

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
March 23, 2009**

A meeting of the Planning Commission was held on March 23, 2009 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Dick Kelly, Susie O'Hara, Becky Randall, Mark Rogen, Don South and Wayne Steinhauer.

STAFF PRESENT: Scott Anderson, Phil Kappen and Pat Herman -County Planning

The meeting was chaired by Don South.

CONSENT AGENDA

There being no objections from the Planning Commission or audience, a motion was made by Rogen and seconded by Kelly to approve the consent agenda. The motion passed unanimously.

ITEM 1. MINUTES – February 23, 2009

A motion was made by Rogen and seconded by Kelly to approve the minutes. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #09-13 to allow a trucking firm.

Legal Description - Lot 4A Blk 3 Green Valley Addn. in Section T102N-
R50W

General Information

Location –	25748 Cottonwood Ave. Crooks exit from I-29
Petitioner / Owner-	Harold Russman / Doug Chase
Present Zoning -	I-1 Light Industrial
Existing Land Use -	Commercial
Parcel Size -	3.5 Acres

Report by: Pat Herman

Staff Analysis:

The property is located at the Crooks exit from I-29, and sits in the newly expanded industrial area on Cottonwood Avenue. The property itself is zoned I-1 Light Industrial as are the surrounding tracts.

In October 2008, building permit #08-375 was issued for a 70x150 steel frame building to be used for cold storage. The building was constructed on spec and is now be outfitted for specific uses. The applicant is applying to use a portion of the building for a trucking firm which requires a conditional use permit. There are four units in the building and this use will be in Unit #4.

The applicant has not requested any outside storage other than the trailers, which will be parked on the south side of the building. There is also an area that will be fenced and gated as shown on the submitted site plan. The applicant will store any parts or tires within this fenced area. The entrance to the fenced area will be hard surfaced while the remainder of the space will consist of crushed concrete. This is consistent with the requirements for other fenced areas in the development.

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.

This type of use is appropriate in an industrially zoned development and will not negatively affect property values.

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

The surround tracts are all zoned for industrial development.

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

Access to the site is from Cottonwood Avenue, which is hard surfaced. The submitted site plan depicts a 30 foot concrete and driveway and 30 foot wide parking pad running the length of the building. The building will be served by a septic system. The drain field is located in the fenced area on the south side the building. The petitioner should be aware that this area of ground cannot be driven over. The area where the trailers are to be parked will not be hard surfaced.

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

The Zoning Ordinance specifies 1 parking space for each 300 square feet of floor area. The result would be an excessive 35 parking spaces for the entire building. The building owner is proving for 4500 square feet of paved parking space for this building which is sufficient for the acceptable uses on this site.

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.

Nuisances consisting of odor, fumes, dust, noise, and vibration should be expected in an industrial development. Any outside lighting should be of a recessed design with the light directed down onto the property. There should be no light spillage outside the property boundaries.

Recommendation

Staff finds that a trucking firm is an appropriate use on an industrially zoned property and that this use will be compatible with the surrounding development pattern. Staff recommended approval of Conditional Use Permit #09-13 with the following conditions:

- 1) The lot shall adhere to the site plan submitted for Conditional Use Permit #09-24.
- 2) Parking and driving surfaces shown on the site plan as concrete and crushed concrete shall be installed by September 1, 2009.
- 3) The fence shown of the site plan shall be installed by September 1, 2009. The fence shall be a minimum of 6 feet in height with a minimum opacity of 90%.
- 4) Outside lighting should be of a recessed design with the light directed down onto the property with no light spillage outside the property boundaries.
- 5) The grass & treed area shown of the site plan shall be completed by September 1, 2009 and shall contain a minimum of two live trees. The trees shall be maintained in a live state.
- 6) A building inspection is required prior to the commencement of business. No business shall be conducted on the property until the Building Inspector has given his approval.

- 7) No materials, parts, tires, etc., shall be allowed outside of the fenced area.
- 8) Semi trailers parked on the property shall meet all licensing requirements and be maintained in good condition.

Action

Based on the staff report a motion was made by Rogen and seconded by Kelly to **approve** Conditional Use Permit #09-13 with the conditions as stated. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #09-14 to transfer one residential building eligibility from the SW ¼ NE ¼ to Tract 1 Garden Home Farm Addition NE ¼; all in Section 9-T102N-R50W

General Information

Location – 1 mile west of Crooks
Petitioner / Owner- Kathy Bowen for Shirley Potratz
Present Zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 40 Acres

Report by: Pat Herman

Staff Analysis:

This is a request to transfer one residential building eligibility. The property is located approximately 1 mile east of Crooks. Land use in the area is a mixture of farm and residential uses. The applicant is applying to move the eligibility from a land locked quarter-quarter to a site with road access. This will also move the eligibility north of the Crooks lagoons.

There is an existing feedlot to the east of the proposed site. If the eligibility were not to be moved, a house could be constructed within 1320 feet of this existing operation. Use of a setback would make the impact of a new house on the feedlot equal to leaving it on its existing parcel. Staff will recommend that a house must be constructed a minimum of 1400 feet east from the intersection Willow Creek and 257th Street.

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

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

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

This transfer should not negatively affect development in this area.

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. Benton Township does require a driveway permit. A shared driveway cannot be used on this lot due to the existing shelter belt.

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

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

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

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or

lighting in any amounts that would constitute a nuisance.

Recommendation

Staff found this Conditional Use Permit request to be consistent with density zoning and recommended approval of Conditional Use Permit #09-14 with the following conditions:

- 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.
- 2) Benton Township shall issue a written driveway or culvert permit prior to the issuance of a building permit.
- 3) The dwelling must be constructed a minimum of 1400 feet east of the intersection of Willow Creek and 257th Street.

Action

Based on the staff report a motion was made by Rogen and seconded by Kelly to **approve** Conditional Use Permit #09-14 with the conditions as stated. The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT #09-15 to allow a temporary wind speed monitoring tower.

Legal Description - NW1/4 NE1/4 in Section 3-T103N-R50W

General Information

Location – 4 miles west of Baltic
Petitioner / Owner- Carol Johnson / Cortland Johnson
Present Zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 40 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting to construct a temporary tower to gather data to be used in determining the feasibility of wind generation. The proposed tubular steel tower would be approximately 60 meters (183 feet) in height and would be used for collecting data over an unspecified period. The tower will utilize guy wires. Wind speed and direction sensors are placed at several levels. The sensors then relay data to a data logger at the base of the tower. A solar panel will provide power to the data collection system. The applicant indicated that this tower could be collecting data for two (2) to five (5) years.

The subject property is located near the intersection of 250th Street and 470th Avenue.

Based on the data, the applicant has indicated that subsequent wind generation towers could be installed in the area. Staff has indicated to the applicant that any future wind generation towers require a conditional use permit for each tower and a building permit prior to construction.

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 tower should have very limited effect on the surrounding properties. The area is primarily agricultural in nature. Furthermore, this tower is a temporary use and would be removed in approximately two to five years after construction. Property values should not be impacted.

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

The temporary tower should not impede orderly development or hinder improvements of the vacant properties in the area. As the primary use is agricultural, there is very little vacant property with the majority of land being utilized for crops or livestock production.

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

250th Street will provide access to the temporary tower. No other facilities or improvements are needed.

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

The proposed use should not require much parking. The site will not be visited for

periods of time. When an operator is on site, only one or two parking spaces would be needed. Staff will recommend that two (2) off-street parking spaces be provided.

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 tower should not produce odor, fumes, noise or vibration. The applicant has indicated that safety lights are not required at this height, so there should be no nuisance lighting.

Recommendation

Staff found that the proposed temporary tower is acceptable to the area. Staff recommended approval of conditional use permit #09-15 with the following conditions:

- 1) That the tower not exceed 60.50 meters in height.
- 2) That the applicant obtains a building permit prior to the erection of the temporary tower.
- 3) That any FAA lighting requirements are met and any permits are obtained if necessary, and that if lighting is required, red lighting shall be used at night.
- 4) That the tower be removed within six (6) years after the building permit is issued. Any future wind generation devices would require new conditional use permit approval.

Action

Based on the staff report a motion was made by Rogen and seconded by Kelly to **approve** Conditional Use Permit #09-15 with the conditions as stated. The motion passed unanimously.

ITEM 5. CONDITIONAL USE PERMIT #09-16 to allow a temporary wind speed monitoring tower.

Legal Description - SW ¼ SW ¼ of Section 10-T102N-R51W

General Information

Location – ¼ east of Hartford
Petitioner / Owner- Carol Johnson / Michael Grace
Present Zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 40 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting to construct a temporary tower to gather data to be used in determining the feasibility of wind generation. The proposed tubular steel tower would be approximately 60 meters (183 feet) in height and would be used for collecting data over an unspecified period. The tower will utilize guy wires. Wind speed and direction sensors are placed at several levels. The sensors then relay data to a data logger at the base of the tower. A solar panel will provide power to the data collection system. The applicant indicated that this tower could be collecting data for two (2) to five (5) years.

