Notice of Hearing" forms for this purpose, and the notices are to be sent by the applicant to all parties on the aforementioned list by first class mail no less than one (1) week prior to the public hearing on the request held by the Planning Commission. The applicant shall sign an affidavit certifying that the required mailing was completed. The affidavit shall be provided to the Planning Department at least five (5) working days prior to the Planning Commission meeting. *(amended by MC16-88-06 7/18/06)*

- (B). SIGNS. A sign(s) to be provided by the Office of Planning and Zoning shall be posted on or near the property at least five days prior to the scheduled hearing.
- (C). ACTION. The Planning Commission shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Article 19.06.

19.06 APPEAL OF PLANNING COMMISSION DECISION. The decision rendered by the Planning Commission on a conditional use permit may be appealed to the Board of County Commissioners. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Office of Planning and Zoning within five working days of the Planning Commission decision. When an appeal is filed, the Planning Director shall present the Planning Commission's decision to the Board of County Commissioners for review. Notice of the meeting shall be given as required by Article 19.05 (A). The Board shall vote to either uphold, overrule or amend the decision of the Planning Commission.

19.07 AMENDMENTS. ~~Amendments shall be processed in the same manner as required for a separate conditional use permit.~~

- (a) Any approved conditional use plan or conditional use plan addendum may be amended as provided in this section, or entirely withdrawn by the applicant. The Planning Director may approve minor changes to an approved plan without notice or hearings, after consideration of the record from the original public hearing on the plan.
- (b) Minor changes to an approved conditional use plan shall be done administratively. Minor changes may include but are not limited to minor relocation or reorientation of buildings, lot lines, or easements; relocation of points of access if approved by the appropriate road authority; relocation of internal access and circulation; or relocation or rearrangement or parking areas; reduction in the designated parking spaces, but not less than required under Article 15.00; reorientation of landscaping.
- (c) Major changes to an approved conditional use plan shall follow the public hearing approval process in Section 19.05. Major changes may include but are not limited to major relocation or reorientation of buildings which have external impacts on adjacent property; reduction in landscaping, an increase in the provision of utilities or

infrastructure demands; increase in sign height or sign size.

19.08 EXPIRATION. A conditional use permit which has been approved shall expire by limitation and become null and void if the building, work or use authorized by such conditional use permit is not commenced within one year from the date of approval. This provision shall not apply to a conditional use permit approved for a residential use in the A-1 or RC zoning districts. Upon written request to the Planning Director and prior to the conditional use permit expiration date, a one-year time extension for the conditional use permit may be granted by the Planning Director, subject to the following conditions: *(amended by MC16-19-94)*

- (A). There was no public objection presented during the public hearing process for the original conditional use permit;
- (B). The land uses for the surrounding properties have not significantly been altered since the original approval date for the conditional use permit.

19.09 PREEXISTING USES. An existing use eligible for a conditional use permit which was lawfully established on the effective date of this ordinance shall be deemed to have received a conditional use permit as herein required and shall be provided with such permit by the County upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in accordance with this ordinance shall be required.

19.10 REAPPLICATION. No applicant requesting a conditional use permit whose application includes the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Planning Commission or Board of County Commissioners shall be again considered by the Planning Commission before the expiration date of six (6) months from the date of the final action on the petition.

~~19.11 REVOCATION. If the County Planning Director finds that at any time that the terms, conditions, or requirements of the conditional use permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, the Director shall report this fact to the permittee, landowner, and/or operator, and the Minnehaha County Planning Commission. The County Planning Commission may, after conducting a public hearing, of which the permittee, landowner and/or operator shall be notified, revoke the conditional use permit for failure to comply with the terms, conditions, or requirements of the permit.~~

19.11 RECALL & REVIEW. If the County Planning Director finds that at any time that the terms, conditions, or requirements of the conditional use permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, or that the use endangers the health and welfare of the public, the Director may recall the conditional use permit for a review by the Minnehaha County Planning Commission. The permittee, landowner and/or operator and other impacted persons shall be notified 15 days prior to the County Planning Commission hearing. The County Planning

Commission shall have the authority to amend, revise, delete or add conditions to the conditional use permit in event that they determine the terms, conditions, or requirements of the conditional use permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, or that the use endangers the health and welfare of the public.

19.12 REVOCATION. If the County Planning Director finds that at any time that the terms, conditions, or requirements of the conditional use permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, the Director shall report this fact to the permittee, landowner, and/or operator, and the Minnehaha County Planning Commission. The County Planning Commission may, after conducting a public hearing, of which the permittee, landowner and/or operator shall be notified, revoke the conditional use permit for failure to comply with the terms, conditions, or requirements of the permit.