

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
September 25, 2017

A meeting of the Planning Commission was held on September 25, 2017 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning
Maggie Gillespie – States Attorney

Mike Cypher chaired the meeting. Planning Commissioner Mike Cypher called the Minnehaha County Planning Commission meeting to order at 7:10 p.m.

CONSENT AGENDA

Commissioner Randall read each item on the agenda individually. Item 2 was requested to be moved from the consent agenda to the regular agenda.

A motion was made by Commissioner Duffy and seconded by Commissioner Randall to **approve** the consent agenda consisting of Items 1, 3, 4, 5, 6, 7, 8, and 9. The motion passed unanimously.

ITEM 1. Approval of Minutes – August 28, 2017

As part of the consent agenda, a motion was made by Commissioner Duffy and seconded by Commissioner Randall to **approve** the meeting minutes from August 28, 2017. The motion passed unanimously.

Consent Agenda

ITEM 3. CONDITIONAL USE PERMIT #17-61 to transfer one (1) building eligibility from NW1/4 SE1/4 (Ex. Tr. 1 Dybedahl's Addn. & Ex. H-1) to the SW1/4 SE1/4; all in Section 15-T104N-R50W.

Petitioner: Tarah Burggraff

Property Owner: Kevin & Pam Dybedahl

Location: SE of I-90 & SD Hwy. 38 Approximately 4 miles west of Dell Rapids

Staff Report: Kevin Hoekman

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

General Information:

Legal Description – NW1/4 SE1/4 (Ex. Tr. 1 Dybedahl's Addn. & Ex. H-1) to the SW1/4 SE1/4; all in Section 15-T104N-R50W

Present Zoning – A1 - Agriculture

Existing Land Use –Cropland

Parcel Size – 154.48 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The applicant has applied to transfer one building eligibility (BE) from the NW1/4 SE1/4 to the SW1/4 SE1/4 of the same section. The request is made to allow an additional building site next to an existing non-farm acreage.

The petitioner has submitted a site plan showing the building eligibility will be moved to be located east of an existing acreage. This is further away from the farmstead in the NE1/4 SE1/4 of the large property. The current location of the eligibility is land locked in the center of the section. It also requires a conditional use permit to allow for the use of the eligibility with or without the transfer. The transfer also moves the building eligibility further away from a small CAFO on the north side of section 15.

Staff visited the site on September 5th 2017. The existing single family residence has an established tree grove on the northeast property line. The topography of the land is rolling with hills and valleys. It would be suspected the building site would be located on the nearest hill.

Conditional Use Permit Criteria:

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

The proposed location for the moved building eligibility is located in an active agricultural zone. Few non-farm residential parcels are located near this proposed development. A group of five residential acreages is located on the north side of the section from this proposed development site. Residents in non-farm properties may oppose future development or expansion of CAFOs in the area; however, a right-to-farm notice covenant is required for new residential dwellings 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.

Even with the right-to-farm covenant, the presence of a non-farm residential dwelling may bring objections to regular farming practices included possible expansion of confined animal feeding operations. The transfer of the building eligibility does not increase the number of dwelling units allowed in this section, and it groups the acreage near an existing residential acreage.

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

The applicant will have to make these arrangements for any extension of utilities. The potential development site for the building eligibility will have access from a Burk Township section line road. Any road access may be required to obtain a driveway permit from the township.

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

Off-street parking requirements will be provided for once each 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.

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

The health, safety, general welfare of the public will not be impacted by the transfer of one building eligibility. The intent of the Comprehensive Plan will be met, as density zoning will be followed. This type of clustering is encouraged in the Comprehensive plan in order to preserve large tracts of farm land rather than broken up parcels located with low density spacing.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #17-61 with the following conditions:

1. A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for all single family dwellings.
2. A lot must be platted to place the eligibility before a building permit will be issued.

