

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
February 22, 2016

A meeting of the Planning Commission was held on February 22, at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Doug Ode, Bill Even, Paul Kostboth, and Jeff Barth.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning

The meeting was chaired by Bonnie Duffy.

Commissioner Duffy called the Minnehaha County Planning Commission meeting to order at 7:20 p.m.

CONSENT AGENDA

Items 2, 6, and 9 were moved to regular agenda for discussion purposes. The consent agenda consists of Items 1, 3, 4, 5, 7, 8, and 10.

A motion was made by Commissioner Even and seconded by Commissioner Barth to approve the consent agenda consisting of Items 1, 3, 4, 5, 7, 8, and 10. The motion passed unanimously.

ITEM 1. Approval of Minutes – January 25, 2016

As part of the consent agenda, a motion was made by Commissioner Even and seconded by Commissioner Barth to **approve** the meeting minutes from January 25, 2016. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #16-04 to amend condition #5 of CUP #08-78 for Rock, Sand, & Gravel Extraction to allow single unit trucks legally grossing over the posted limit of the bridge north of the pit exit to travel south on 467th Ave. to State Highway 42.

Petitioner: Friessen Construction, Inc. (Cynthia Friessen-Monnin, President)

Property Owner: same

Location: Approximately 2 miles west of Sioux Falls

Staff Report: Scott Anderson

This would amend condition #5 of CUP #08-78 for Rock, Sand, & Gravel Extraction to allow single unit trucks legally grossing over the posted limit of the bridge north of the pit exit to travel south on 467th Ave. to State Highway 42.

General Information:

Legal Description – E1/2 NE1/4 (Ex. Tr. 1 & Ex. N8 Rods E20 Rods) and the E1/2 SE1/4; all in Section 7-T101N-R50W

Present Zoning – A-1 Agricultural & R/C Recreation/Conservation

Existing Land Use – Rock, Sand, & Gravel Extraction

Parcel Size – 158.98 Acres

Staff Report: Scott Anderson

Staff Analysis:

The applicant is requesting to amend condition #5 of Conditional Use Permit #08-78 for Rock, Sand, & Gravel Extraction to allow single unit trucks legally grossing over the posted limit of the bridge north of the pit exit to travel south on 467th Ave. to South Dakota Highway 42.

In January of 2009, the Planning Commission approved Conditional Use Permit #08-78 to allow rock, sand and gravel extraction with the following conditions:

1. An annual fee shall be paid to the County in accordance with Section 15.14 of the zoning regulations. (Note: An annual fee of \$10 per acre of unreclaimed land is assessed to the operator.)
2. There shall be no fuel storage allowed in areas designated as a ground water protection area or flood plain.
3. Hours of operation shall be from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays.
4. That the only dewatering shall be for use in dust control, road projects and rock washing. The applicant shall obtain any required permits from the state for use of the water.
5. That prior to any sand or gravel extraction, the applicant shall obtain a Haul Road Agreement from Wayne Township for the use of 467th Avenue. All truck traffic is to be directed north onto 467th Avenue when leaving the extraction site.

6. The portion of 467th Avenue being used as the haul road shall be hard surfaced with a minimum of a 6 inch granular base course and a 2 inch thickness of asphalt or a 7 inch thickness of Portland cement concrete.
7. The ambient air quality standards for total suspended particulate matter shall be 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once a year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM¹⁰ (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
8. The County Planning Department shall direct the operator to install air quality sampling stations if the standards appear to be exceeded. Such monitoring shall be at the operator's expense.
9. The sound level from on-site operations shall not exceed an average of 55 decibels recorded over a 10 minute period measured at the nearest residence.
10. That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
11. The boundaries of the extraction area shall conform to the site plan submitted with the application.
12. Topsoil shall remain on the site and be used in final reclamation.
13. Only clean fill shall be used as backfill.
14. There shall be no storage or accumulation of inoperable or discarded equipment or parts.
15. A gate shall be required at the haul road entrance to the property.
16. That all mining activity is concluded by January 1, 2020 and that reclamation shall be in accordance with the plan filed with the State and outlined in the application and all reclamation of the site shall be completed by December 31, 2020 in accordance to all requirements outlined in Article 12(G) of the Minnehaha County Zoning Ordinance.
17. That if one (1) or more acres of area is disturbed the applicant is required to obtain a General Permit from the Department of Environment and Natural Resources.
18. That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
19. The applicant shall abide by all regulations outlined in Minnehaha County Flood Management Ordinance, MC32-03, when working in the 100 year floodplain and/or floodway.

20. The sand and gravel operations shall be secured during non-working hours by means of gates and fencing. The property shall be continuously secured until all required reclamation activities have been completed.
21. That no mining activity shall be allowed in the area north of Skunk Creek.
22. That the applicant obtains a waiver from the property owners of 46697 263rd Street or remains at least 1,000 feet from the property lines of the old school house lot.

The applicant has indicated that in November of 2015, the County Highway posted new weight restrictions on the bridge crossing Skunk Creek of 29 tons for a single unit and 48 tons for a combination unit. The applicant has indicated that their single semi-trucks can not use the bridge when loaded.