The subject property is located near the intersection of 258th Street and 463rd Avenue.

Based on the data, the applicant has indicated that subsequent wind generation towers could be installed in the area. Staff has indicated to the applicant that any future wind generation towers require a conditional use permit for each tower and a building permit prior to construction.

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 tower should have very limited effect on the surrounding properties. The area is primarily agricultural in nature. Furthermore, this tower is a temporary use and would be removed in approximately two to five years after construction. Property values should not be impacted.

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

The temporary tower should not impede orderly development or hinder improvements of the vacant properties in the area. As the primary use is agricultural, there is very little vacant property with the majority of land being utilized for crops or livestock production.

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

463rd Avenue will provide access to the temporary tower. No other facilities or improvements are needed.

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

The proposed use should not require much parking. The site will not be visited for

periods of time. When an operator is on site, only one or two parking spaces would be needed. Staff will recommend that two (2) off-street parking spaces be provided.

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 tower should not produce odor, fumes, noise or vibration. The applicant has indicated that safety lights are not required at this height, so there should be no nuisance lighting.

Recommendation

Staff found that the proposed temporary tower is acceptable to the area. Staff recommended approval of conditional use permit #09-16 with the following conditions:

- 1) That the tower not exceed 60.50 meters in height.
- 2) That the applicant obtains a building permit prior to the erection of the temporary tower.
- 3) That any FAA lighting requirements are met and any permits are obtained if necessary, and that if lighting is required, red lighting shall be used at night.
- 4) That the tower be removed within six (6) years after the building permit is issued. Any future wind generation devices would require new conditional use permit approval.

Action

Based on the staff report a motion was made by Rogen and seconded by Kelly to **approve** Conditional Use Permit #09-16 with the conditions as stated. The motion passed unanimously.

ITEM 6. CONDITIONAL USE PERMIT #09-17 to allow the transfer of one residential building eligibility from the NW ¼ SW ¼ to SW ¼ SW ¼ of Tract 4DeVaney's Addition; all in Section 17-T104N-R48W

General Information

Location – 4 miles east of Dell Rapids
Petitioner / Owner- Daniel T. DeVaney / Roberta DeVaney
Present Zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 40 Acres

Report by: Pat Herman

Staff Analysis:

This is a request for transfer one residential building eligibility. The property is located approximately 4 miles east of Dell Rapids in an area of the County that is predominately used for farming. Land on this quarter is subdivided into four tracts. The applicant owns the three lots involved in the transfer.

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. There is a stock operation a ½ mile south of the proposed site. Staff talked with the owner of the operation, Ken Veldkamp, on March 9, 2009. While acknowledging the potential problems that can arise with rural residences, Mr. Veldkamp stated that he had no problem with the transfer and was not in opposition.

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

This transfer should not negatively affect development in this area.

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. Logan Township does require a driveway permit.

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

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

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

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

Recommendation

Staff found this conditional use permit request to be consistent with density zoning and

recommended approval of Conditional Use Permit #09-17 with the following conditions:

- 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.
- 2) Logan Township shall issue a written driveway or culvert permit prior to the issuance of a building permit.

Action

Based on the staff report a motion was made by Rogen and seconded by Kelly to **approve** Conditional Use Permit #09-17 with the conditions as stated. The motion passed unanimously.

ITEM 7. CONDITIONAL USE PERMIT #09-20 to allow a Class 1 Major Home Occupation (Hair Salon)

Legal Description - Pt. W387.35' E668.18' lying south of Lucas Addition in the SE ¼ SE ¼ of Section 10-T102N-R50W

General Information

Location – 46990 258th St. ½ mile south of Crooks
Petitioner / Owner- Sherri Schmidt
Present Zoning - A-1 Agricultural
Existing Land Use - Residential
Parcel Size - 4.55 Acres

Report by: Phil Kappen

Staff Analysis:

The subject property is located ½ mile south of Crooks, just west of the 258th St. (Co. Hwy 130) and 470th Ave. (Co. Hwy 137) intersection. The petitioner is requesting a permit for a major home occupation that would allow her to operate a hair salon out of her home.

She would be the only stylist on the premises and she estimates that she would have up to 5-10 customers per day. She would offer limited merchandise specifically related to the salon use.

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 only potential impact on neighboring properties might be from an increase in traffic. The property is access by a county highway and there is excellent sight distance in both directions at the driveway location. That, and the limited number of customers per day, should reduce any potential for traffic problems.

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

The proposed use should have little impact on future development in the area.

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

Access is from 258th Street (Hwy 130). As there is a potential for introducing added solids (hair) into the septic system, the septic tank should be pumped more frequently to ensure that the solids in the tank do not build to a level that may affect the operation of the system.

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

The petitioner has a longer driveway and there is ample space for any required parking.

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 use will result in little or no additional noise, odor or vibration that would

be detectable off premises. Any outdoor lighting should be of a full cutoff and fully-shielded design so that light directly from the light source (bulb or reflector) is not visible from off site.

Recommendation

Staff found that the proposed use is consistent with the primary continued use of the property for residential purposes and that it can be operated in a manner that does not impose undue impacts on neighboring properties and recommended approval of CUP #90-20 with the following conditions:

1. The occupation shall remain a secondary land use to the primary use of the property for residential purposes and shall be operated by a full-time resident of the property.
2. The use shall be limited to the operation of a hair salon that employs only one stylist.
3. The petitioner shall obtain and maintain a South Dakota sales tax license.
4. The use shall not generate more than 10 customer visits per day averaged over a period of seven consecutive days.
5. The use may have one non-illuminated sign up to 2 square feet in size on the residence and one non-illuminated sign up to 4 square feet in size located on the property at the end of the drive.
6. All outdoor lighting shall be of a full cutoff and fully-shielded design.
7. The petitioner shall have the septic tank on the property pumped a minimum of once per year by a professional septic pumper to prevent an overloading of the septic tank.
8. Only incidental products specifically related to the hair salon use shall be sold on the property.

Action

Based on the staff report a motion was made by Rogen and seconded by Kelly to **approve** Conditional Use Permit #09-20 with the conditions as stated. The motion passed unanimously.

ITEM 8. CONDITIONAL USE PERMIT #09-21 to amend CUP # 05-75 and #06-19 by reducing the required groundwater monitoring frequency.

Legal Description - Tr. 2 Ode Addition S ½ SE ¼ in Section 22-T101N-R48W

General Information

Location – 48170 266th St. 3 miles south of Brandon
Petitioner / Owner- Royalwood Farms by Gregg Ode
Present Zoning - A-1 Agricultural
Existing Land Use - Agriculture
Parcel Size - 103.73 Acres

Staff did not make the required notification within the required period of time so this item must be deferred until the April 20, 2009 meeting.

Action

Based on the staff report a motion was made by Rogen and seconded by Kelly to **defer** Conditional Use Permit #09-20 to the April 20th meeting. The motion passed unanimously.

ITEM 9. CONDITIONAL USE PERMIT #09-24 to allow a contactor's shop and storage yard.

Legal Description - Lot 4A Block 3 Green Valley Addn. NE1/4 in Section 12-T102N-R50W

General Information

Location – 25748 Cottonwood Ave. Crooks exit from I-29
Petitioner / Owner- Doug Chase
Present Zoning - I-1 Light Industrial
Existing Land Use - Industrial
Parcel Size - 3.55 Acres

Report by: Pat Herman

Staff Analysis:

The property is located at the Crooks exit from I-29, and sits in the newly expanded industrial area on Cottonwood Avenue. The property itself is zoned I-1 Light Industrial as are the surrounding tracts.

In October 2008, building permit #08-375 was issued for a 70x150 steel frame building to be used for cold storage. The building was constructed on spec and is now be outfitted for specific uses. The applicant is applying to use a portion of the building for a contractor's shop and storage yard, which requires a conditional use permit.

Outside storage will be on the south side of the building. This area will be fenced and gated as shown on the submitted site plan. The entrance to the fenced area will be hard surfaced while the remained of the space will consist of crushed concrete. This is consistent with the requirements for other fenced areas in the development.

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.

This type of use is appropriate in an industrially zoned development and will not negatively affect property values.

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

The surround tracts are all zoned for industrial development.

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

Access to the site is from Cottonwood Avenue, which is hard surfaced. The submitted site plan depicts a 30 foot concrete driveway and 30 foot wide parking pad running the length of the building. The building will be served by a septic system. The drain field is located in the fenced area on the south side the building. The petitioner should be aware that this area of ground cannot be driven over.

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

The Zoning Ordinance specifies 1 parking space for each 300 square feet of floor area. The result would be an excessive 35 parking spaces. The owner is providing 4500 square

feet of paved parking space for this building which is sufficient for the acceptable uses on this site.

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.