Action

As part of the consent agenda, a motion was made by Commissioner Duffy and seconded by Commissioner Randall to **approve** Conditional Use Permit #17-61 with staff recommended conditions. The motion passed unanimously.

Conditional Use Permit #17-61 – Approved

ITEM 4. CONDITIONAL USE PERMIT #17-62 to allow the placement of a mobile home on the property legally described as the Proposed Tract 3, Olson's Addition, NE1/4, Section 31-T102N-R47W.

Petitioner: James D. and Susan R. Olson

Property Owner: same

Location: 48453 261st St.

Approximately 2 miles east of Brandon

Staff Report: Kevin Hoekman

This would allow the placement of a mobile home.

General Information:

Legal Description – Tract 1 & 2 Olson's Addition NE 1/4, Section-31-102-47

Present Zoning – A1 - Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 3.85 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject property is located approximately 1.5 miles east of Brandon and 2 miles northwest of Valley Springs. The subject property is currently made of two separate tracts of land that are orientated east and west, parallel to the section line road. One of the tracts has an existing single family dwelling. The petitioner intends on replatting the property to have two tracts that both have access to the township road. A site plan of the proposed replat is included with this staff report. The petitioner intends on placing a mobile home on one of the new tracts of land. The 1990 Revised Zoning Ordinance for Minnehaha County requires a conditional use permit for the placement of a mobile home on a single family parcel.

The petitioner has submitted a simple site plan to show the proposed location of the mobile home southeast of the barn. The county ordinance requires a mobile home to have a minimum width of 22 feet. The petitioner stated that they intend on purchasing a 16 foot wide mobile home and constructing a 6 foot addition in order to meet the 22 foot wide requirement. The proposed addition is depicted on the site plan.

Staff visited the site and found that the site is largely surrounded by trees on the north, east, and west sides of the property. The trees make it difficult to see anything on the property from the right-of-way. The existing farm house was in good condition and several farm buildings are still located on the property in varying condition.

Conditional Use Permit Criteria:

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

The new mobile home will be largely unseen from neighboring properties because of the existing trees. The property already has an existing dwelling, and another dwelling will not significantly change how the site is used. All the requirements of the zoning ordinance must be met for the

placement of a mobile home. These requirements include foundation requirements and minimum roof slope.

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

The property is located in a subdivision on the along a county highway. A newer style mobile home should have little to no effect on any future development.

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

The petitioner will be responsible to extend all necessary utilities to the proposed mobile home. A septic permit must be obtained prior to the issuance of a building permit.

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

The off-street parking requirements provides for a single-family residence are met through several accessory buildings and driveways.

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. This will include from the dwelling and from the accessory buildings.

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

The proposed conditional use will have a no effect on the health, safety and general welfare of the public. The replacement of this mobile home will not add density within the county.

Recommendation:

Staff finds this conditional use permit request meets the ordinance and is reasonable under the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #17-62 with the following conditions:

- 1.) A building permit must be obtained prior to the placement of the mobile home.
- 2.) The mobile home must meet all applicable requirements of section 12.06 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 3.) A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for all single family dwellings.

Action

As part of the consent agenda, a motion was made by Commissioner Duffy and seconded by Commissioner Randall to **approve** Conditional Use Permit #17-62 with staff recommended conditions. The motion passed unanimously.

Conditional Use Permit #17-62 – Approved

ITEM 5. CONDITIONAL USE PERMIT #17-63 to exceed 1,200 square feet of total accessory building area – requesting 2,400 sq. ft. on the property legally described as N1/2 of Tract 54, West Acres, SW1/4, Section 17-T101N-R50W.

Petitioner: Troy Miller

Property Owner: same

Location: 46720 Buckeye St. Approximately 1.5 miles west of Sioux Falls

Staff Report: David Heinold

This would allow 2,400 square feet of total accessory building area.

