

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
October 24, 2016

A meeting of the Planning Commission was held on October 24, 2016 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Bonnie Duffy, Doug Ode, Becky Randall, and Jeff Barth.

STAFF PRESENT:

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

Planning Commission Chair Mike Cypher called the Minnehaha County Planning Commission meeting to order at 7:18 p.m.

CONSENT AGENDA

Each item title was read, and no objections to the consent agenda were raised.

A motion was made by Commissioner Ode and seconded by Commissioner Randall to **approve** the consent agenda consisting of Items 1, 2, 3, 4, 5, 6, and 7. The motion passed unanimously.

ITEM 1. Approval of Minutes – September 26, 2016

As part of the consent agenda, a motion was made by Commissioner Ode and seconded by Commissioner Randall to **approve** the meeting minutes from September 26, 2016. The motion passed unanimously.

Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #16-70 to exceed 1,200 square feet of total accessory building area – requesting 1,944 sq. ft. on the property legally described as Tract 3, KB Ridge Estates Addn., SE1/4, Sec. 4-T102N-R49W.

Petitioner: Lance Richter

Property Owner: same

Location: 25679 475th Ave. Approximately 4 miles north of Sioux Falls

Staff Report: David Heinold

This would allow 1,944 sq. ft. of total accessory building area.

General Information:

Legal Description – Tract 3, KB Ridge Estates Addn., SE1/4, Sec. 4-T102N-R49W.

Present Zoning – RC Recreation/Conservation District

Existing Land Use – Residential

Parcel Size – 2.16 Acres

Staff Report: David Heinold

Staff Analysis:

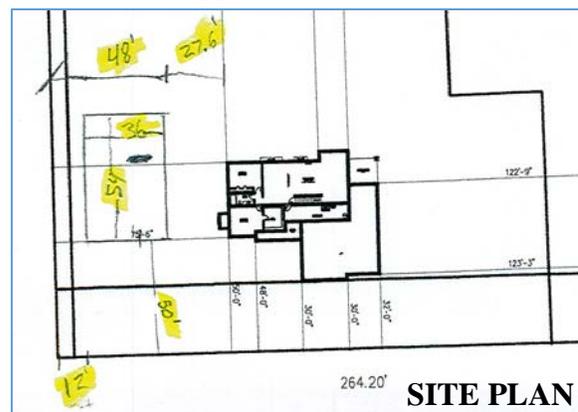
The petitioner is requesting conditional use permit approval to construct a 36'x54' accessory building for a total of 1,944 square feet. The proposed structure would be located to the west of the existing house. The applicant stated that the purpose of the garage is for storage of personal property. The subject property encompasses an area of approximately 2.16 acres.

The subject property is located approximately 4 miles north of Sioux Falls. The petitioner is requesting conditional use permit approval to exceed 1,200 sq. ft. in 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.

There are several buildings in the surrounding area that exceed the 1,200 sq. ft. requirement. The property owner, 47509 257th St., about a half mile to the east of the subject property has 3,360 sq. ft. of total accessory building area on a 17.30 acre parcel. The property immediately to the northeast was granted conditional use permit approval for 3,400 sq. ft. on a 7.42 acre parcel.



On October 13, 2016, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The proposed building will be located on a 2.16 acre parcel.

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 two other 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 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 half-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 residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 1,944 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 minimal effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the agricultural production area identified in the Envision 2035 Comprehensive Plan, which recognizes that the primary purpose of the area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. The proposed use of the building for personal storage should not affect surrounding land uses.

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 #16-70 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 1,944 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 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, a motion was made by Commissioner Ode and seconded by Commissioner Randall to **approve** Conditional Use Permit #16-70. The motion passed unanimously.

Conditional Use Permit #16-70 –Approved

ITEM 3. CONDITIONAL USE PERMIT #16-72 to transfer one (1) building eligibility from the NE1/4, SE1/4 to the SW1/4, SE1/4; all in Sec. 27-T102N-R51W

Petitioner: Dennis Muchow

Property Owner: same

Location: Approximately 1/2 mile east of 463rd Ave. & 261st St.

Staff Report: Kevin Hoekman

This would allow the transfer of one (1) building eligibility.

General Information:

Legal Description – SE1/4 (EX H-1 & EX E64 RDS & EX TRS 1, 2 & 3 MUCHOW'S ADDN) 27 102 51 HARTFORD TOWNSHIP

Present Zoning – A1 - Agriculture

Existing Land Use – Crop Land

Parcel Size – 92.82 acres

Staff Analysis:

The petitioner is requesting to transfer one building eligibility from the NE1/4 SE1/4 in Section 27-T102N-R51W to SW1/4 SE1/4 Muchow's Addn. in Section 27-T102N-R51W. This move will locate this eligibility closer to other residences and maintain a large farmable area along the south side of Interstate 90. It will also move the eligibility further from the potentially conflicting land uses of a future electrical subdivision and a salvage yard. The move will also locate this eligibility further away from Interstate 90 on the north end of the property.