Nuisances consisting of odor, fumes, dust, noise, and vibration should be expected in an industrial development. Any outside lighting should be of a recessed design with the light directed down onto the property. There should be no light spillage outside the property boundaries.

Recommendation

Staff finds that a contractor's shop and storage yard is an appropriate use on an industrially zoned property and that this use will be compatible with the surrounding development pattern. Staff recommended approval of Conditional Use Permit #09-24 with the following conditions:

- 1) The lot shall adhere to the submitted site plan.
- 2) Parking and driving surfaces shown on the site plan as concrete and crushed concrete shall be installed by September 1, 2009.
- 3) The fence shown on the site plan shall be installed by September 1, 2009. The fence shall be a minimum of 6 feet in height with a minimum opacity of 90%.
- 4) Outside lighting should be of a recessed design with the light directed down onto the property with no light spillage outside the property boundaries.
- 5) The grass & treed area shown on the site plan shall be completed by September 1, 2009 and shall contain a minimum of two live trees. The trees shall be maintained in a live state.
- 6) A building inspection is required prior to the commencement of business. No business shall be conducted on the property until the Building Inspector has given his approval.
- 7) No parts, materials, tires etc. shall be allowed outside of the fenced area.

Action

Based on the staff report a motion was made by Rogen and seconded by Kelly to **approve** Conditional Use Permit #09-24 with the conditions as stated. The motion passed unanimously.

ITEM 10. CONDITIONAL USE PERMIT #09- 23 to exceed 1200 sq. ft. of accessory building area (2400 sq. ft.) requested.

Legal Description - Lot 1 Langdon's 3rd Subdivision in Section 34-T103N-R49W

General Information

Location – 47527 255th St. 3 miles north of the Renner corner
Petitioner / Owner- Glenn Roemen
Present Zoning - A-1 Agricultural
Existing Land Use - Residential
Parcel Size - 0.9 Acres

Report by: Phil Kappen

Staff Analysis:

The subject property is located at the northeast corner of 255th Street and 475th Avenue (SD Hwy 115), one mile south of Midway corner. The petitioner currently has a 26x40' (1040 sq.ft.) accessory building on the property. He proposes to construct a new 2400 square foot (40x60') building on the site and to remove the existing detached building.

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

There are a number of larger accessory structures in the general area. The proposed site for the structure meets all applicable setbacks and the placement of the structure should have little impact on neighboring properties. The building would be used for the petitioner's personal residentially related storage. No commercial use or storage that may have a potential to impact other properties is allowed.

Even though there are only smaller accessory buildings on the lots immediately to the east, there is a building of the same size on the property immediately to the south so the proposed building would conform with the size of other buildings 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 site is in an existing rural residential development and there are no plans for added development in the area. The only building eligibility that exists in the immediate vicinity is on the lot to the south of the subject property. That lot is owned by the petitioner and he would have to obtain access permission from the SD DOT in order to build on the site.

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

Access is from 255th Street, a Sverdrup Township road. The existing accessory building has been in place for many years and does not meet current set-back requirements. The approval of the larger building will allow the new building to be placed in a manner that meets set-back requirements and entails the removal of the old, non-conforming structure.

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

There is adequate space on the site for any parking required by the allowed residential use.

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

There should be little added odor, dust or noise from allowed residential uses.

Recommendation

Staff found that the proposed building is compatible with other properties in the area and recommended approval of Conditional Use Permit #09-23 with the following conditions:

1. There shall be a maximum of 2400 square feet of detached accessory building allowed on the site. Any other existing, detached buildings shall be removed within 60 days of enclosure of the 2400 sq.ft. building.
2. The building shall be an accessory use to the continued use of the property as a residential lot. Only personal residential storage shall be allowed in the building and no commercial uses or commercial storage can be kept in the building.
3. All outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light from a light source (bulb or reflector) off the premises.
4. A building inspection is required. The outside walls of the building will be measured to determine that the building does not exceed 2400 sq. ft. in size.

Action

Based on the staff report a motion was made by Rogen and seconded by Kelly to **approve** Conditional Use Permit #09-23 with the conditions as stated. The motion passed unanimously.

REGULAR AGENDA

A motion was made by O'Hara and seconded by Cypher to approve the regular agenda. The motion passed unanimously.

The Dell Rapids Planning Commission joined the meeting for a joint hearing on Item 11.

Members Present: Roger Dearduff, Darrell Donelan, Dale Dunn, Craig Lauritzen, and Chair Chris Mullaney. Darrell Donelan was recused due to a conflict of interest.

ITEM 11. CONDITIONAL USE PERMIT #09- 22 to allow the expansion of an existing sand and gravel operation.

Legal Description - NE ¼ Including Tr 1 (Ex parts N & W of River) in Section 17-T104N-R49W

General Information

Location – southwest of Dell Rapids
Petitioner / Owner- L.G.Everist by Todd Schuver
Present Zoning - R/C Conservation Recreation
Existing Land Use - Agriculture & Mining
Parcel Size - ± 30 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting a conditional use permit to allow for expansion of the existing mining activity that is occurring in Section 16 and permitted through Conditional Use Permit #93-30. The applicant is not requesting to change any of the conditions of approval of Conditional Use Permit #93-30. This requested conditional use permit would allow some uses which support the mining use occurring in Section 16, which is the property located directly east of the subject property.

The applicant has placed fill within the floodplain of the Big Sioux River. The applicant hired DeWild, Grant, Reckert and Associates to conduct a detailed study of the floodplain. Furthermore, the applicant obtained a Flood Plain Development Permit from Minnehaha County to place the fill based on the engineering data provided by DRG Engineering. The expanded mining use is to occur in the area where the fill has been placed.

The site will be used in several ways. The applicant will be using the site to stockpile mined materials from the existing pit to the east. The applicant has indicated that a new conveyor system will be constructed to move the rock material. Furthermore, the conveyor system will be part of an automated train load out system, utilizing the existing rail system. This automated system will be more efficient and potentially quieter than the current method of loading, which is front end loads, as there would be no motor noise or back up sirens. A more detailed description of the conveyor system is included in a narrative provided by the applicant. In conjunction with the automated conveyor system, the applicant is requesting to expand the hours of operation for the automated load out system from 6 a.m. to 10 p.m. Staff can not support any extension of hours. Existing housing to the north would be negatively impacted by the increased hours of operation. The Planning Commission has allowed Sweetman Construction to operate from 6:00 am to 8:00 p.m. daily; however the Sweetman mining area is zoned Industrial. Other mining

operations have been limited to hours of operation from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays. Given the close location of this operation to existing residences and the City of Dell Rapids, staff will recommend more limited hours.

The subject property will also be used for a system of ponds to be used in the washing operation. Some of the ponds are used as settling ponds. In addition, the water from the holding ponds will be used in dust control throughout the quarry and stockpile area. This area is shown on the site plan and is located north of the stockpile area.

Lastly, the property will also be used to store various explosive components used in the quarry. The chemicals are stored in separate towers and are located near the holding ponds.

The applicant is proposing a 1500 foot berm that would be constructed along the floodway perimeter starting from the railroad tracks on the north and running south around the general boundary of the floodplain. This berm will be landscaped in the same manner as the other berm located in Section 16. The berm will potentially reduce noise and serve as a visual barrier to the mining activities.

The zoning regulations list developmental and operational criteria for use in evaluating extraction activities. Following is a review of the proposal based on the criteria. Please note that the proposed use is for rock, sand and gravel extraction as regulated by Article 12.08 and not mineral exploration and development, Article 12.04.

Buffer area - The suggested minimum setback between extraction areas and existing residences is 1000 feet. It doesn't appear that there are any residences within the suggested buffer area.

Hours of operation - The zoning criteria suggest that mining operations be limited to the hours from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays. Other activities such as office or maintenance operations, which produce no noise, are not restricted to the times listed above. The applicant has requested hours of operation to be from 6 a.m. to 10 p.m. daily. The requested hours of operation exceed the criteria and what has been typically approved by the County. The applicant amended Conditional Use Permit #93-30 to extend the hours of operation extended in 2007. The hours were slightly extended. Staff will recommend that the hours of operation remain as amended in 2007. Staff feels that the County should be consistent in the hours allowed by all mining companies. In the past three years, three different mining companies have requested longer hours of operation, which have been scaled back by the Planning Commission.

Berms - Berms are commonly used to screen on-site activities from public view and to minimize noise. The petitioner has indicated that a berm will be constructed. The proposed berm will be approximately 1500 feet in length and the same height as the berm located in Section 16.

Noise - 55 decibels recorded over a 10 minute period measured at the nearest residence.

This standard is generally addressed on a complaint basis.

Dust - Air quality should not be a concern due to the nature of the extraction operation. Dust from truck traffic can be controlled by applying dust control agents to the haul road. The County Planning Department should be given authority to require the operator to install on-site monitoring devices if air quality becomes a problem.