General Information:

Legal Description – N1/2 & S1/2, Tract 54, West Acres, SW1/4, Section 17-T101N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 0.82 acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow 2,400 square feet of total accessory building area. The site plan, at right, indicates that the proposed 40'x60' accessory building will be located north of the applicant's house on a lot adjacent to Brune Ave.

According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

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

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



There are several accessory building sizes in the immediate area with buildings larger than the applicant's request. The property owner, 46702 Snowberry St., located immediately across the road to the east of the subject property has approximately 4,818 square feet of total accessory building area on a 1.95 acre parcel that is used for only personal storage. The property owner, 46702 Sage St., has 3,360 sq. ft. of total accessory building area on 0.85 acres. In April 2014, conditional use permit #14-18 was approved by the planning commission and upheld by the

county commission following a written appeal to allow a 2,688 sq. ft. accessory building size at 46710 Chestnut St. In February 2017, conditional use permit #17-08 was approved by the planning commission to allow 2,880 sq. ft. accessory building size at 26471 467th Ave. The property owner at 46715 Buckeye St. just down the block in the subdivision to the west of the subject property was approved earlier this year by the planning commission to allow 2,000 sq. ft.

On September 11, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed building north of the existing house. The proposed building will be located on a 0.83 acre parcel.



Conditional Use Permit Criteria:

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

There are a few other properties within a half-mile of the subject property that has a building size larger than the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a twenty-lot subdivision within a quarter-mile.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 2,400 sq. ft. of accessory building area would be congruent with the land composition.

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

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

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

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

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

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

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

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the transition area identified in the Envision 2035 Comprehensive Plan, which recognizes that the primary purpose of maintaining the rural landscape until the eventual development of residential and/or municipal development. The proposed use of the building for personal storage should not affect surrounding land uses with an established shelterbelt of landscaping around the perimeter of the proposed location for the accessory building.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-63 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,400 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

Action

As part of the consent agenda, a motion was made by Commissioner Duffy and seconded by Commissioner Randall to **approve** Conditional Use Permit #17-63 with staff recommended conditions. The motion passed unanimously.

Conditional Use Permit #17-63 – Approved

ITEM 6. CONDITIONAL USE PERMIT #17-65 to exceed 1,200 square feet of total accessory building area – requesting 1,680 sq. ft. on the property legally described as Tract 28, West Acres, SW1/4, Section 17-T101N-R50W.

Petitioner: Arlen Schmeichel

Property Owner: same

Location: 26482 Holland Ave. Approximately 1.5 miles west of Sioux Falls

Staff Report: Scott Anderson

This would allow 1,680 square feet of total accessory building area.

General Information:

Legal Description – Tract 28, West Acres, SW1/4, Section 17-T101N-R50W

Present Zoning – A1 - Agriculture

Existing Land Use – residential

Parcel Size – approximately .75 acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately three (3) miles west of Sioux Falls, on Holland Avenue in West Acres Subdivision. The parcel is located in Wayne Township.

The petitioner would like to construct an accessory building on this site. The applicant has an existing 28' x 32' detached garage which was constructed in 1999. The current request is to construct an additional 28' x 28' detached garage, bringing the proposed total square footage for the lot to 1,680 square feet. In subdivisions or residential developments which exceed four lots in size, accessory building area is limited to 1200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner's requested size of 1,680 square feet of accessory structures is smaller than the largest existing accessory building in the area. The petitioner's request would be consistent with the other large accessory buildings in the area. The other large existing accessory buildings in the area are 4,050 square feet located at 46702 Snowberry Street, 3,360 square feet located at 46702 Sage Street, and 2,772 square feet located at 46710 Chestnut Street, as shown on the map included with this report. CUP #13-22 was issued for the larger detached accessory structure on Sage Street and CUP #14-18 was issued for the larger accessory structure on Chestnut 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 within the immediate vicinity.

Given the existence of the other larger accessory buildings in the area, the construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The building can only be used as an accessory structure to the established residential use and no commercial or business activities are allowed. The applicant has provided a statement indicating

that the building will be used to store his camper, boat and trailers.