On October 13, 2016, staff conducted a site visit and determined that there are approximately 7 houses and/or farmsteads located within a 1/2 mile radius of the subject property. A small confined animal feeding operation is located to the approximately a 1/2 mile to the west on the corner of 463rd Avenue and 261st Avenue. Two industrial zoning districts exist about 1/4 to 1/2 of mile to the northwest and the northeast of the proposed location for the eligibility. The remaining property surrounding the petitioner's property to the north and south within a 1/2 mile is either farmland or pasture.

The petitioner noted that the final location of a new parcel is undetermined at this time. Therefore, the eligibility will be moved to the general area of the SW 1/4 of the SE 1/4. This is the second transfer of a building eligibility on this property. The first building eligibility was placed on a subdivided tract along the north 1/4 mile line. This transfer took place in 2014

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 about 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 will not increase the number of dwelling units allowed in this section. The transfer will allow for better clustering of lots and maintaining large areas of

farmable land.

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

If the transfer of building eligibility results in a new home being constructed, a new driveway will be needed off of 261st Street. There is no opportunity to share driveways with neighbors.

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

The off-street parking requirements will be accounted for once a single-family dwelling 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 any odor, fumes, dust, noise, vibrations, or lighting in a way that would otherwise constitute a public nuisance.

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 three building eligibilities. The intent of the 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 #16-72 with the following conditions:

1. A right-to-farm notice covenant shall be placed on each deed prior to the issuance of a building permit for all single family dwellings.
2. Lot must be platted prior to building permits being issued.

ACTION

As part of the consent agenda, a motion was made by Commissioner Ode and seconded by Commissioner Randall to **approve** Conditional Use Permit #16-72. The motion passed unanimously.

Conditional Use Permit #16-72 –Approved

ITEM 4. CONDITIONAL USE PERMIT #16-73 to allow a Class 1 Major Home Occupation – Fish House Construction on the property legally described as TRACT 3 GRIMMIUS ADDN SE1/4SE1/4 SEC 34 & SW1/4SW1/4 35 101 48

Petitioner: Marvin Sharkey

Property Owner: same

Location: 48190 268th St. Approximately 2 miles east of Sioux Falls

Staff Report: Kevin Hoekman

This would allow a Class 1 Major Home Occupation, Fish House Construction.

General Information:

Legal Description – TRACT 3 GRIMMIUS ADDN SE1/4SE1/4 SEC 34 & SW1/4SW1/4 35-101-48

Present Zoning – A1 - Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 4.44 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to allow the construction and incidental sale of fish houses on the above described property. The property is located approximately 1.5 miles west of the Big Sioux River on County Highway 150. The parcel is one of several residential properties along the highway and near a broadcast tower. The request is classified as a Class 1 Major Home Occupation, because the business will take place out of an accessory building.

The petitioner has submitted a simple site plan and narrative. The site plan indicates that the existing storage shed will be used for the business and storage. The applicant was informed at the time of the application that the ordinance limits the amount of space used for a home occupation depending on the size of the parcel. Since the size of the parcel is less 5 acres, a maximum of 1,200 square feet of the existing 5,760 square foot accessory building. The applicant noted that he intends on maintaining personal storage in the shed anyway and that the limitation would work. The site plan also denotes two signs on the property. One is located on the building and one in the yard. The dimensions included in the site plan and narrative indicate signs that are larger than what the ordinance allows. The ordinance limits signage to four square feet in the yard and two square feet on the building. The petitioner also indicated in the plan narrative that the business consists of himself and two part-time employees. It is noted that construction and storage will take place inside of the structure with the desire to have some display in the asphalt surfaced area outside of the shed. The ordinance regarding home occupations explicitly prohibits outdoor storage and display. Where the narrative and regulations conflict, the ordinance shall be followed. The regulations for a Class 1 Major Home Occupation can be found below.

At the site visit on October 13, 2016, staff noticed that the property is maintained in good order and that accessory building is located behind the house and mostly inconspicuous from neighboring properties. Staff was shown a room in the south side of the building that would be

the location where the fish houses would be built. The driveway has good visibility for customers and deliveries.

Class 1 Major Home Occupation Regulations:

(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) 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.. *(amended MC16-126-13 2/19/13)*
- (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. *(amended MC16-126-13 2/19/13)*

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 subject property is located in a rural area with strip style residential subdivision and agricultural uses nearby. As long as the use is maintained within the accessory building and the other home occupation regulations, the proposed use will not have a significant impact on property values in the surrounding area. Complaints from neighbors may trigger a review of this permit to consider additional conditions or revocation.

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

This area of Minnehaha County has potential for more development. Several parcels in the area have available building eligibilities, and the City of Sioux Falls Continues to expand. Although there may be more development in the area, change will likely happen slowly. A broadcast tower is located directly to the north of the site. This broadcast tower will likely prevent growth directly north of the proposed use. As long as conditions and the ordinance is met, the land use will not likely effect the growth around this parcel.