The Highway Department has indicated that this bridge is not on the five year plan to be improved or replaced. DJ Buthe, Highway Superintendent, stated that this could change as funding issues are better defined with recently added bridge and highway funds.

With the change in the load limits on the bridge over Skunk Creek, the applicant feels the need to amend their original conditional use permit and be allowed to go south on 467th Avenue. The applicant has been in contact with Wayne Township, the government body responsible for maintaining 467th Avenue. Friessen Construction provided their original agreement with Wayne Township from 2009 and a proposed Amendment to the 2009 agreement. Staff has included both documents for the Planning Commission's review.

This is an amendment to Conditional Use Permit #08-79. The Planning Commission found that the proposed use was in harmony with the Comprehensive Plan in 2009. This proposed change is relatively minor and does not change the scope or volume of the work at the site.

Recommendation: Staff recommends **approval** of Conditional Use Permit #16-04 to amend condition #5 of Conditional Use Permit #08-76 to read:

5. That prior to any sand or gravel extraction, the applicant shall obtain a Haul Road Agreement from Wayne Township for the use of 467th Avenue. All truck traffic able to meet the load requirements on the bridge over Skunk Creek is to be directed north onto 467th Avenue when leaving the extraction site. Any single unit semis exceeding the bridge weight restrictions shall be allowed to travel south on 467th Avenue.

ACTION

As part of the consent agenda, Commissioner Even made a motion to **approve** Conditional Use Permit #16-04 and the motion was seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #16-04 – Approved

ITEM 4. CONDITIONAL USE PERMIT #16-05 to allow establishment of a public utility metering/pumping facility for the Lewis & Clark Regional Water System for the purpose of transmitting treated drinking water on the property legally described as NW1/4 NW1/4 (Ex. N535.2' E932.74'), Section 10-T102N-R50W.

Petitioner: Lewis & Clark Regional Water System

Property Owner: Bernice M. Nelson

Location: Southeast corner of 257th St. & 469th Ave. Intersection

Approximately 1 mile west of Crooks

Staff Report: Scott Anderson

This would allow establishment of a public utility metering/pumping facility for the Lewis & Clark Regional Water System for the purpose of transmitting treated drinking water.

General Information:

Legal Description – NW ¼ NW ¼ NW ¼ of Section 10, T102N, R50W. (Proposed to be legally described as Crooks Pump Station Addition)

Present Zoning – A-1 Agriculture

Existing Land Use – Agriculture

Parcel Size – approximately .62 acres

Staff Report: Scott Anderson

Staff Analysis: The property is zoned A-1 Agricultural District. Article 3.04(W) of the Zoning Ordinance allows a water metering facility as a Conditional Use in this zoning district.

The surrounding land uses are a mixture of residential and agricultural uses. The subject property is located approximately 1 mile west of the Crooks corporate limits. The property to the north, south and west of the proposed metering facility appears to be used for agricultural purposes.

The growth of Sioux Falls and surrounding communities necessitated the need for a more reliable source of water. The Lewis & Clark Water System is being constructed to fill that need and this metering facility is part of the system.

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.

Due to the existing residential development pattern and agricultural uses within the area, the proposed water metering facility should not have a negative effect upon the normal and orderly development and improvement of these properties for uses predominant in the area. The water metering facility will insure adequate water to present and future development for the region.

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

The proposed water metering facility should not have a negative effect upon the normal and

orderly development and improvement of these properties for uses predominant in the area. The proposed water metering facility is part of a water system that will aid in providing an adequate water system to present and future development for the region.

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

The subject property is located at an intersection. Access to the proposed utility substation will be provided by 469th Avenue or 257th Street, both of which are township maintained roads. It appears that the site utilizes natural drainage. The proposed metering facility has access to water and will be using a holding tank for any wastewater.

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

Article 15 of the Zoning Ordinance does not specifically identify the parking requirements for a water metering facility. The applicant has indicated that two (2) off street parking spaces will be provided. A utility substation typically does not generate any significant amounts of traffic. Each parking space should measure a minimum of nine feet by 18 feet and be continually maintained in such a manner that no dust will result from continuous use. The two spaces will meet the parking 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.

The proposed Conditional Use Permit may generate very limited dust and noise. The water metering facility will be providing a benefit to the community. With appropriate conditions of approval, any concerns can be mitigated.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed use will benefit the health and safety of the public by allowing for the construction of a facility that will provide potable water to various communities in the region.

Staff's review indicates that the proposed Conditional Use is a use which is appropriate for this site. Staff recommends approval of Conditional Use Permit #10-51 to be established and conducted in conformity with the Zoning Ordinance and the recommended conditions of approval.

Recommendation: Staff recommends approval of Conditional Use Permit #16-05 to allow a water metering facility in the Agricultural District with the following conditions:

1. That a minimum of two (2) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty two square feet, or nine feet by eighteen feet, hard surfaced with a concrete or asphalt and maintained in such a manner that no dust will result from continuous use.
2. That all existing drainage is maintained and that erosion control measures are implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water.

3. That the applicant obtains a building permit prior to any construction commencing on the site.

ACTION

As part of the consent agenda, Commissioner Even made a motion to **approve** Conditional Use Permit #16-05 and the motion was seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #16-05 – Approved

ITEM 5. CONDITIONAL USE PERMIT #16-06 to exceed 1,200 square feet of total accessory building area – requesting 4,000 sq. ft. on the property legally described as Tract 4 Bickett’s Addition, NE1/4, Section 35-T101N-R51W.