Hydrology, dewatering and drainage – The applicant has indicated that no dewatering of the site is anticipated so the area's hydrologic conditions should not be impacted. No hydrologic study or information was provided. Staff did not feel any study was needed to complete the review of this request.

Haul roads - The Zoning Ordinance indicates that consideration of the potential impacts on any County highways to be used as haul routes. The applicant will not be adding or changing the haul road that is currently used for the mining operation located in Section 16. The applicant's haul road enters onto S.D. Highway 115. The route used by the applicant does not use any County Highways.

Operator surety – Article 12.08.G requires a surety bond to be filed with the County Auditor to protect the County in the event the operator abandons the site without completing the required conditions of approval. The standard amount of \$5,000.00 surety shall be required.

Reclamation – The applicant did not provide a reclamation plan. The site should be restored to a farmable status within one (1) year of conclusion of mining operations. Reclamation should result in the rehabilitation of affected land through contouring and soil stabilization, revegetation and other appropriate means so as to create an aesthetic appearance and promote the most appropriate future use of the property. The applicant shall be required to follow the reclamation requirements of the Minnehaha County Zoning Ordinance as outlined in Article 12(G).

The applicant is also required to post a \$20,000.00 surety with the State of South Dakota in order to obtain the state mining permit. The applicant has indicated that they have many years of operator experience in Minnehaha County and value their reputation as good business people.

Security – The Zoning Ordinance suggests that the sand and gravel operation site should be secured during non-working hours by means of gates and fencing. The gates and fences should remain in place until all required reclamation activities have been completed. Staff will include these considerations in the recommended conditions of approval.

Other considerations - The entrance to the property should be gated to discourage individuals from disposing of refuse in the pit during non-working hours.

The site is located in the Water Source Protection Overlay District. Only clean fill will be used as backfill on the site as defined by the County Nuisance Ordinance. Furthermore, the applicant shall not be allowed to store any fuel within the water source protection area or within any 100 year floodplain area.

Portions of the property are also located within the 100 year flood plain. The flood plain is managed through the Minnehaha County Flood Plain Management Ordinance (MC 32-3). The applicant shall abide by all regulations outlined in this ordinance when working in the 100 year floodplain and/or floodway.

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 mining activity is already occurring on the neighboring property. This conditional use permit would allow more reasonable use of the entire area by providing an area for automated loading, water holding and settling ponds, and chemical storage. There will not be any extraction of rock from this site.

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

Measures such as a large landscaped berm, air quality constraints, and other provisions have been adopted. The property in the area has developed in an orderly manner. The uses outlined with this conditional use permit should not further impact that normal and orderly development.

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

The applicant has provided for access roads, drainage and all other facilities. The applicant operates a railroad system which provides transportation out of the quarry area.

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

Ample off-street parking has been provided by the applicant and meets the requirements of the Zoning Ordinance.

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.

With the proposed sand and gravel extraction, there is a possibility of noise, dust, and vibration to occur. Staff has addressed dust and noise in the recommended conditions of approval. Additional measures such as the construction of a berm may mitigate the visual impact and some noise. The hours of operation will reduce the possibilities of these elements becoming a nuisance.

Staff finds the proposed sand and gravel extraction use compatible to the surrounding land uses and is a use that can be found in the general vicinity. With proper zoning controls, the use can be conducted in such a manner to minimize potential nuisances.

Recommendation

Staff recommended **approval** of Conditional Use Permit #09-22 to allow for expansion of an existing rock, sand and gravel extraction facility 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 6:30 am to 6:00 pm from Monday thru Friday and 7:00 am to 1 pm on Saturday, except as authorized by the Planning Director.
- 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) The approved uses for the subject property and approved by this conditional use permit shall be as follows, chemical storage used for blasting, material stockpiling, settling and hold ponds, rinse deck area, loading facilities, automated conveyor belt system used in conjunction with loading of material, and rail system.
- 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 the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
- 16) 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.

- 17) 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.
- 18) That the applicant provides a reclamation plan to staff for review and approval prior to June 1, 2009.
- 19) That a berm be constructed that is the same height as the existing berm located in Section 16 of Dell Rapid Township. The berm shall be landscaped following a plan that has been reviewed and approved by the Planning Director.

Public Testimony

Todd Schuver presented for L.G. Everist. His presentation was made with the aid of a power point presentation.

Mr. Schuver began by explaining the current stock pile area on the east side of the railroad tracks is over future minable reserves. It does not make good business sense to construct the conveyor system and buildings on top of these reserves. Putting the system and stock piles on the west side of the railroad tracks would allow it to remain there for the life of the project.

Len Negebauer with DGR Engineering talked about the hydrologic analysis they performed on the flood way and flood plain along the river. Using topographic maps they were able to do analysis on pre-fill conditions. They determined where the 100 year flood way lay within the flood plain. None of the fill or proposed development is located within the flood way, which must be kept unobstructed as per FEMA.

Mr. Schuver continued that fill will be added from the railroad tracks west towards the flood way. This will be a gentle slope, about a ½ % slope. A berm will be added on the west side, built to the same configuration as the existing berm.

Mr. Schuver explained that the company had put the cart before the horse, but have been working with the Planning Department to correct that. A building permit was obtained for the silo towers. A plan was put together to protect the ground water, the flood plain fill permit has been obtained, the drainage and storm water plan was been approved by DENR, and they are working with the Army Corps of Engineers concerning the wetlands on this property.

Currently loaders are used to load the materials into the trucks, it is hauled out of the quarry up the ramp, and then it is hauled to the stock pile. Once it is on the ground a loader pushes this material up into a pile. This requires a fair amount of activity, and even though the roads are being watered to keep the dust down, there is dust and noise associated with this process. This activity would be replaced by a conveyor. The conveyor is a rubber belt that runs on rollers and other then when there is a bad roller, it is relatively quiet. This would be an unobtrusive way to move materials into the rail cars. A conveyor will run due west out of the quarry, either under or over the railroad tracks to a couple of transfer points. Then overhead tripper conveyors will run south. These conveyors will allow the materials to fall over the top of the conveyor and form stock piles. The conveyors will be 40-50 feet in the air. This will allow easier stockpiling of the materials. The storage area will be about equal to the current area on the east side of the tracks. Mr. Schuver warned that this configuration is not final engineering, so the conveyors may run in a different direction.

He continued, saying that when a train comes in, 2-4 loaders are in operation to load those cars as fast as possible. This activity is full of commotion and causes noise and dust. With the new system, L.G. Everist will be investing in a state of the art system. A tunnel will run underneath the stock piles. That tunnel will have draw downs or feeders underneath it which will allow material to be drawn off the piles onto a conveyor belt. This belt will run the materials to a final rinse deck and then up into an enclosed tower building from where it will be loaded into the railroad cars.

Mr. Schuver stated that they are not looking for any longer hours at the quarry. The goal is to make this company a part of Dell Rapids for a long time. Currently L.G. Everist employees 75 people in Dell Rapids. They want to continue that and want to be a part of that community growing. Part of that is to ensure that this company continues. The company is in the process of transferring from the east quarry to the west quarry. The east quarry has been in operation since the 1930s. Currently they are at a 300 foot depth in the quarry and while there is still material available, unfortunately it is getting too expensive to keep the quarry dry. The west quarry needs to grow to take on everything that is being done in the east quarry.

Mr. Schuver explained that the economy has an effect on their operation. They have been exploring other opportunities to keep the company growing and offering employment. One of those opportunities in the last year was to work with Class 1 Railroad in being a ballast supplier. Railroads are large consumers of ballast. The tough part of working with a railroad is that they function 24/7 365 days a year. In order to work with the railroads, L. G. Everist has had to guarantee that they can offer materials to meet the railroads schedule. In order to succeed with that in the past year, they have needed to haul the rock over to the east quarry, through Dell Rapids, load the rail cars on the east side, and then sent the trains back through Dell Rapids. This new proposal is an opportunity to reduce the impact to not only their neighbors on the east and west quarries, but to the whole town of Dell Rapids. Mr. Schuver stated that building a state of the art load out system on the west quarry would prevent the trains from having to come through town. The trains would be received, loaded, and sent out, all at the west quarry. L.G. Everist could continue the process of dealing with the trains at the east quarry for the next 10 years as that quarry is ramped down, if they have to.

The transition is going to take some time, explained Mr. Schuver. This new system requires an investment on the part of L.G. Everist. It can continue to load the trains with loaders as it doesn't cost that much initially to buy rubber tired loaders. The company is willing to spend the money to invest in the new system because they feel this is best for them and best for their neighbors and the city of Dell Rapids. However, to do this, they need longer hours to operate the conveyor system.