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

The petitioner has the utilities, access roads, and drainage systems in place due to the residence and accessory building already being in place. No further infrastructure will need to be provided.

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

The petitioner has adequate space adjacent to the existing accessory building for several parking spaces as a result of current residential activities. There is adequate space for delivery truck turnaround in the existing driveway.

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 no excessive vibration, glare, fumes, or odors will be allowed while this proposed use is maintained. The proposed hours of operation correlate with the regular work day. All other aspects of construction will take place within the accessory building. The petitioner noted the intent of preselling the product. This method of sails should reduce the potential traffic to the site from customers. 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.

Due to the low impact and visibility of the proposed home occupation of constructing and selling fish houses, there should be a minimal impact on surrounding residential as well as agricultural properties. Therefore, it is expected that the health, safety, general welfare of the public, and the Comprehensive Plan will likely not be negatively affected in a significant manner.

Recommendation:

Staff finds that the Conditional Use Permit request for a major home occupation, construction and sales of fish houses, conforms to the goals and policies of the Envision 2035 Comprehensive Plan and would not be as easily detectable as a commercial operation from surrounding properties. The residence will clearly be the primary use of the lot since the occupation will be conducted entirely within the accessory building, which remains secondary to the principal use of the lot for residential purposes. Staff recommends **approval** of Conditional Use Permit #16-73 with the following conditions:

- 1) That the occupation shall comply with **all** regulations of section **12.0302 (A) Class 1:** of the 1990 Revised Ordinance for Minnehaha County.
- 2.) That the applicant be limited to one (1) non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one (1) 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. A Sign Permit shall be obtained prior to the installation of any sign.
- 3.) All new or replacement outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 4.) Construction and customer visits shall be limited to the hours of 7:30 am to 7:00 pm.
- 5.) That the Planning & Zoning Department reserves the right to enter and inspect the home occupation 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, a motion was made by Commissioner Ode and seconded by Commissioner Randall to **approve** Conditional Use Permit #16-73. The motion passed unanimously.

Conditional Use Permit #16-73 –Approved

ITEM 5. CONDITIONAL USE PERMIT #16-75 to exceed 1,200 square feet of total accessory building area – requesting 4,881 sq. ft. on the property legally described as S1/2 NW1/4 NW1/4, Sec. 18-T101N-R47W.

Petitioner: Tom Richards

Property Owner: same

Location: 26420 484th Ave. Approximately 2.5 miles southwest of Brandon

Staff Report: Kevin Hoekman

This would allow 4,881 sq. ft. of total accessory building area.

General Information:

Legal Description – S1/2 NW1/4 NW1/4, Sec. 18-T101N-R47W.

Present Zoning – A1 - Agriculture

Existing Land Use – Residential with some agricultural animals and land.

Parcel Size – 19.75 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located southeast of Brandon along County Highway 109. Beaver Creek Recreational area is located ¼ mile to the west of the petitioner's property. The parcel is located in the middle of a sizable residential subdivision that line the highway and the township road two the north. The parcel is nearly 20 acres in size which is large for the subdivision in which it is located. 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 move on a 450 square foot (15' x 30') accessory building for personal storage and use. The proposed building would be in addition to three other accessory buildings on the site. The smallest of the existing accessory buildings (675 ft²) is currently used as a horse shelter. The other two existing larger accessory buildings (1,488 ft² & 2,268 ft²) are machine shed type buildings that appear to be used for vehicle storage. The proposed accessory building is indicated on the provided site plan to be located northeast of the dwelling and within a grove of trees. A proposed driveway would extend southwest and connect to the existing driveway.

The surrounding residential properties include several parcels with large accessory building square footage. The parcels can be found on the Existing Accessory Building Map. The largest area accessory building that is used for residential purposes is across the highway and to the southwest. This parcel has two accessory buildings that total 5,964 square feet. A parcel located adjacent and northeast of the subject property has a total accessory building area of 4,236 square feet. A conditional use permit was approved in 2011 for the property with 4,236 square feet. The parcel with 5,616 square feet of accessory building and located to the southeast of the subject property received a conditional use permit in 2014 for the accessory building space. The proposed accessory building total area will not be the largest accessory building total area in the area.

Staff conducted a site visit on October 13, 2016. Large accessory buildings were visible from the road in several locations. The property appeared in a similar manner to other working farms with accessory buildings and horses. Staff notices multiple trailers on the property and a sign advertising The Trailer Connection. The trailers appear to have licenses and are likely used for personal uses. The sign on the property directed people to an Interstate exit where the business is located. The sign should be removed to avoid any confusion of the property having commercial tailor sales.

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 proposed use is surrounded by residential lots and properties. One area of concern for a large accessory building is the visual impact of the neighborhood. The proposed accessory building is noted to be set behind the residential structure and within a grove of trees. Several properties with large accessory buildings already exist in the area.