Petitioner: Kyle Phillips

Property Owner: same

Location: 26751 465th Ave. Approximately 4 miles west of Sioux Falls

Staff Report: Kevin Hoekman

This would allow 4,000 sq. ft. of total accessory building area.

General Information:

Legal Description – Tract 4 Bickett’s Addition, NE1/4, Section 35-T101N-R51W,
Wall Lake Township

Present Zoning – A-1 Agricultural

Existing Land Use – Vacant land

Parcel Size – 1.79 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately four (4) miles west of Sioux Falls in Wall Lake Township. The site is located within a subdivision of more than four lots; most notably, the Country Villa Estates is located approximately ½ mile north of the proposed site. In subdivisions or residential developments which exceed four lots in number, accessory building area is limited to 1,200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner would like to construct a 4,000 square foot (50’ x 80’) accessory building for personal storage and use. The parcel currently is vacant and the petitioner has submitted a site plan that includes a dwelling and the proposed accessory building. The accessory building is shown on the south side of the property located 10 feet from the property line. The dwelling is indicated to be 20 feet north of the accessory building. These measurements would meet the side yard setback requirements. The property itself is odd shaped with a long driveway and another parcel with a single family dwelling between the road and the majority of the property. With the provided site plan, the proposed location of the accessory building appears to be beyond any regular setbacks from this eastern neighboring property by a large margin. In addition to the significant residential development of the area, the Sioux Falls Regional Landfill is located to the west of the property. Much of the remaining agricultural type land appears to be either pasture land or maintained as grassland.

There are several large accessory buildings in the area. Many of these large buildings are, or were, built on farmsteads or for farm use on large parcels of land. A similar conditional use permit request for a property two parcels to the south was approved in 2008 for 4,053 square feet of accessory building. A property approximately ¼ mile to the north has several large buildings for a total of over 15,000 square feet of accessory buildings; although these buildings are associated with land greater than 40 acres. Several other CUP requests have been made and other buildings can be found in the area. These smaller buildings can be found on the provided

accessory building size map.

Conditional Use Permit Criteria:

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.

The construction of the proposed accessory building should have little impact on surrounding properties. The site has significant buffer distance from other non-farm residences and will have no effect on the agricultural use nearby. The accessory structure shall not be used as a commercial operation at any time.

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

The accessory structure may only be used for residential purposes, no commercial or business activities are allowed. Given that the area is primarily surrounded by acreages with some that have large accessory buildings, the proposed structure is compatible to the area. Many of the similar-sized buildings in the area have received Conditional Use Permits for larger accessory buildings or are used for agricultural purposes on parcels greater than 40 acres.

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

The petitioner will be responsible for attaining and extending utilities to the proposed dwelling and accessory building, and the proposed accessory building will utilize the same driveway as the dwelling.

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

No off-street parking will be needed as a result of personal activities in this accessory building. No commercial or business parking will be allowed at any time.

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.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

Recommendation:

Staff finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of Conditional Use Permit #16-06 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 4,000 square feet.
- 2.) That a building permit is required prior to construction of the accessory building.
- 3.) That a building permit for the residential dwelling must be obtained prior to the issuance of a building permit for the accessory building. If the dwelling is not completed or ceases to be a residential dwelling, the accessory building shall be removed.

- 4.) That the accessory building shall not exceed 35 feet in height and meet the setback requirements for the zoning district.
- 5.) That an inspection be made on the proposed new accessory building to ensure that the total floor area of the building does not exceed 4,000 square feet.
- 6.) That only personal residential storage shall be allowed in the building, and no commercial uses or commercial storage will be allowed at any time.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

ACTION

As part of the consent agenda, Commissioner Even made a motion to **approve** Conditional Use Permit #16-06 and the motion was seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #16-06 – Approved

ITEM 7. CONDITIONAL USE PERMIT #16-08 to transfer one building eligibility from the NE1/4 SW1/4 to the SE1/4 SW1/4; all in Section 12-T102N-R52W.

Petitioner: Lonnie Kramer

Property Owner: same

Location: Approximately 2.5 miles east of Humboldt

Staff Report: David Heinold

This would allow the transfer of one building eligibility.

General Information:

Legal Description – E1/2 SW1/4, Section 12-T102N-R52W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agricultural

Parcel Size – 80 Acres

Staff Report: David Heinold

Staff Analysis:

The applicant is requesting approval for the transfer of one building eligibility to move it closer to the road for access to 258th Street. The subject property is located about two-and-a-half miles east of Humboldt on 258th St. Currently, there is already one building eligibility present on the 40 acres of the proposed location for the building eligibility transfer from NE1/4 of the SW1/4.

On February 9, 2016, staff conducted a site visit. There are no concentrated animal feeding operations near the proposed transfer. The petitioner is moving the building eligibility closer to the road for access purposes.

Conditional Use Permit Criteria:

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 a building eligibility does not increase the number of dwelling units allowed in this area because the transfer only occurs within the same 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 indicated that the proposed building site will use existing right-of-way and share a driveway if possible.