Mr. Schuver explained that the company was requesting the longer hours because of their work with the railroad. Railroads do not recognize nights or weekends, they operate 24/7. Mr. Schuver stated that he wanted to make it clear, that L.G. Everist is not requesting any longer hours for the quarry, but the train load up needs the extra hours. In response to questions from Commissioner Randall, Mr. Schuver stated that during their requested hours (6 am to 10 pm) there would be no pay loaders loading aggregate. Those hours would only apply to the automated conveyor load out system. There will not need to be any wheel loaders running at that time. They will be able to load a 40 car train in three hours. Mr. Schuver stated that the berm would be constructed right at the foot of the flood way. He also explained that there would be lighting on the conveyors when they were running. Lighting would be limited to security lights during the overnight

hours.

Mr. Schuver then showed a video of a loader, loading trucks with the aggregate. The noise of the truck, back-up swishers and materials being dumped into the truck were all audible. Then a video of a conveyor system used in Wisconsin was shown. While this was loading sand, Mr. Schuver wanted the Commission to notice that there was no noise from trucks or machinery. The loading was done inside a building, but the building that L.G. Everist will use will be much longer and have panels all the way to the ground. Of course, there will still be the initial sound of the materials hitting the bottom of an empty car but they will add baffling to the building to help swallow up that sound.

Mr. Schuver anticipates that L.G. Everist will appear before the Commissions again in the future as the east quarry is phased out. He stressed that the company is a family run operation, with no board of directors. Decisions to spend the money for this type of conveyor can be made by the family. The company shares the values of the city of Dell Rapids and is always there to help out the city. Mr. Schuver stressed the L.G. Everist feels this is a win-win situation for everyone.

Commissioner Rogan wondered what the time frame was to get the conveyor system built and operational. Mr. Schuver stated that the soonest it could be built is 2 years and the latest is 6 years. It is dependant on the economy and the business the company can secure.

Commissioner Mullaney asked about extended hours at other mining operations in the County. Mr. Anderson explained that Sweetman's by Corson did have longer hours, but that operation is on industrially zoned property. The latest approved pits have been west of Sioux Falls along Skunk Creek and their extraction activities have not been allowed expanded hours.

Mr. Anderson noted that he had not been informed the conveyor would have lighting and that he would recommend a condition be added to address that issue.

Commissioner Randall stated that the request tonight was to approve a storage area, conveyor system and buildings. But there are no technical plans for those structures. Is that approved with a building permit? Mr. Anderson stated that the conveyor and building are being approved and are listed in condition #5. They are a permitted use with this conditional use permit, but still require a building permit. Commissioner Mullaney asked about the hours. Mr. Anderson said the hours listed in condition #3 are what is currently allowed for extraction. The Commissions may add a condition to allow a longer time frame for the operation of the conveyor system.

No one else wished to speak to the item and the floor was closed to public testimony.

Commissioner South explained that recommended condition #3 has the operational hours equal those being used in the west quarry (the adjacent pit). The petitioner would like to expand the hours on this site, west of the railroad, to 6 am – 10 pm seven days a week. This would only be for the automated load out system.

Commissioner Kelly noted that he had been given a tour of the site last week. The two biggest issues are noise and lightening. He doesn't feel the noise is significant now, and it would be even less so with the new conveyor system. If the hours were only allowed to 9:00 pm this would be fine with daylight savings time. The lighting should not be a

problem because winter is a slower time and then we are under daylight savings time earlier. He would recommend the expanded hours be approved for everyday however, the ending time should be 9 pm. Commissioner Steinhauer agreed with the hours but feels lighting is still an issue. Commissioner South recommended lighting be restricted to those types of lights that have a full cut off and fully shielded design. Agreeing, Commissioner Steinhauer stated these lights would not allow light spillage of any significant manner beyond the property lines. Commissioner Randall confirmed from Mr. Schuver that lighting during non-operational hours would be the minimum security lighting as required by law.

Commissioner Dearduff stated that the Commissions usually listen to the staff's recommendations. Expanded hours were not allowed for other mining operations, why should the Commissions be willing to allow it for this operation? Mr. Anderson explained the request here is different because it is not dealing with extraction. The extraction in the west quarry, would still have limited hours. It is only the conveyor load out system which could operate within the expanded time frame.

Commissioner Lauritzen asked if the company could do train load outs Monday through Saturday. Mr. Schuver stated that the railroads do not recognize Sunday. In order to meet the railroad's time frame, the company would be forced to do what it is currently doing now – truck the aggregate through town to the east quarry, load the train, then have the train go back through town.

Action

Commissioner Kelly stated that he would replace condition #3 to allow operation of the conveyer load out system seven days a week between the hours of 6:00 am and 9:00 pm. Lighting on the conveyor system should be limited to lights designed for full cut-off and full shielding, and security lighting at night.

Based on the staff report and public testimony, a motion was made for the County by Kelly and seconded by O'Hara to approve Conditional Use Permit #09-22 with the conditions as stated below (#3 amended and # 20 added). The motion passed unanimously. Same motion for the City by Dunn and seconded by Mullaney. The motion passed (Dearduff nay).

- 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 for the conveyor load out system only shall be from 6:00 am to 9:00 pm daily.
- 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) The approved uses for the subject property and approved by this conditional use permit shall be as follows, chemical storage used for blasting, material stockpiling, settling and hold ponds, rinse deck area, loading facilities, automated conveyor belt system used in conjunction with loading of material, and rail system.

- 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 the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
- 16) 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.
- 17) 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.
- 18) That the applicant provides a reclamation plan to staff for review and approval prior to June 1, 2009.
- 19) That a berm be constructed that is the same height as the existing berm located in Section 16 of Dell Rapid Township. The berm shall be landscaped following a plan that has been reviewed and approved by the Planning Director.
- 20) All outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light from a light source (bulb or reflector) off the premises. Only the minimum required security lighting shall be allowed between the hours of 10:00 pm and 5:00 am.

ITEM 12. CONDITIONAL USE PERMIT #09-18 to allow a private campground.

Legal Description - S1/2 NE1/4 (ex. RY); & N1/2 SE1/4 (ex. ROW); & Tract 2 (ex. Lot1) & Lot 1 Tract1 in SE1/4; all in Section 2-T102N-R48W

General Information

Location – 3 miles north of Brandon
Petitioner/Owner Marvin Manifold
Present Zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - Approximately 10 acres

Report by: Phil Kappen

Staff Analysis:

The subject property is located approximately ½ mile north of 257th Street on the west side of Split Rock Creek. The petitioner proposes to develop a 12-unit campground in the area. The proposed site, above the creek has the potential to be a very scenic location and would be an attractive site for a campground.

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 site is located in a relatively remote location, and about ¼ mile away from the nearest home. The primary potential impact on neighboring properties would be traffic. Given the relatively small size of the proposed campground, the potential for traffic impact is reduced. The site is bounded on the north by the BNSF railroad. Provisions would have to be made to prevent campers from accessing the railroad right-of-way and tracks.

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

The surrounding property is dedicated to agricultural production and is planned for continued agricultural use.

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

Access to the property is via 257th Street, a Brandon Township road. The sight distance at the location of the proposed drive meets AASHTO Standards. Specific access to the campground site would be via a 30-foot wide private gravel driveway. That driveway would be approximately 2700 feet in length. This length of dead-end 'road' would be unacceptable if this were a residential or commercial development due to emergency response concerns. This use, however, would be used during those times of the year in which there would be fewer weather related blockages of the road. The proposed use is also of a size that would limit the number of people using the site at any particular time. One-way roads within the camping area would be 15 feet in width. Any driveways should be constructed to the standards for a gravel road as set forth in the county subdivision ordinance.

Due to the remote location of the site a second means of access is not practical as it would have to come in from the west along the RR tracks (that option would access 257th Street at a location with poorer sight distance) or from the north. An option from the north would entail a private crossing over the BNSF railway. It is unlikely that the railroad would approve such a crossing.

Many of the required facilities for the use would be addressed through review by the S.D. Department of Health. The state requires that a campground permit be obtained. That permitting process includes, among other items, a review of the access roadways, potable water supply, toilet and wastewater requirements, outdoor cooking facilities, and garbage storage and collection. A condition requiring state permitting for the campground will help tie those requirements into any conditional use permit issued by the county. As there is the potential for the introduction of unknown materials into the septic system from recreational vehicles the septic tank should be pumped at least once per year in order to prevent an excessive buildup of solids.

The disaster at the scout camp in Iowa last year provides a reminder that there should be provisions for camper safety during weather emergencies. The petitioner should be required to develop an emergency preparedness plan showing how protection would be afforded to the campers at the time of a severe weather event. This plan should include details on how shelter would be provided or how evacuations would be accomplished.

The petitioner has not indicated that they would have a food service of any kind on the property. A food service would bring added requirements into play for any wastewater system. As none is proposed, there should be a prohibition on any food service as a part of the operation.

Some campgrounds include facilities such as swimming pools. The petitioner does not have plans for such a feature. Given the location of the site and that there will not be ongoing supervision at the site, a swimming pool should be prohibited for safety reasons.

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

There is ample space on the property for parking associated with the proposed use.

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.