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. Many of the building eligibilities have been used with a few lots available to the northeast of the proposed accessory building. The construction of a large accessory building in the area will not likely deter future residential growth, but there is some potential that other property owners will ask for large accessory buildings on their properties.

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 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. The accessory building will be limited to a maximum of 35 feet in height to meet the zoning height regulations.

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. Several large accessory buildings already exist in the area.

Recommendation:

Staff finds that the request for a larger accessory building area is reasonable with the following conditions that limit the size further than requested. Staff recommends **approval** of Conditional Use Permit #16-75 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 4,881 square feet.
- 2.) That a building permit is required prior to construction/placement of the accessory building.
- 3.) An inspection must be made of the proposed moved and placed accessory building to ensure that the total floor area of the building does not exceed 450 square feet.
- 4.) Only personal residential storage shall be allowed in the building, and no commercial uses or commercial storage will be allowed at any time.
- 5.) All new outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) 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, a motion was made by Commissioner Ode and seconded by Commissioner Randall to **approve** Conditional Use Permit #16-75. The motion passed unanimously.

Conditional Use Permit #16-75 –Approved

ITEM 6. CONDITIONAL USE PERMIT #16-76 to exceed 1,200 square feet of total accessory building area – requesting 3,114 sq. ft. on the property legally described as Lot 1 and the North 30 feet of Lot 2, Tract 4, O’Ranch Tracts Subdivision, SE1/4, Sec. 31-T101N-R50W.

Petitioner: Greg Staton

Property Owner: same

Location: 26793 467th Ave. Approximately 2 miles west of Sioux Falls

Staff Report: David Heinold

This would allow 3,114 sq. ft. of total accessory building area.

General Information:

Legal Description – Lot 1 and the North 30 feet of Lot 2, Tract 4, O’Ranch Tracts Subdivision, SE1/4, Sec. 31-T101N-R50W.

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 1.29 Acres

Staff Report: David Heinold

Staff Analysis:

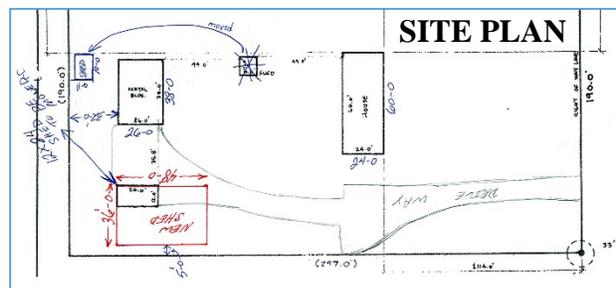
The petitioner is requesting conditional use permit approval to construct a 36’x54’ accessory building for a total of 1,944 square feet. The proposed structure would be located to the west of the existing house. The applicant stated that the purpose of the garage is for storage of personal property. The subject property encompasses an area of approximately 2.16 acres.

The subject property is located approximately 2 miles west of Sioux Falls. The petitioner is requesting conditional use permit approval to exceed 1,200 sq. ft. in 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.

There are several buildings in the surrounding area that exceed the 1,200 sq. ft. requirement. The property owner, 26785 467th Ave., immediately north of the subject property has 3,360 sq. ft. of total accessory building area on a 3.38 acre parcel. The property immediately to the south has approximately 3,690 sq. ft. on a 1.67 acre parcel.



On October 13, 2016, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The proposed building will be located on a 1.29 acre parcel.

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 two other 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 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 half-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 residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 3,114 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 no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located just outside of the transition area for the City of Sioux Falls identified by the Envision 2035 Comprehensive Plan, which recognizes that these areas have the primary purpose of maintaining the rural landscape until eventual residential development and/or municipal annexation. The proposed use of the building for personal storage should not affect the future growth of this area given the present use of the land for residential and/or commercial purposes.

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 #16-76 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 3,114 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 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, a motion was made by Commissioner Ode and seconded by Commissioner Randall to **approve** Conditional Use Permit #16-76. The motion passed unanimously.

Conditional Use Permit #16-76 –Approved

ITEM 7. CONDITIONAL USE PERMIT #16-77 to exceed 1,200 square feet of total accessory building area – requesting 7,210 sq. ft. on the property legally described as NW1/4 SW1/4 (Ex. H-2, H-3, & S370' W708'), Sec. 7-T102N-R49W.

Petitioner: Dihl Grohs

Property Owner: Gordon E. Bolton & Beverly Bolton

Location: 25758 472nd Ave. Approximately 2.5 miles north of Sioux Falls

Staff Report: Kevin Hoekman

This would allow 7,210 sq. ft. of total accessory building area.

General Information:

Legal Description – NW1/4 SW1/4 (Ex. H-2, H-3, & S370' W708'), Sec. 7-T102N-R49W.