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 transfer of building eligibility will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance due to residential activities.

6. Health, safety, general welfare of the public and the Comprehensive Plan.

The health, safety, general welfare of the public will not be impacted by the transfer of a building eligibility. The intent of the Envision 2035 Comprehensive Plan will be met, as density zoning will be followed.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #16-08 with the following condition:

- 1.) The lot 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

As part of the consent agenda, Commissioner Even made a motion to **approve** Conditional Use Permit #16-08 and the motion was seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #16-08 – Approved

ITEM 8. CONDITIONAL USE PERMIT #16-09 to make available 3 building eligibilities on the property legally described as N1/2 SE1/4, Section 13-T102N-R52W.

Petitioner: Ruby Kramer Living Trust

Property Owner: same

Location: Approximately 2.5 miles east of Humboldt north of South Dakota Highway 38

Staff Report: David Heinold

This would make 3 building eligibilities available.

General Information:

Legal Description – Part E1/2, N of RY & Hwy 38 (Ex. E493' S472' N1588.10' of NE1/4; all in Section 13-T102N-R52W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agricultural

Parcel Size – 186.06 Acres

Staff Report: David Heinold

Staff Analysis:

The applicant is requesting approval to allow three building eligibilities to be placed in the N1/2 of the SE1/4 north of South Dakota Highway 38. The subject property is located about two-and-a-half miles east of Humboldt on SD Hwy. 38. Currently, there is one locked building eligibility in use by a single family dwelling less than a quarter mile west of 460th Ave.

On February 9, 2016, staff conducted a site visit. There are no concentrated animal feeding operations near the proposed transfer. The petitioner is moving the building eligibilities near the existing residence on SD Hwy. 38 to make them available in this location.

Conditional Use Permit Criteria:

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 a building eligibility does not increase the number of dwelling units allowed in this area because the transfer only occurs within the same 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 indicated that the proposed building site will use existing right-of-way and share a driveway if possible.

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 transfer of building eligibility will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance due to residential activities.

6. Health, safety, general welfare of the public and the Comprehensive Plan.

The health, safety, general welfare of the public will not be impacted by the transfer of a building eligibility. The intent of the Envision 2035 Comprehensive Plan will be met, as density zoning will be followed.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #16-09 with the following condition:

- 1.) Each lot 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

As part of the consent agenda, Commissioner Even made a motion to **approve** Conditional Use Permit #16-09 and the motion was seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #16-08 – Approved

ITEM 10. CONDITIONAL USE PERMIT #16-10 to exceed 1,200 square feet of total accessory building area – requesting 11,524 sq. ft. on the property legally described as Tract 1 Muchow’s Addition (Ex. H-1), Section 33-T102N-R51W.

Petitioner: Corey Goehring

Property Owner: same

Location: 26175 463rd Ave. Approximately 1.5 miles south of Hartford

Staff Report: David Heinold

This would allow 11,524 sq. ft. of total accessory building area.

General Information:

Legal Description – Tract 1 Muchow’s Addition (Ex. H-1) Section 33-T102N-R51W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agricultural & Residential

Parcel Size – 29.42 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to exceed 1,200 square feet of total accessory building area. The petitioner is requesting approval of Conditional Use Permit #16-10 to allow 11,524 square feet of total accessory building area. According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

(1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

The petitioner is requesting to construct a 70’x90’ accessory building and plans to remove approximately 1,512 sq. ft. for placement of the proposed building that will be used for personal storage. The proposed building appears to double the size of the existing building to be removed and should ensure enough space to store more equipment inside.

There are several other large accessory buildings in the immediate area. The property less than a quarter mile to the north at 26138 463rd Ave. has approximately 6,355 sq. ft. on a 20-acre parcel. There are a few 5 to 10 acre parcels with a total accessory building area range between 2,040 and 4,532 sq. ft. Similarly, two properties less than a half mile to the west of the subject property have 4,000 and 4,924 sq. ft. respectively. The property about a half mile to the west at 46230 262nd St., a similar-sized lot and existing land use, has 14,592 sq. ft. of total accessory building area including a 60’x75’ pole building constructed in 2002.

On February 9, 2016, staff visited the property and the surrounding area. The staff analysis shows that the subject property, a farmstead, is requesting a total accessory building area roughly comparable to the properties mentioned in the previous paragraph. The site for the 70’x90’ pole

building and removal an older accessory building is an appropriate land use for the immediate area. On February 10, 2016, staff forwarded the conditional use permit request and this analysis to the City of Hartford for review. At this time, we have not received comment on the petition.

Conditional Use Permit Criteria:

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 are a few properties within a half-mile of the subject property that have building sizes relatively comparable to the petitioner's requested total accessory building area. It is unlikely that the proposed building size, 70'x90', will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with five residential acreages within a quarter-mile of each other.

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

The accessory building may only be used for personal residential and agricultural storage, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 11,524 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided.

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

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.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

6. Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed accessory building should have little to no effect on the health, safety, and general welfare of the public as well as the Envision 2035 Comprehensive Plan. Staff foresees that the use of the accessory building for private use and storage will likely create few, if any, nuisances to neighboring properties.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #16-10 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 11,524 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential or agricultural storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

ACTION

As part of the consent agenda, Commissioner Even made a motion to **approve** Conditional Use Permit #16-10 and the motion was seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #16-10 – Approved

REGULAR AGENDA

Items 2, 6, and 9 were moved to regular agenda for discussion purposes.