A 12-unit campground should result in little odor, or fumes, and the amount of traffic generated by such a use should result in only a minimal increase in the potential for dust. A requirement for full cutoff, fully shielded outdoor lights will prevent any potential problems with light pollution to adjoining properties.

Recommendation

Staff finds that the proposed use, due to the location and the limited size of the campground, can be made compatible with surrounding land uses and staff recommends **approval** of conditional use permit #09-18 with the following conditions:

1. The use shall be limited to a 12-unit campground operating between April 1st and November 1st.
2. The petitioner shall obtain a state campground permit prior to commencing the land use, shall maintain that permit and shall follow all provisions of that permit. Certification of state permit approval shall be provided to the county planning office prior to the issuance of any building permits on the property.

3. The petitioner shall obtain and maintain a state sales tax license.
4. No food service shall be allowed at the site.
5. All onsite wastewater systems shall be constructed and operated in conformance with the Minnehaha County On-Site Wastewater Treatment Ordinance. The septic tank(s) shall be pumped a minimum of once per year in order to prevent an excessive buildup of solids.
6. The petitioner shall ensure that all solid waste management is performed in conformance with the Minnehaha County Solid Waste Ordinance. Waste collection shall be performed by a garbage hauler licensed for operation in rural Minnehaha County.
7. All outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light from a light source (bulb or reflector) off the premises.
8. No swimming pool shall be allowed.
9. The petitioner shall develop an emergency preparedness plan which includes details on how shelter would be provided to campers or how evacuations would be accomplished during severe weather events. A copy of the plan must be filed with the County Planning Office.
10. The petitioner shall maintain a boundary fence between the campground and the railroad right-of-way to prevent access from the campground into the ROW or onto the tracks.
11. The two-way portions access drive shall have a minimum 30-foot wide driving surface and the one-way portions a minimum 15-foot driving surface. All driveways shall be constructed to meet the standards for gravel roads as set forth in the Minnehaha County Revised Subdivision Ordinance.
12. No permanent or ongoing storage of recreational vehicles or other vehicles shall be allowed on the site.
13. One sign, not to exceed 32 square feet in size, shall be allowed on the property at the entrance off of 257th Street.

Public Testimony

Commissioner Rogen confirmed that the campground would have 8 open spots and 4 cabins, for a maximum of 12 camp sites. Commissioner Steinhauer questioned the reasoning behind the April-November limitation as he likes to camp in the winter. Mr. Kappen stated that he had not received a lot of details from the petitioner as to the time of year this campground would be used. He stated that the main concern was the long road back into the site and whether access could be gained in an emergency during the winter. In response to Commissioner Steinhauer he explained that food service meant food prepared on the site, not vending machines. Commissioner Steinhauer explained that he was concerned about having this become an extended stay campground and that he would like to see camping restricted to no longer than 14 days.

Commissioner Steinhauer then addressed the need for an emergency shelter. He stated that when someone is camping they assume certain risks. A shelter is an unnecessary expense and he doesn't think the Planning Commission should regulate this. The threat of storms or tornados is one of the risks of camping in the summer. Mr. Anderson said it would be remiss of the Commission not to discuss this issue as public safety is one of the areas of responsibility charged to the Commission. Mr. Kappen mentioned that using culverts buried into a hill to provide temporary shelter was an alternative idea. Mr. Anderson noted that he would like to have the Emergency Management Director approve the response plan and/or shelter. Commissioner Kelly stated that spending \$40,000-\$50,000 to construct a shelter is just too cost prohibitive for a campground of this size. Perhaps something like the box culvert would work. The Emergency Management

Director would have to error on the side of caution, and would end up requiring something excessive. Taking away all the risk is taking away someone rights. Mr. Anderson noted that he needs to look at things from a worse case scenario and that he cannot ignore safety issues. Commissioner Steinhauer stated that he did not want legislate from a worst case scenario prospective, but understood the need to consider safety issues.

Commissioner Randall suggested that, due to the surrounding farm ground, a right-to-farm notice covenant should be required.

The petitioner was represented by attorney Sam Assam. Mr. Assam stated that the term private does apply here as the Manifolds want the campground private, just for their family. Most of the conditions are applicable to a campground that is open to the public. This won't be. It is on their ground and will be a place for the family to have gatherings. It will be a family deal. The cabins will be used for those family members who are old enough to no longer want to camp in a tent. The whole start of this conditional use permit was Mr. Manifold wishing to place the cabins on this site. He was told the only way he could do this was to apply for a conditional use permit.

Commissioner Kelly questioned if some of the conditions affect what the family wants to do there? Mr. Assam explained that a shelter would add tremendously to the cost, as would the road. These conditions are over-governing for a private family use. Commissioner South stated that the concern is putting up the structures which are quasi-residential. The other concern is how family is defined.

Commissioner Steinhauer suggested that the item be deferred for a month so the issue of who would use the site could be worked out.

Mr. Kappen stated that this was the first time he had ever heard that the campground would be just for the family. Mr. Assam was incredulous at that statement.

Commissioner South stated that this item should be deferred.

Mr. Kappen stated that a building was moved onto this site without a permit and all the cabins were constructed without permits. They are 14 x 20. He stated that he has never received a detailed narrative describing the use. Mr. Assam said he was never told by Mr. Kappen that such a narrative was required as part of the application. Mr. Kappen replied that is how it is always done. Mr. Assam felt that when he had called and said he was representing Mr. Manifold he should have been informed by Mr. Kappen what information was required as part of the application.

Commissioner Steinhauer stated that he would like to see the staff look at this from an accessory building standpoint, to address duration of stay, wastewater, lighting, and permanent storage. This item could set a precedent.

Action

Based on the staff report and public testimony, a motion was made by Steinhauer and seconded by Kelly to defer Conditional Use Permit #09-18 to the April 20, 2009 meeting. The motion passed unanimously.

ITEM 13. ZONING TEXT AMENDMENT – Agricultural Tourism
Petitioner / Owner- Planning Staff

Report by: Pat Herman

Staff Analysis

Minnehaha County has experienced an increase in people interested in agricultural tourism. In the past few years a number of conditional use permits have been issued for wineries and orchards. To be responsive to the needs of this community and those interested in value added agriculture, the Planning Department is proposing amendments to the A-1 Agricultural and R/C Recreation Conservation Districts of the Minnehaha County Zoning Ordinance. The amendments would add Agricultural Tourism as a specially permitted use in both zoning districts. Provided the applicant can abide by the conditions listed in the ordinance or required by the Planning Director, the agricultural tourism use would be approved administratively. Any applicant unable to meet the conditions of the ordinance would still have the right to apply for a conditional use permit.

It is the intent of this ordinance to support existing farming operations expansion into agriculturally related enterprises. The uses need to be complementary to agriculture and are not intended to be preformed by individuals owning one or two acres of land. Each of the sections contained in the ordinance are briefly described below.

Sections 1 & 2 Sections 1 & 2 add Agricultural Tourism as a Permitted Special Use in both the A-1 Agricultural and R/C Recreation Conservation zoning districts. This would allow these uses by right, provided they meet the specified conditions.

Sections 3 & 4 Three new uses are being added to the conditional use permit sections of both the A-1 and R/C zoning districts.

1. Produce Stand (replacing roadside stand)
2. Recreation Facility (replacing private recreation facility)
3. Farmer's Market (brand new listing)

Section 5 Adding new definitions to the zoning ordinance.

1. Six new definitions address Agricultural Tourism
 - a. Agricultural Tourism – defines what this term means
 - b. Agricultural Tourism Products – defines what products qualify
 - c. Agricultural Tourism Sign – Seasonal
 - d. Agricultural Tourism Sign – Permanent
 - e. Agricultural Tourism Special Event – public event, ex. Festival
 - f. Agricultural Tourism Private Event
2. Amend definition for Bed and Breakfast Establishment: expanded with a better explanation of what this use is
3. Farmer's Market – new definition
4. Recreation Facility – replacing the definition for *private outdoor rec. facility*. Will allow for indoor or outdoor, public or private.
5. Produce Stand – new definition

- Section 6** Adds Section entitled Agricultural Tourism to the Additional Uses section of the zoning ordinance. There are 7 permitted special uses which fall under the umbrella of agricultural tourism – Winery, Produce Stand, Seasonal U-Pick & Orchards, Seasonal Outdoor Mazes, Holiday Tree Farms, Farm Experiences, and Shooting/Hunting Preserves. Each use has a list of conditions which would have to be met in order to operate the use without obtaining a conditional permit. The minimum six conditions which are listed under each uses are below. The description in each six will vary from use to use.
- a. a description of the use; a definition
 - b. accessory uses allowed; i.e. a seasonal maze may also have hay rides
 - c. retail allowed; U-pick could also sell jellies or bakery items
 - d. food concessions; water, pop, coffee baked goods etc.
 - e. special events; i.e. festivals at a winery
 - f. private events; this would include weddings, business meetings
- Depending on the use, other conditions which address topics such as resident requirements, minimum acreages, or hours of operation have been added.