Present Zoning – A1 - Agricultural

Existing Land Use – Farmstead

Parcel Size – 33.92 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately ½ mile north of the Crooks/Renner Exit off Interstate 29. The parcel is a large lot that has a former farmstead on it. The site is located within a subdivision of more than four lots. A couple of the nearby parcels have recently been rezoned and approved for commercial storage rental units. 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 2,240 square foot (52' x 48') accessory building for agricultural uses. The proposed accessory building is indicated on the provided site plan to be replacing a smaller existing open storage structure in the center of the yard. The petitioner submitted a narrative that describes the intent to use the structure for agricultural storage and purposes. This use and size of building would be permitted if the property was 40 acres or larger in size.

Several properties in the area have large accessory buildings that can be seen in the Existing Accessory Building Map. The properties that are associated with residential uses have accessory buildings that are significantly smaller than the request for 7,210 square feet. The parcels that are associated with farming type activities have accessory building space that are similar in size. The parcel that is south of the subject property and has 6,960 square feet. This large accessory building was approved as a stable and since been rezoned to commercial. Other property in the area is zoned commercial and has large rental storage units. The Planning Commission has often used nearby accessory building sizes as a guide to determine if the request is reasonable. Although no residential use in the area has the same amount of area as the request, there is a trend of agricultural uses and commercial uses to have large accessory building area.

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 proposed use is surrounded by a mix of uses including residential. One area of concern for a large accessory building is the visual impact of the neighborhood. The proposed accessory building would be situated in a farmstead in a similar manner as other agricultural farmsteads. Other properties with large accessory buildings already exist in the area.

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

No commercial or business activities are allowed. Many of the building eligibilities have been used with a lot available to the northwest of the proposed accessory building. The construction of a large accessory building in the area will not likely deter future residential growth. The proposed use will not likely affect any future commercial or industrial growth at the intersection either.

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 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. The accessory building will be limited to a maximum of 35 feet in height to meet the zoning height regulations.

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. The petitioner pointed out in his narrative that the Ordinance includes that the purpose of the zoning district is “to provide for a vigorous agricultural industry by preserving for agricultural production those agricultural lands beyond areas of planned urban development. Several large accessory buildings already exist in the area.

Recommendation:

Staff finds that the request for a larger accessory building is reasonable with the following conditions that limit the size further than requested. Staff recommends **approval** of Conditional Use Permit #16-77 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 7,210 square feet.

- 2.) That a building permit is required prior to construction of the accessory building.
- 3.) An inspection must be made of the proposed new accessory building to ensure that the total floor area of the building does not exceed 2,496 square feet.
- 4.) Only personal storage shall be allowed in the building, and no commercial uses or commercial storage will be allowed at any time.
- 5.) 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 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, a motion was made by Commissioner Ode and seconded by Commissioner Randall to **approve** Conditional Use Permit #16-77. The motion passed unanimously.

Conditional Use Permit #16-77 –Approved

Regular Agenda

ITEM 8. CONDITIONAL USE PERMIT #16-49 to allow a Permanent Water Tower Structure on the property legally described as Tract 5, Nelson's Addition, S1/2, Section 26-T102N-R48W.

Petitioner: City of Brandon (Bryan Read)

Property Owner: Randy Nelson

Location: NW Corner of Redwood Blvd. & Chestnut Ave.

Approximately 0.5 mile northeast of Brandon

Staff Report: Scott Anderson

This would allow a Permanent Water Tower Structure.

General Information:

Legal Description – Tract 5, Nelson's Addition, S1/2, Section 26-T102N-R48W

Present Zoning – A1 Agriculture

Existing Land Use – farmland

Parcel Size – 36.86 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.

On June 10, 2016, staff conducted a site visit. The surrounding land uses are a mixture of residential and agricultural uses. The subject property is located approximately approximately 1/2 mile east of the Brandon corporate limits near the intersection of Redwood Boulevard and 483rd Avenue (Chestnut Boulevard).

The City of Brandon is proposing to construct a 149 foot tall water tower. The water tower will hold 1.25 million gallons of water. The growth of Brandon and surrounding communities necessitated the need for a continued reliable municipal water system. The proposed City of Brandon water tower is being constructed to fill that need and will be part of the Brandon water system. The applicant has indicated that the water tower will be constructed in 2018. It will be blue and white in color and lit with upward facing lights with a light on top for aircraft. The site plan shows a six foot high chain link fence surrounding the water tower.

This item was first heard by the Planning Commission on June 27, 2016. There were eight (8) people that testify during the public input. Several questions were raised by the surrounding neighbors. The conditional use permit request was continued for three months to allow the applicant time to hold meetings with the neighbors. The applicant met with most of those speaking at the meeting and those meeting minutes are included for the Planning Commission's review.

The applicant has been working investigating other locations and asked at the September

Planning Commission meeting to have this item continued for one (1) to allow for more time to negotiate a different located.

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 tower 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 tower will insure adequate water to present and future development for the region. There is a similar water tower located approximately 1 mile to the south.

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

The proposed water tower 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 tower is part of a city water system that will aid in providing an adequate water system to present and future development for Brandon.

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

Access to the proposed water tower will be provided by Chestnut Boulevard, which is a township maintained road. It appears that the site utilizes natural drainage. The proposed water tower has access to water and no wastewater facilities will be provided.