ITEM 2. REZONING #16-01 to rezone Dawson's Tract 2, SE1/4, Section 12-T102N-R50W from the A-1 Agricultural District to the C Commercial District.

Petitioner: Timothy R. Tiaht

Property Owner: same

Location: 25773 472nd Ave. Approximately 2 miles north of Sioux Falls

Staff Report: Scott Anderson

This would rezone from the A-1 Agricultural District to the C Commercial District.

General Information:

Legal Description – Dawson's Tract 2, SE1/4, Section 12-T102N-R50W

Present Zoning – A1 Agriculture

Existing Land Use – Commercial Agriculture

Parcel Size – 3.89 acres

Staff Report: Scott Anderson

Staff Analysis: The property is located on the northeast corner of the Crooks exit off I-29. The other four corners of this exit have extensive commercial and industrial development. The properties surrounding this parcel are zoned agricultural; however residential dwellings are located directly to the south and east of the site. The property to the east is buffered well from the development because of a tree belt located adjacent to the Tiaht property. The property to the south is a residential property and is owned by the applicant. Nearby property owners have opposed rezoning of the area to the south in 2012. These concerns will have to be addressed when the future land use is decided and a Conditional Use Permit Application is filed.

The applicant indicated that he intends on constructing storage units in the proposed rezoning area. The applicant has submitted a general plan showing the proposed new storage units along with the existing metal building that has been used as commercial building for the existing tree farm. Staff has included the plan for your review. A conditional use permit would be required before the mini-storage units could be constructed.

Envision 2035, Minnehaha County's recently adopted comprehensive plan, encourages commercial uses at interstate highway interchanges and high traffic intersections. Such uses should be developed in a nodal pattern, as specified in Action 1.4 on page 30 of the plan.

While the applicant is only rezoning approximately 4 acres of land at this time, he owns more land adjacent to the subject property and has an overall plan for his property. The Crooks/Renner Interchange has been developing into a significant commercial/industrial area over the past 10 years. There have been several rezoning requests approved at the southeast and northwest quadrants of the interchange. It is likely that commercial/industrial development will continue at this interstate interchange. The subject property meets this criterion of the County's Envision 2035 Comprehensive Plan and an expansion of the existing commercially zoned land in the general vicinity.

Recommendation: Staff recommends **approval** of Rezoning #16-01 to rezone the subject property from A-1 Agricultural District to C Commercial District.

DISCUSSION

Scott Anderson of Planning Staff presented the staff report.

Commissioner Barth noted that the petitioner owns property to the south of this proposal and asked if the south property had conditions to pave the driveway and if the petitioner has fulfilled those conditions. Scott Anderson responded that yes there were conditions and yes they have been completed as agreed. Commissioner Barth continued to ask if those conditions would be placed on this property. Scott Anderson responded that conditions would be placed at the time of the conditional use permit.

Tim Tiahart, the petitioner, stated that when he sent out the public notice he included a site plan and a description of the operation plan.

Commissioner Ode asked if the existing building was intended to remain on the site. Tim Tiahart responded yes that was the intent. He added that he also intends to hard surface the property just like the last property.

Inge Richter, 25755 472nd Avenue, discussed a few questions and comments. She first commented that she lives directly north of the subject property. She continued that the close proximity may cause issues with the drainage of the site. She concluded that her house is one of four residential dwellings located in the immediate vicinity. Commissioner Barth asked if the water flows onto her property to the north and does it pond. Inge responded that no water does not currently flow on their property and it currently only ponds on the petitioner's land.

Tim Tiahart responded that he does plan on redoing the culvert from an 18 inch to a 24 inch culvert and that he has been working with Midwest surveying on the site plan.

ACTION

Commissioner Barth made a motion to **approve** Rezoning #16-01, and the motion was seconded by Commissioner Ode. The motion passed unanimously.

Rezoning #16-01 – Recommend Approval

ITEM 6. CONDITIONAL USE PERMIT #16-07 to allow a Class C Hog CAFO (960 Animal Units) on the property legally described as SE1/4 SE1/4 & N1/2 SE1/4, Section 20-T104N-R48W.

Petitioner: Nick Siemonsma

Property Owner: Kenneth & Marcia Siemonsma

Location: Northwest of 248th St. & 480th Ave. Intersection

Approximately 5 miles southeast of Dell Rapids

Staff Report:

This would allow a Class C Hog CAFO (960 Animal Units).

General Information:

Legal Description – SE ¼ SE ¼ & N ½ SE ¼ Section 20-T104N-R48W

Present Zoning – A1 - Agriculture

Existing Land Use – Crop Land

Parcel Size – 120 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately four (4) miles east and one and a half (1.5) miles south of Dell Rapids. The petitioner would like to construct a swine CAFO operation on the southeast corner of the section near the intersection of 248th Street and 470th Avenue. The landowner currently operates an existing facility at his farmstead approximately 1/4 mile to the west of the proposed CAFO site.