Parking

Each use must submit a parking plan when applying for an Agricultural Tourism permit. This plan will be reviewed by the Planning Director to ensure there is sufficient space provided.

Signs

Both seasonal and permanent signs are addressed. Seasonal signs will only be allowed for the length of the use.

Special Events

These are events which exceed the normal day to day activity of the allowed use. For example, a winery may host a festival on its grounds or and orchard may host a craft fair. The number of events allowed per year is listed under the seven different uses. The operator is required to give notice to the Planning Director 60 days prior to any special event. A plan detailing such things as additional parking, sanitation, hours of operation, and emergency response measures is required. Like a temporary use permit, the Planning Director will notify surrounding land owners of the proposed event. The Planning Director may also set conditions for the event or even deny approval of the event. The operator may appeal any decisions of the Planning Director to the Board of Adjustment.

Permit

Prior to the start of operations, each use must obtain an Agricultural Tourism Permit from the Planning Department. The Planning Director will have 20 days to review the application. If denied, the operator may appeal that decision to the Board of Adjustment.

- Section 7** This section adds *Agricultural Tourism Permit* to the list of fees detailed in the zoning ordinance.

Recommendation

The planning staff found that agricultural tourism is congruent with the Comprehensive

Plan's focus on maintaining and supporting agriculture within Minnehaha County and recommended approval of Zoning Text Amendment #09-02.

Public Testimony

The Planning Commission discussed various aspects of the text amendment. Most of the discussion centered on what size parcel should be required for the various uses. It was decided that a winery should require 10 acres. While the Commission did feel this was a strict requirement, it was determined it would be much easier in the future to amend the ordinance to require a smaller land size than to ask for an increase in size. A condition requiring the underlying agricultural and/or residential uses to continue was added to the use of a produce stand and outdoor mazes. Planning staff was directed to research what percentage of product should be grown on the site for a tree farm. As a shooting/hunting preserve is a multi-faceted endeavor it was determined it should be removed from the ordinance and added as a conditional use item. A definition for this use will also be added. There was discussion on whether the Planning Director or the applicant should be responsible for sending notice of a special event. The only way to ensure that notice is completed is for the Planning Director to send notice.

Action

No action was taken on the ordinance amendment but staff was instructed to make the changes and place this item on the April 20th agenda.

ORDINANCE MC

AN ORDINANCE AMENDING THE 1990 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY BY REVISING THE TEXT PERTAINING TO ZONING AND BUILDING PERMITS AND GENERAL PROVISIONS.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC16-90, the 1990 Revised Zoning Ordinance for Minnehaha County hereby amended as follows:

Section 1: That Article 3.03 (L) is hereby added to read:

(L) Agricultural Tourism in conformance with Section 12.13.

Section 2: That Article 9.03 (G) is hereby added to read:

(G) Agricultural Tourism in conformance with Section 12.13.

Section 3: That Article 3.04 (J, M, & P) is hereby added or amended to read:

(J) Produce Stand exceeding 400 square feet in area.

(M) Recreation Facility.

(P) Farmer's Market.

Section 4: That Article 9.04 (D, I, & U) is hereby added or amended to read:

(I) Produce Stand exceeding 400 square feet in area.

(D) Recreation Facility.

(U) Farmer's Market.

Section 5: That Article 26.02 Definitions is hereby added or amended to read to read:

11. AGRICULTURAL TOURISM. Agriculturally related accessory uses, that are subordinate to the growing of crops or the raising of livestock, designed to bring the public to the farm on a temporary or continuous basis, such as U-pick farm sales, farm stands, farm mazes, pumpkin patches, farm animal viewing and petting, wagon rides, thrashing bees, farmland and activities tours, horticulture nurseries and associated display gardens, cider pressing, classes or workshops, wine or cheese tasting, and similar uses.
12. AGRICULTURAL TOURISM PRODUCTS. Includes but is not limited to, crops (corn, wheat, hay, potatoes); fruit (apples, peaches, grapes, cherries, berries.);

- cider; apiary products; vegetables (sweet corn, pumpkins, tomatoes.); floriculture; herbs; forestry; husbandry; livestock and livestock products (cattle, sheep, hogs, horses, poultry, ostriches, emus, farmed deer, farmed buffalo, milk, eggs, fur); aquaculture products (fish, fish products, water plants and shellfish); and holiday trees.
13. A AGRICULTURAL TOURISM SIGN - SEASONAL. A sign erected for a limited period of time during the year when retailing activities for an approved agricultural tourism use are available to the public.
13. B AGRICULTURAL TOURISM SIGN - PERMANENT. A sign erected for an approved agricultural tourism use.
14. A AGRICULTURAL TOURISM SPECIAL EVENT. An activity, involving more than 100 people, that is desirable but unrelated to agriculture, which is held on active, agriculturally productive land in conjunction with agricultural tourism. Special events are open to the public and include festivals, craft shows, and other similar events. Music festivals and/or outdoor concerts are not special events and require temporary use permit approval.
14. B AGRICULTURAL TOURSIM PRIVATE EVENT. Events not related to the operational and marketing aspects of the agricultural tourism use, such as weddings, receptions, and meetings/retreats, and which are not open to the public. **The maximum number of participants that shall be allowed by the Planning Director shall not exceed 250.**
55. BED AND BREAKFAST ESTABLISHMENT. A bed and breakfast accommodation may provide no more than ten bedrooms for guests (exclusive of the living quarters of the owner or operator). Guests at a bed and breakfast accommodation may stay up to fourteen consecutive days provided that the bed and breakfast accommodation may only offer a daily rate and shall not offer weekly or bi-weekly rates. A bed and breakfast accommodation may include kitchen and dining facilities to furnish meals for guests only. Food preparation within a guest bedroom is prohibited. A bed and breakfast accommodation may not include a restaurant, banquet facilities or similar services.
257. FARMER'S MARKET. An area where space is rented to individual vendors who grow farm products such as agricultural and horticultural goods, or who produce food specialty products such as baked goods, candies, jams, jellies, spices, condiments, cheeses, eggs, milk, honey, meats, fish and pasta. This definition does not include the sale of arts and crafts products.
503. RECREATION FACILITY. A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational

activities, either active or passive. Related functions such as changing rooms or restrooms, and maintenance may be housed in buildings or structures

558. PRODUCE STAND. A produce stand is defined as a temporary or permanent structure used for the display and sale of agricultural products, not to include retail nursery operations.

Section 6: That Article 12.13 is hereby added to read:

12.13 AGRICULTURAL TOURISM.

- (A). Intent. It is the intent of this Article to provide for uses which help to promote and maintain local farming operations, are complementary to agriculture, which help maintain an agricultural heritage and rural character, and help to sustain the local farming community.
- (B). Permitted uses, provided the following conditions are met.
- 1) Wineries producing and selling a product, in a tasting room, which must have one acres of crops grown on the site and used in the wine production.
 - a) Description. The retail and manufacturing premises of a small winemaker operating pursuant to SDCL 35-12.
 - b) Accessory Uses Allowed. Vineyard and Winery Tours, picnic area, and hay/sleigh rides.
 - c) Retail. Tasting room for sampling of wine and other beverages made by the winery. Bottles of wine, wine related items such as glasses, corkscrews, and coolers. Business related items such as t-shirts, bags, caps, wine books and non-prepared foods.
 - d) Food Concessions. Wineries will be allowed limited food services on-site. This food service is not to include restaurants, but may include the following:
 1. Deli-service of prepackaged food;
 2. Winemaker dinners;
 3. Tasting room events with food;
 4. On-site catering food service for events.
 5. No interior seating will be dedicated solely to the purpose of meal service.
 6. No food will be cooked to order, although a list of prepackaged foods may be posted.
 - e) Special Events. The winery shall be allowed a maximum of four special events throughout the year. Additional special events require a temporary use permit.