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 water tower typically does not generate any significant amounts of traffic. Each parking space should measure a minimum of 9 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 tower 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 the city of Brandon.

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 #16-49 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 #16-49 to allow a water tower 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, 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.

PUBLIC TESTIMONY

Scott Anderson, Planning Director, presented a brief summary of the conditional use permit request and mentioned that the applicant would like a deferral for 30 days to the next meeting.

ACTION

Commissioner Ode made a motion to **defer** Conditional Use Permit #16-49 until the November 28th planning commission meeting and the motion was seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #16-49 – Deferred until November 28, 2016

ITEM 9. CONDITIONAL USE PERMIT #16-71 to allow Sand and Gravel Extraction on the property legally described as E1/2, E1/2, SW1/4 and NW1/4, Section 31-T102N-R50W.

Petitioner: Great Bear Sand and Gravel

Property Owner: Reynolds and Gustafson, LLP (Betty Reynolds LLP)

Location: 46645 261st St. Approximately 3 miles southeast of Hartford

Staff Report: Scott Anderson

This would allow Sand and Gravel Extraction.

General Information:

Legal Description – E1/2, E1/2, SW1/4 and NW1/4, Section 31, T102N-R50W

Present Zoning – A1 - Agriculture

Existing Land Use – mineral extraction

Parcel Size – approximately 200 acres

Staff Report: Scott Anderson

Staff Analysis: On March 27, 2006, the Planning Commission approved Conditional Use Permit #06-82 for the extraction of sand and gravel on the above described property. Subsequently, the approval was appealed to the County Board and on April 18, 2006, the County Board upheld the Planning Commission's decision and approved the Conditional Use Permit 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 on the site.
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 all of the requirements in the Haul Road Agreement between Benton Township and the applicant dated February 23, 2006 be followed continually.
6. 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.
7. 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.

8. 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.
9. That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
10. The boundaries of the extraction area shall conform to the site plan submitted with the application.
11. Topsoil shall remain on the site and be used in final reclamation.
12. Only clean fill shall be used as backfill.
13. There shall be no storage or accumulation of inoperable or discarded equipment or parts.
14. A gate shall be required at the haul road entrance to the property.
15. That all mining activity is concluded by January 1, 2017 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, 2017.
16. 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.
17. That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
18. 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.
19. That all trucks be covered/tarped when loaded and leaving the pit area and that the applicant hard surface the ¼ mile of 466th Avenue where it meets Highway 38 on the south.

On August 27, 2007, the Planning Commission approved amending condition #19 to read as follows:

19. That all trucks owned by the applicant be covered/tarped when loaded and leaving the pit area and that the applicant hard surface the ¼ mile of 466th Avenue where it meets Highway 38 on the south.

As per condition #15, the use allowed through this conditional use permit is set to expire on January 1, 2017 with all reclamation to be completed by the end of 2017. The applicant has requested to have the sand and gravel mining continue indefinitely.

In the 11 years since approval of Conditional Use Permit #06-15, staff has continually dealt with complaints and issues resulting from the use. Hartford Township has complained 3 different years about the condition of the hard surfacing on 466th Avenue. Staff was required to contact the owner/operator on each occasion and force them to comply with meeting condition #19. Staff also got calls from surrounding property owners regarding dust, noise and traffic on many occasions. All of these complaints required many hours of staff time to investigate the complaints and then take action on each complaint.

The applicant has submitted the same material submitted for Conditional Use Permit #06-15. They have indicated that the existing conditions of approval, minus the sunset condition (#15), are acceptable.

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.

Given the large amount of property used for the sand and gravel operation and the relatively sparse population of the area, it is likely that there is a neutral impact upon the use and enjoyment of surrounding properties. Over the past 10 years, the property values have not decreased in the area.

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

There has been limited development of the surrounding vacant properties. A cement manufacturing facility has been constructed within the last 3 years to the north of the subject property

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

The applicant has constructed a haul road that intersects with 466th Avenue. All other utilities needed for the operation have been provided.

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

The applicant is meeting all off-street parking and loading 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.

Conditional Use Permit #06-15 had provisions for the control of dust and noise. The proposed use would have some limited noise and vibrations. The most serious issue for the proposed use was dust. Staff received complaints in 2009 and 2010 about dust emanating from the subject property during the summer months when the area experienced prolonged dry spells with little

precipitation.

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

Goal 5 of the Environmental Stewardship chapter of the Envision 2035 Comprehensive Plan states, “*Recognize that sand and gravel deposits within the County are an un-renewable natural resource and beneficial to the economy of the County and welfare of its people.*” The Envision 2035 Comprehensive then has an action statement that suggests that conflicts with existing neighborhoods should be minimized.

The applicant has had ten (10) years of mining sand and gravel from the site. There was strong opposition to the sand and gravel operation when the conditional use permit was approved in 2006. Staff included a sunset clause in the approval, so surrounding property owners would be assured that the operation would be a limited operation and that the site would be restored. Staff believes that ten years has been a sufficient amount of time for the applicant to extract the sand and gravel and therefore will not support continued sand and gravel extraction at this site.