The petitioner has proposed a hog finishing barn to hold 2,400 swine larger than 55 pounds. Each finishing swine is calculated at 0.4 animal units for a total request for the facility as 960 animal units. 960 animal units is under the threshold for a required state permit. The facility will have to comply with the provisions and requirements of the 1990 Revised Zoning Ordinance.

The site plan is an important aspect of any conditional use permit. A list of required elements for general CUPs and specifically CAFOs have been created to provide clarity for any petitioner requesting a CAFO. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element.

The address of the property and the legal description. The site plan includes the landowner's address which is located approximately ¼ mile west of the proposed site. The proposed CAFO does not have an address at this time, and the Planning Department will assign an address at the time of the building permit. The site plan does not include a legal description, but one is provided on the application.

The name of the project and/or business. The indicated name of the project is located in the title portion of the site plan as Siemonsma Swine.

The scale and north arrow. The site plan includes a north arrow and both a graphic and written scale.

All existing and proposed buildings or additions. The site has no existing buildings. The site plan includes one proposed barn.

The dimensions of all buildings. The site plan includes the dimensions of the proposed barn as 101.83 feet by 193 feet.

The distance from all buildings to the property lines at the closest points. The site plan does not explicitly include the setback distances to property lines. The parcel on which the site is located is too large to be drawn to scale in comparison to the proposed site. This size distance indicates that the proposed facility will have ample distance from the three property lines that are not shown. The southern property line is on the site plan, but the distance from the proposed building is not included. Other measurements and a graphic scale indicate that the proposed barn is approximately 125 feet from the south property line.

Building height and number of stories. The petitioner has submitted sections drawings (drawings from the side perspective) of the proposed barn that show the barn will have a dug out pit with a slatted floor above. No indication as to the height of the building has been submitted. Although agricultural buildings are exempt from the height requirement of the zoning district, the height of the building is important to the character of the surrounding area and for emergency purposes. Staff recommends that the proposed building be constructed to have a maximum height of 50 feet.

Dimensions of all property lines. The provided site plan does not include the dimensions of the property lines. Staff recognizes that the proposed site is only a small portion of a much larger parcel, and that including the entire parcel on a small site plan makes the plan difficult to read.

Parking lots or spaces; designate each space; give dimensions of the lot, stalls, and aisles. The proposed land use is for agricultural purposes on a large lot. Parking lots and space requirements are typically calculated for commercial and industrial uses. The site plan indicates an access from 248th Street that includes an 18 inch culvert. The plan also has gravel surfaced areas in place for loading and unloading of animals from the proposed barn.

Article 15 of the Zoning Ordinance requires that all driveways and loading/unloading areas to meet minimum standards. This CAFO operation will be required to have a gravel surface of a minimum four (4) inches thick for all its driveways and loading/unloading zones. It is suggested that the maneuvering and loading/unloading areas be setback from the front property line by fifteen (15) feet which is a standard for parking lots within the ordinance.

Screening including height, location, and type of material to be used. - And similarly

- **The landscape setback and trees indicating the species of trees and materials to be used for landscaping.** A submitted site plan indicates lines of trees and grass areas. These landscaped areas surround the north, east, and west of the proposed building. The submitted narrative notes that the petitioner is working with the NRCS to determine grass and tree species that will work best for his location. The narrative also includes that the building will be surrounded by quarry rock to dissipate rainwater that falls from the roof.

Name and location of all adjacent streets, alleys, waterways and other public places. The site plan includes the name of 248th Street which is the closest street to the proposed site. 480th Avenue is adjacent to the east property line of the parcel which is approximately a quarter mile away. The nearest water source is an intermittent stream located off the site to the south and east approximately 720 feet away. This intermittent stream flows into West Pipestone Creek after approximately three miles of meandering.

A landscaping in plan designed to assist in the dispersal of odors. The submitted materials do not include anything specific as to how the landscape will help disperse odors. The petitioner has submitted worksheet calculations of the South Dakota Odor Footprint Tool (SDOFT) and a supporting map that is drawn to scale. The supporting map indicates that only the property owner's residence is located within the boundary of the 98% annoyance-free zone.

A grading Plan designed to help keep pens and solid waste containment areas dry. The animal and manure will both be located inside the proposed structure. The site plan includes a grading plan that shows sloped ground leading away from the building on all sides. The east and north side of the building will require fill and is indicated to have a slope of 4 to 1. The Minnehaha County GIS indicate that the general slope of the parcel will move water to the east of the site into the intermittent stream in the next section.

The location and description of the animal waste facilities and structure. The submitted site plan includes only one animal waste facility located under a slatted floor where the hogs will be kept. The petitioner included many engineered drawings regarding the waste containment.

In relation to the site plan, the 960 animal unit operation will require a 1,980 foot buffer from a dwelling, church, school, or business. The setback map submitted by the petitioner shows that the proposed CAFO meets this and all other setbacks. In addition to meeting the setbacks, the petitioner has submitted signed waivers from five nearby property owners including the property owner with the nearest residential dwelling.

The pest control plan includes control methods for rats and flies. Flies will be controlled with bait and additives in the manure, while rodents will be controlled with traps along walls both inside and outside of the facility.