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

It appears from the site plan submitted by the applicant that he is not proposing to construct a new approach. Wayne Township would need to approve any new approach. No other infrastructure is required.

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

There is ample area on the subject property for any parking as a result of residential activities. No on-street parking will be allowed. No commercial or business parking is allowed.

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

There should be no offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property.

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

The health, safety, general welfare of the public will not be impacted by the placement of a larger accessory structure on the subject property. The intent of the Comprehensive Plan will be met, as the site will retain its residential character and allow for the continued use of the property.

Staff finds that the requested conditional use is appropriate for this residential area. The recommended conditions of approval will help to ensure that the over-sized building will be in character with the surrounding area. The Planning Department will perform a building inspection to measure the size of the structure. Measurements are taken of the outside perimeter.

Recommendation: Staff finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of conditional use permit #17-65 with the following conditions:

- 1) The total accessory building square footage shall not exceed 1,680 square feet.
- 2) The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
- 3) The accessory building shall not exceed one story in height.
- 4) A building inspection is required to determine that the building does not exceed 1,680 square feet measured from the outside perimeters.
- 5) A building permit is required
- 6) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

- 8) That prior to applying for a building permit, the applicant shall obtain an approach permit from Wayne Township for any new approach onto Holland Avenue.

Action

As part of the consent agenda, a motion was made by Commissioner Duffy and seconded by Commissioner Randall to **approve** Conditional Use Permit #17-65 with staff recommended conditions. The motion passed unanimously.

Conditional Use Permit #17-65 – Approved

ITEM 7. CONDITIONAL USE PERMIT #17-66 to transfer one (1) building eligibility from NW1/4 SE1/4 to NE1/4 SE1/4 Section 4-T103N-R47W.

Petitioner: Arnold Laufmann, Jr. & Nancy Laufmann

Property Owner: same

Location: Approximately 0.25 mile south of Sherman

Staff Report: Kevin Hoekman

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

General Information:

Legal Description – SE1/4 (Ex H-1) Section 4-T103N-R47W

Present Zoning – A1 - Agriculture

Existing Land Use – Cropland

Parcel Size – 158.99 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The applicant has applied to transfer one building eligibility (BE) from the NW1/4 SE1/4 to the NW1/4 SE1/4 of the same section. The request is made to allow for two building sites next to one another. The proposed building site was once a farmstead but does not currently have any structures on it.

The petitioner has submitted a site plan showing the former farmstead site as a location for two single family dwellings. This site would not convert any cropland and both dwellings are listed to use the same existing driveway. The driveway would be accessed from a county highway and not a township road. No CAFOs are located nearby the proposed building site.

Staff visited the site on September 5th 2017. The former farmstead site has some established trees and the site is located near but above Split Rock Creek. The topography of the land is generally flat.

Conditional Use Permit Criteria:

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

The proposed location for the moved building eligibility is located in an active agricultural zone, and in close proximity to the town of Sherman. A few farmsteads are located in the area, but no rural subdivisions are located near the proposed building site. Residents in non-farm properties may oppose future development or expansion of CAFOs in the area; however, a right-to-farm notice covenant is required for new residential dwellings 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.

Even with the right-to-farm covenant, the presence of a non-farm residential dwelling may bring

objections to regular farming practices included possible expansion of confined animal feeding operations. The transfer of the building eligibility does not increase the number of dwelling units allowed in this section, and it groups the acreage near an existing residential acreage.

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

The applicant will have to make these arraignments for any extension of utilities including waste water disposal.

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

Off-street parking requirements will be provided for once each 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.