Should the Planning Commission choose to approve the continued sand and gravel extraction at this site, then staff would request a strengthening of the language dealing with the portion of 466th Avenue that is paved. The perpetual poor road condition of the paved portion of 466th Avenue was a perennial code enforcement issue for the Planning Department.

Recommendation: Staff recommends **denial** of Conditional Use Permit #16-71.

PUBLIC TESTIMONY

Scott Anderson, Planning Director, presented a brief summary of the conditional use permit request and mentioned that planning staff recommends denial of conditional use permit.

Commissioner Barth asked if there were any other trucking groups that have access to the road and Mr. Anderson explained that there is a cement manufacturer as well as the general public utilize the access road.

Commissioner Cypher questioned if there was any reclamation done on the subject property. Mr. Anderson indicated that it does not appear that any reclamation has been completed. He continued to mention that the condition on the permit states it must be completed by the end of 2017 though.

Commissioner Duffy questioned whether contact has been made with the township about anything being done on the condition of the road.

Mr. Anderson clarified that he had spoken with Wall Lake Township supervisor Paul Nelson and was informed that they are closely looking at the impact to their roads from the truck traffic.

Harold Goeden, 3501 S. River Bluff Rd., identified himself as the owner of Great Bear Sand & Gravel and explained that there has been no road maintenance since he took over. Mr. Goeden mentioned that they have repaired the road every year during the fall season since 2013.

Mr. Goeden continued to mention that they have reclaimed 12 acres to agriculture, 15 acres ready for topsoil with clay on top, and 17 acres planned for the following year to be one-hundred percent reclaimed. He explained that they are seeking an 8 year time extension. The owner had described himself as an individual who has been in the sand and gravel extraction business for a long time with a high level of experience in mining activities.

Mr. Anderson commented that the pictures of the road conditions were taken on October 6 and the petitioner explained that they fixed the roads about two weeks before the planning commission meeting. Mr. Goeden stressed that they will continue to ensure that the roads are maintained to prevent any further deterioration and also noted that the concrete precast plants send trucks down this road as well.

Commissioner Cypher asked why someone has to contact the county planning staff for someone to fix the road and Mr. Goeden explained that it only happened prior to him taking over operations. Mr. Anderson confirmed that staff has not received any complaints since 2013.

Commissioner Cypher questioned why the conditional use permit didn't change with the ownership shift. Mr. Anderson clarified that there is the same owner, but different operator.

Wayne Gustafson, 2709 W. 28th St., identified himself as the property owner and explained that they previously had a mining agreement with Dakota Earthworks but ended up having a difficult understanding with the operator. Mr. Gustafson reported that the petitioner has done a great job and have had no major problems. He continued to mention that the tenant farmer is not getting original yields, but is happy with reclaiming overall.

Commissioner Barth asked for clarification why there was a gap in operations and Mr. Gustafson indicated that it might have been a 6 month period where they were trying to get things orderly.

Lance Lunde, 26106 467th Ave., indicated that there is hill in front of his house, so you can't see a lot of the gravel operations. Mr. Lunde explained that there has been about two inches thick of dust build-up in the gutters at his house. He continued to mention his concern over the number of accidents and speeding trucks going down 467th Ave. jake braking.

Derek Erickson, 26147 466th Ave., mentioned that the petitioner fixed the asphalt, but it seems to be rougher with patches and needs a proper overlay. Mr. Erickson reiterated that surrounding land owners need assurance that there will be adherence to the conditional use permit without complaints and letters. He continued to mention that he has never seen mining cease at any time and that it is time for the gravel pit area to be reclaimed.

Celia Benson, 26132 S. Robin Dr., indicated that she has lived in the subdivision to the east of 467th Ave. for approximately 6 years. Mrs. Benson reiterated the concern about the condition of the road. She mentioned that discussions amongst neighbors has revealed a pattern of non-compliance, likelihood of traffic crashes with growing traffic, and difficulty in seeing trucks coming around the corner on SD Hwy. 38.

Rhonda Erickson, 26147 466th Ave., mentioned concern over inadequate road condition for heavy trucks, the amount of trucks using the road from various businesses, and the need to address the changing traffic patterns near the corner at 466th Ave. and SD Hwy. 38.

Commissioner Barth asked for clarification on the need for a turn lane and Mrs. Erickson explained that some kind of a turn lane on Hwy. 38 as well as a wider driving surface on 466th Ave. would contribute to a safer driving environment for everyone. Mrs. Erickson reiterated the concern for drivers near this intersection and the need to address the traffic safety problem.

Commissioner Ode asked if the cement trucks use 466th Ave. and Mrs. Erickson concurred that the cement trucks indeed use the road as well as Hwy. 38 to the north of the business. Mrs. Erickson explained that a majority of the traffic on 466th Ave. is local traffic and gravel pickup.