Odor management is seldom included in the applicant's materials. The manure management plan notes that manure will be injected to prevent odor. The applicant did however, submit the calculated worksheet created through the South Dakota Odor Footprint Tool. This map created

by this tool shows that all neighboring residential dwellings are further away from the facility than the 98% odor free line.

The dead animal control plan is included in the narrative. According to the plan, dead animals will be placed in an area enclosed on three sides until a rendering truck can get to the site.

One of the major elements that the Planning Commission is to consider as part of a conditional use permit for a CAFO is the nutrient management plan. The petitioner has submitted a manure management plan that shows that he has enough land available for the nutrients that will be produced. The plan is not comprehensive between this proposed CAFO and the property owner's CAFO. This may create a problem with excess nutrients in the future if the two CAFOs use the same land for application. The explanation in the narrative notes includes that the one underground manure pit will be pumped once a year and applied to fields through injections. The land application is advised by Control Crop Consulting to ensure that nutrients are applied on fields that need it.

Conditional Use Permit Criteria:

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

The proposed CAFO is located within a low density and predominantly agricultural area. The site meets the required setbacks for the size of the facility, and the closest neighbor has signed a waiver for the construction of the CAFO. The petitioner's submitted documentation from the South Dakota Odor Management Tool shows that all neighboring residential dwellings are outside of the 98% annoyance free zone. Since the surrounding area is primarily agricultural land uses, the proposed CAFO will have little effect on current use and enjoyment of surrounding properties.

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

The surrounding land uses of the proposed CAFO are predominantly agricultural with scattered single family dwellings and farmsteads. There is potential for further development of agricultural uses, such as CAFOs, and residential uses in farmsteads and acreages. The land use of a CAFO will unlikely affect further agricultural development in the area, especially since many of the farmsteads in the area already have animals confined on the farmstead. However, as intense land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling.

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

The proposed facility includes one proposed driveway off of 248th Street. The site plan indicates that the driveway will have an 18 inch culvert. Since the driveway is new, the petitioner will have to obtain a driveway permit from the township prior to issuing a building permit. The petitioner will have to acquire any utilities to the proposed facility.

The proposed facility includes a grading plan that generally slopes downhill to the east. The

Envision 2035 Comprehensive Plan encourages the use of Low Impact Development for projects that may have an effect on waterways and watersheds. The closest intermittent stream is located approximately 72 feet away and not on the same parcel. This makes Low Impact Development along a waterway difficult to require. The landscape plan includes quarry rock and grass to be placed around the building to aid in drainage management.

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

The operation is located on a large site that will have enough space to meet off street parking and loading requirements. The parking and loading areas must be surfaced with gravel according to Article 15.04 (B) of the 1990 Revised Zoning Ordinance for Minnehaha County. Parking and loading in the right of way will not be allowed.

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 petitioner is requesting a new CAFO facility. The inherent nature of a CAFO like this has the potential to create nuisances if not managed properly. This is especially true for odor, fumes, and dust. The petitioner has submitted management plans and site plans to aid in reducing nuisances. Anything included in the narrative will be expected to be carried out. In addition, the Planning Commission has the ability to add conditions if they feel the petitioner's plans and staff recommendations are inadequate to mitigate nuisances.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed beef CAFO will have to comply with the conditions of this permit and the regulations for CAFOs in the 1990 Revised Zoning Ordinance for Minnehaha County. These rules and regulations are designed to allow for development while preventing much of the potential harms that a CAFO facility may create. The facility is not required to obtain a State permit; however the state will review the application if Minnehaha County deems state permitting to be necessary.

The proposed CAFO is located firmly within the Agricultural Production Area of the Envision 2035 Comprehensive Development Plan. In the description of this designated area, a goal of the Envision 2035 Comprehensive Development Plan is to "protect, preserve, and promote agricultural uses and the economic viability of farming operations."

Recommendation:

Staff finds that the proposed CAFO is an acceptable land use under the comprehensive plan. Staff recommends **Approval** of Conditional Use Permit #16-07 with the following conditions:

- 1.) The facility shall be limited to 960 animal units in size.
- 2.) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 3.) The facility shall conform to the submitted site plans. Any minor changes may be approved by the Planning Director at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 4.) The manure containment facility must be in conformance with South Dakota Department of Environment and Natural Resources design standards for any newly

- constructed waste containment facility. A registered professional engineer shall certify the plan specifications and the construction of the facility.
- 5.) Approval must be obtained by the township for the construction of the new road access.
 - 6.) All driveways, parking, and loading areas within the CAFO site must comply with minimum standards that are listed in section 15.04 of the Zoning Ordinance for Minnehaha County.
 - 7.) An address sign must be purchased at the planning department and placed at the driveway of the facility.
 - 8.) The proposed barn shall have engineer certified drawings that shall be submitted for review by the Building Inspector prior to the issuance of a building permit.
 - 9.) A building permit is required for all structures prior to construction.
 - 10.) That the Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

DISCUSSION

Commissioner Randall recused herself from this item.

Kevin Hoekman of Planning Staff presented the staff report.

Nick Siemonsma, the petitioner, got up and mentioned that he has recently graduated and decided that this is what he would do with his degree. He included that the existing farm that is owned by the landowner has no animals on the site at this time.