- f) Private events. The participant capacity for such events shall be determined separately for each winery by the Planning Director. The Planning Director shall consider the size of the parcel, surrounding land use, available parking, transportation routes, and other land use factors in making the determination. The maximum capacity shall be stated in writing to the applicant.
 - g) Minimum one acre of product used in the production of wine must be grown on the site.
 - h) The Operator of the winery must reside on the site.
 - i) The winery shall remain secondary to the principal use of the property as a residential site and a site for agricultural production. If the residential use or agricultural production on the site ceases, the winery operation shall cease.
 - j) The winery must be on a parcel of land that is not less than 20 acres in size.**
- 2) Produce stand for the direct marketing of farm products, 25% of which are grown by the operator.
- a) Description. Produce stand no greater than 400 square feet in building area.
 - b) Accessory Uses Allowed. None.
 - c) Retail. The retail area may sell in-season fruits and vegetables grown on the farm or from local growers. Locally made products such as honey, jams, jellies, or related bakery items may also be sold.
 - d) Food Concessions. None.
 - e) Special Events. None.
 - f) Private Events. None.
- 3) Seasonal U-pick fruits and vegetables operations, orchards.
- a) Description. U-Pick means a fruit or vegetable-growing farm that provides the opportunity for customers to pick their own fruits or vegetables directly from the plant.
 - b) Accessory Uses Allowed. Wagon or hay rides, picnic area, contests.
 - c) Retail. The retail area may sell in-season fruits and vegetables grown on the farm or from local growers. Locally made products such as honey, jams, jellies, or related bakery items may also be sold.
 - d) Food Concessions. Limited service for such items such as water, pop, coffee, snacks or baked goods.
 - e) Special Events. U-pick operations and orchards shall be allowed a maximum of four special events per year. Additional special events require a temporary use permit.
 - f) Private Events. Allowed for orchards. The participant capacity for such events shall be determined separately for each orchard by the Planning Director. The Planning Director shall consider the size of the

parcel, surrounding land use, available parking, transportation routes, and other land use factors in making the determination. The maximum capacity shall be stated in writing to the applicant. The Operator of the U-pick operation or orchard must reside on the site.

- g) The U-pick operation or orchard shall remain secondary to the principal use of the property as a residential site and a site for agricultural production. If the residential use or agricultural production on the site ceases, the U-pick or orchard operation shall cease.
 - h) **The operation must occur on a parcel of land that is not less than 20 acres in size.**
- 4) Seasonal outdoor mazes of agricultural origin such as straw bales or corn.
- a) Description. An intricate network of interconnecting pathways, within a cornfield or made from straw bales.
 - b) Accessory Uses Allowed. Wagon or hay rides, picnic area, petting farm.
 - c) Retail. The retail area may sell in-season fruits and vegetables grown on the farm or from local growers. Locally made products such as honey, jams, jellies, or related bakery items may also be sold.
 - d) Food Concessions. Limited service for such items such as water, pop, coffee, snacks or baked goods.
 - e) Special Events. None.
 - f) Private Events. None.
 - g) **The operation must occur on a parcel of land that is not less than 10 acres in size.**
- 5) Holiday Tree Farms.
- a) Description. One that grows trees on the site for landscape or holiday decoration, either pre-cut or for the consumer to cut.
 - b) Accessory Uses Allowed. Wagon or hay rides, petting farm, bonfire, Tree drilling and baling.
 - c) Retail. The retail area may sell pre-cut holiday trees, wreaths, garland, ornaments and decorations
 - d) Food Concessions. Limited service for such items such as hot chocolate, coffee, snacks or baked goods.
 - e) Special Events. None.
 - f) Private Events. None.
 - g) **The operation must occur on a parcel of land that is not less than 10 acres in size.**
- 6) Farms **Experiences.**
- a) Description. A working farm where agricultural animals and products are produced.

- b) Accessory Uses Allowed. Tours and hayrides, petting farm and animal feeding, picnic area.
- c) Retail. Agricultural tourism products.
- d) Food Concessions. Limited service for such items such as drinks, ice cream or other dairy products, snacks or baked goods.
- e) Special Events. A farm shall be allowed a maximum of four special events throughout the year. Additional special events require a temporary use permit.
- f) Private events. The participant capacity for such events shall be determined separately for each event by the Planning Director. The Planning Director shall consider the size of the parcel, surrounding land use, available parking, transportation routes, and other land use factors in making the determination. The maximum capacity shall be stated in writing to the applicant.
- g) The operator of the farm must reside on the site.
- h) The special and private events shall remain secondary to the principal use of the property as a residential site and a site for agricultural production. If the residential use or agricultural production on the site ceases, the events shall cease.
- i) **The operation must occur on a parcel of land that is not less than 20 acres in size.**

7) Shooting/Hunting Preserve.

- a) Description. Shooting preserve or game farming with the intensive, small pasture production of wild animals for the purpose of hunting on agricultural land, for a fee, over an extended period of time. Does not include exotic animals.
- b) Associational Uses allowed. Competitions, petting farm and animal feeding, tours and hayrides, bird cleaning facilities, dog kennels
- c) Retail. Dairy products, meat products, gift shop
- d) Food Concessions. Shooting/Hunting Preserve will be allowed limited food services on-site. This food service is not to include restaurants, but may include the following:
 - 1. Deli-service of prepackaged food;
 - 2. Hunting dinners;
 - 3. Events with food;
 - 4. On-site catering food service for events.
 - 5. No interior seating will be dedicated solely to the purpose of meal service.
 - 6. No food will be cooked to order, although a list of prepackaged foods may be posted.

- e) Special Events. A shooting/hunting preserve shall be allowed a maximum of four special events throughout the year. Additional special events require a temporary use permit.
- f) Discharge of fire arms. Shall be limited to daylight hours only.
- g) Lodging. If lodging or camping is to be provided at the Shooting/Hunting Preserve, a conditional use permit is required.
- h) Private events. The participant capacity for such events shall be determined separately for each preserve by the Planning Director. The Planning Director shall consider the size of the parcel, surrounding land use, available parking, transportation routes, and other land use factors in making the determination. The maximum capacity shall be stated in writing to the applicant.
- i) **The operation shall occur on a parcel of land that is not less than 20 acres in size.**

(D) Parking

- 1) A parking plan must be submitted for approval by the Planning Director.
- 2) Parking facilities may be located on a grass or gravel area for seasonal uses such as produce stands, u-pic operations and agricultural mazes. All parking area shall be defined by either gravel, cut lawn, sand, or other visible markings.
- 3) All parking areas shall be located in such a manner to avoid traffic hazards associated with entering and exiting the public roadway.

(E) Agricultural Tourism Sign- Seasonal

Seasonal signs may be erected for a limited period of time during the year when retailing activities for a particular farm product is available to the public.

- 1) Signs shall not exceed 32 square feet in area.
- 2) No more than two signs shall be erected.
- 3) Signs shall not be erected for longer than one week before through one week after the retailing activities.

(F) Agricultural Tourism Sign- Permanent

A permanent signs may be erected on the site of an approved agricultural tourism use.

- 1) The sign shall not exceed 32 square feet in area.
- 2) Only one sign shall be allowed.
- 3) A building permit is required for the sign.

(G) Special Events

- 1) Written notice of each special event shall be submitted to the Planning Director 60 days prior to the event.
- 2) The Planning Director shall review the proposed special event using the following guidelines:

- a) The special use will have no adverse effect on nearby properties or jeopardize public health, safety, and general welfare.
 - b) The special use will not create hazardous traffic conditions or result in traffic in excess of the capacity of the roads serving the use.
 - c) The site is adequate to accommodate the proposed use, including the provision for on and off site parking.
 - d) Adequate sanitation facilities will be available on the site.
 - e) The time period and hours of operation for the special event are clearly specified.
 - f) Provision is made for the removal, clean-up, and restoration of the site.
 - g) The special use will not adversely impact the natural environment.
 - h) The site is suitable for the proposed special use, considering flood hazard, drainage, soils, and other conditions which may constitute a danger to life, health or property.
 - i) All temporary improvements and any permanent structures proposed to be used will comply with all applicable provisions of the county's building code.
 - j) Emergency response measures.**
- 3) The Planning Director shall send written notice of the special event to the owners of all property located within at least 600 feet of the property involved. Such notice shall be sent at least 14 days before the Planning Director makes its determination on the special use permit. If any of the owners so notified file a written objection prior to the time the Planning Director makes his determination regarding the application, the application shall be referred to the Planning Commission for action.
 - 4) Conditions of approval. Reasonable conditions may be required in connection with the approval of any special use permit which are deemed necessary to protect the public health, safety and welfare and the social and economic well being of those who will use the special use, residents and landowners immediately adjacent to the proposed use, and the community as a whole. Any condition imposed must be clearly specified in writing to the applicant.
 - 5) Appeal of decision. Any person aggrieved by an action of the Planning Director in granting, denying, revoking, or suspending a special event may appeal such action to the Zoning Board of Adjustment. Such appeal shall be in writing and filed with the Planning Department within five working days of the decision.

(H) Prior to the start of operations an Agricultural Tourism Permit is required with the associated fee as shown in Article 24.00. The Planning Director shall have twenty days

to review the application and issue or deny the permit. Denial of the permit or imposed conditions may be appealed to the Zoning Board of Adjustment. Such appeal shall be in writing and filed with the Planning Department within five working days of the Planning Director's decision.

Section 7: That Article 24.09 is hereby added to read:

24.09 AGRICULTURAL TOURISM PERMIT. A fee of \$250.00 shall be charged for the filing of an agricultural tourism permit. If the use, for which an agricultural tourism permit is required, is commenced prior to the application for a permit, the application fee shall be double the regular fee.

1 st Reading	
Legal Ad. – Argus Leader Dell Rapids Tribune Garretson Weekly	
Public Hearing	
Fact of Adoption – Argus Leader Dell Rapids Tribune Garretson Weekly	
Effective Date	