Gary Meyer, 26154 466th Ave., mentioned that Cemcast does utilize 466th Ave. for a multiple of work-related trips. Mr. Meyer also indicated that he has had conversations with pit owner's representative during the initial conditional use permit request period and the statement at that time concluded that the pit owner would take full responsibility of road maintenance on 466th Ave.

Wayne Mader, 46716 Meadowlark Ln., explained that he has travelled the roads in question. Mr. Mader believes that these are the worst roads ever that could've been fixed sooner if they didn't wait until the last minute to fix.

Mr. Lunde questioned how far east they plan to go with the gravel pit operations. Commissioner Cypher explained that the petitioner should be able to answer that question.

Mr. Goeden explained the operations plan that does not include any additional farmland areas. He also indicated the locations of the reclamation and mining areas. He continued to mention that the First Rate trucks go to Hwy. 38 and all new trucks are tarped when leaving the pit area. Mr. Goeden noted that they made prior arrangements with the township for a change in direction of travel for his trucks during a particular project.

Commissioner Cypher asked the petitioner to address the questions about adequate road repair. Mr. Goeden explained that the road was fixed the same as last year during the fall because of the heavier traffic during the summer months.

Commissioner Barth asked how much gravel was left to mine. Mr. Goeden indicated that there is approximately two-thirds left because of the recession period with nobody buying gravel.

Mr. Gustafson explained that the South Dakota Department of Transportation had prepared a report at the time of the original application for the gravel pit in 2006 that concluded the sight distances were adequate for eastbound and westbound travel to allow motorists to properly judge gaps in traffic.

Commissioner Cypher closed the floor to public testimony.

DISCUSSION

Commissioner Barth indicated that he recalls the concerns of traffic from the previous hearing.

Commissioner Ode mentioned concerns about dust, intersection safety, and the need for a better, wider road for everyone.

Commissioner Barth explained that the neighbors have expressed valid concerns and questions whether the improvements are adequate to allow an additional 8 years of mining activity.

Commissioner Duffy is concerned about safety anywhere, the need to take responsibility of road maintenance alongside operations, and uncertain about the outcome of decision.

Commissioner Cypher added that perpetual gravel pits are problems and that he appreciates the comments about safety because we will never know what is going to happen. Commissioner Cypher continued to mention that he wouldn't object to at most 3 years of additional time; however 8 years is too long when there is still the need for the petitioner to do what they are supposed to do and it would be difficult to make the township road something different.

Scott Anderson pointed out that there has never been a condition on the direction of travel from the gravel pit in the previous conditional use permit as a matter of record.

Commissioner Barth urged the need for significant infrastructure upgrades before permitting longer usage of mining operations.

Commissioner Randall asked if it is better to have gravel and mag. water applied to the surface. Mr. Anderson explained that there was a condition posed for paving at the county commission meeting during the original application period, but it would require much more maintenance with gravel and the township is not equipped to maintain pavement surfaces.

Commissioner Randall questioned whether the road was built to any certain standard. Mr. Anderson indicated that there was no standard, only paved, because no requirement to adhere to the subdivision regulations existed at that time.

Commissioner Barth mentioned that there is plenty of opportunity to solve the issues if the planning commission decided to defer the conditional use permit a few months into winter to allow owner/operator to come up with a plan for maintenance and improvements because dust will continue to be a problem for adjacent landowners.

Commissioner Barth asked the petitioner if there was anything they wanted to add about the concerns presented from neighbors on traffic, danger, width of road, and working with neighbors to ensure satisfaction among surrounding property owners.

Mr. Goeden indicated that they have been applying calcium chloride on the road during the summertime when little rain had fallen to keep the dust down to a minimum and would continue into the future every year. He continued to mention that there are questions to be answered about

bringing the road up to standard and who takes over maintenance with a wider, better driving surface for the two businesses along this stretch of road that use it on a daily basis.

ACTION

Commissioner Barth made a motion to **deny** Conditional Use Permit #16-71 and the motion was seconded by Commissioner Randall. The motion passed unanimously.

Conditional Use Permit #16-71 – Denied

Old Business

David Heinold provided the planning commission with an invitation to the South Dakota Planners Association Annual Conference Decision makers Dinner and Presentation featuring Aberdeen attorneys Jack Hieb and Zack Peterson to be held on Wednesday evening, October 26, 5:30 pm at the Holiday Inn City Centre.

Kevin Hoekman briefed the planning commission that the planning office is continuing to work on researching potential ordinance updates to be completed soon. Scott Anderson announced that there will be a couple Planning Commission vacancies that need to be filled for the new year and that notice would be provided to interested citizens.

New Business

David Heinold briefed the planning commission that planning staff sent a letter for conditional use permit review for the portion of fence that has not been installed by R&S Sanitation near the Wall Lake Corner separating the residentially used and commercial property. This permit may come before the planning commission at the November 28th meeting if nothing is done in the next few weeks.

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Ode. The motion passed unanimously.