Commissioner Barth commented that it was to the petitioner's credit to have turned in such a well-designed proposal.

Jerome Geraets, 48010 247th Street, spoke to his concern for the manure management plan. He asked who's responsibility was it to ensure that the plan is followed. Commissioner Barth responded that it is the responsibility of the planning staff to make sure it is followed.

Nick Siemonsma added that he has been working with an engineering firm to design and will continue to work with them through construction of the manure management facility.

ACTION

Commissioner Barth made a motion to **approve** Conditional Use Permit #16-07 with conditions, and the motion was seconded by Commissioner Ode. The motion passed unanimously. Commissioner Randall recused herself from the item.

Conditional Use Permit #16-07 – Approved

ITEM 9. REZONING #16-02 to rezone east 464 feet of the property legally described as THAT PORTION SE1/4 LYING SOUTH OF HWY 42 (EX THAT PORTION PLATTED AS ROWENA & EX CLAUSON TR 1 & EX PERRY TR 2 & EX KJERGAARD & EX SMOOK ADDN & EX H-1 & EX FUNKE'S ADDN) 26-101-48 SPLIT ROCK TOWNSHIP from the A-1 Agricultural District to the C Commercial District in Section 26-T101N-R48W.

Petitioner: Jason Klein

Property Owner: Jason Klein & others

Location: Southwest corner of South Dakota Highway 42 & 483rd Ave. Intersection
Approximately 3 miles east of Sioux Falls

Staff Report: Kevin Hoekman

This would rezone from the A-1 Agricultural District to the C Commercial District.

General Information:

Legal Description – THAT PORTION SE1/4 LYING SOUTH OF HWY 42 (EX THAT PORTION PLATTED AS ROWENA & EX CLAUSON TR 1 & EX PERRY TR 2 & EX KJERGAARD & EX SMOOK ADDN & EX H-1 & EX FUNKE'S ADDN) 26-101-48 SPLIT ROCK TOWNSHIP.

Present Zoning – A1 - Agriculture

Existing Land Use – Crop land

Parcel Size – 16.12 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The applicant is proposing to rezone approximately nine (9) acres of a 16.12 acre parcel from A-1 Agricultural to C – Commercial zoning district. As noted in the description on the application, the east 464 feet is requested to be rezoned to C – Commercial zoning district, while the rest of the parcel is to remain A-1 Agricultural zoning district in order to preserve five (5) existing residential building eligibilities. The petitioner mentioned future plans to develop residential uses in the future, but not at this time.

The property is located adjacent to the east side of Rowena. Approximately 800 feet of the northern property line abuts SD Highway 42 while the east property line abuts County Highway 111 (483rd Street). The applicant would have to acquire permission from the Department of Transportation (DOT) and/or the Minnehaha County Highway Department in order to obtain access to the respective roads.

Many residential dwelling are located within close proximity of the parcel. Primarily these residences are located in the non-incorporated Rowena. A few acreages and farmsteads are located to the south and southeast of the site. The current request to rezone the east 464 feet of the parcel provides a buffer space between the proposed commercial zoning and the residential uses in Rowena. The adjacent residential property to the south is a ten (10) acre non-farm residence. There is no buffer between this residential property and the proposed commercial zoning area; however, the dwelling and yard area is separated by two separate groves of trees. In

addition the location of the proposed commercial district will require future development to meet special setbacks and landscaping requirements.

The subject parcel is located within the Red Rock Corridor. The Red Rock corridor is an area around SD Highway 42 west of Sioux Falls that has undergone additional planning and includes additional measures in the County Ordinance. The subject proposed rezoning corresponds with a commercially designated area within the Future Land Use Plan for the Red Rock Corridor. While clustering growth in proximity to Rowena is deemed desirable, it is recognized that growth must be able to maintain with minimal services. The petitioner will have to arrange for utilities to be extend for any development in the proposed commercial district. No sanitary sewer system is available so each property will have to include on-site wastewater treatment systems. Commercial on-site wastewater systems must be approved by the state Department of Environment and Natural Resources.

The Envision 2025 Comprehensive Plan recognizes Rowena as a Rural Service Area Community. As part of this designation, typical uses include limited convenience commercial businesses. The proposed commercial site would be located at the intersection of a state highway and a county highway which is desirable for access and to avoid strip style development along a major street.

The rezoning proposal generally meets the policies and objectives of the comprehensive plan. The site is located within of a Rural Service Area and within a designated commercial area or the Red Rock Corridor Future Land Use Plan.

Recommendation: Staff recommends **Approval** of Rezoning #16-02 to rezone the subject property from A1 Agricultural District to C Commercial District.

DISCUSSION

Scott Anderson of Planning Staff notified the Planning Commission that the petitioner has failed to notify the surrounding neighbors as required. Therefore he added that the item will have to be continued to the next meeting.

Kristy Vent, representing the petitioner, approached the podium to request deferral on the item.

ACTION

Commissioner Barth made a motion to **Continue** Rezoning #16-01 to the Planning Commission Meeting on March 28, 2016, and the motion was seconded by Commissioner Even. The motion passed unanimously.

Rezoning #16-02 – Continued to March 28, 2016

Old Business

None.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Even and seconded by Commissioner Kostboth. The motion passed unanimously.