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

The health, safety, general welfare of the public will not be impacted by the transfer of one building eligibility. The intent of the Comprehensive Plan will be met, as density zoning will be followed. This type of clustering is encouraged in the Comprehensive plan in order to preserve large tracts of farm land rather than broken up parcels located with low density spacing.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #17-66 with the following conditions:

1. A right-to-farm notice covenant shall be placed on each deed prior to the issuance of a building permit for all single family dwellings.
2. Lots must be platted for each building site to place the eligibility before a building permit will be issued.

Action

As part of the consent agenda, a motion was made by Commissioner Duffy and seconded by Commissioner Randall to **approve** Conditional Use Permit #17-66 with staff recommended conditions. The motion passed unanimously.

Conditional Use Permit #17-66 – Approved

ITEM 8. CONDITIONAL USE PERMIT #17-67 to allow a Class 1, Major Home Occupation – Tractors & Diesel Repair Shop on the property legally described as E660' N660', NE1/4, Section 5-T102N-R47W.

Petitioner: Austin Breitbarth

Property Owner: same

Location: 48591 256th St.

Approximately 2.5 miles south of Garretson

Staff Report: Kevin Hoekman

This would allow a Class 1, Major Home Occupation – Tractors/Diesel Repair Shop.

General Information:

Legal Description – E660' N660', NE1/4, Section 5-T102N-R47W

Present Zoning – A1 - Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 10 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 2 miles south of Garretson near County Highway 105. The parcel is a ten acre lot with a single family dwelling, several outbuildings, and pasture/hay land. The surrounding area is predominantly agriculturally used land.

The petitioner is requesting a home occupation permit to operate a diesel repair shop for agricultural equipment and semi-tractors. The request will be for a Class 1 home occupation. The purpose of a Class 1 home occupation is to allow occupations entirely within a dwelling or accessory building. The requested diesel repair shop is depicted on the site plan to be located east of the existing home site. The site plan includes a new building, parking area, and a new driveway with access to the township road.

The petitioner has submitted a brief description of what he would like to do as part of the home occupation. Hours of operation are listed as 8:00 to 5:00 Monday through Friday and 8:00 to 12:00 on Saturday. A Class 1 home occupation limits the amount of noise that can be measured from neighbors between 8:00 am to 6:00 pm with no audible noise outside of those hours.

The submitted narrative also describes a desire to conduct the proposed home occupation to take place in a building with 2,820 square feet in floor area. The request for a larger building is based on a need for more space to hold large equipment and semi tractors. Ordinance regulations for Class 1 home occupations provide a list of usable accessory building space for home occupations based on the size of the parcel. A 10.00 acre parcel is within a category to limit accessory building space for home occupation to 1,800 square feet. The size of accessory building allowance increases at 10.01 acres to 2,400 square feet. The planning commission will have to decide whether to allow more building space for the home occupation, or choose to allow a smaller area as the ordinance lists.

The submitted narrative also describes a 3 foot by 5 foot sign to be posted onto the east side of

the building facing the highway. Ordinance regulations for a Class 1 home occupation indicates that a two square foot sign may be placed on accessory building and a four square foot sign may be placed on the driveway. The purpose of the small sign is to make sure that the business is not easily distinguishable from any other residential property. The planning commission will have to decide whether to allow more signage area for the home occupation, or choose to allow a smaller area as the ordinance lists.

Staff visited the property on September 5th. Staff noted three accessory buildings. One accessory building is used for a small herd of cattle. The other two accessory buildings appear to be used for machine storage. Various items are currently being stored outside including some parts and equipment. Many trees exist on the property but they are all still very small.

Staff has a few concerns with the proposed use; many of which can be alleviated with appropriate conditions for the permit. First, the business will bring in more traffic than normal on a short section of gravel road. The large machinery and possible semi-tractors and trailers coming down the road will create more dust than a typical gravel road. Across the road to the north of the site is the nearest neighbor, and this neighbor may see more dust as a result of the home occupation. A condition to require dust control or some other road agreement may be useful to reduce dust nuisance for the neighbors and for the business too.

Second, a common concern for repair shops of all types is regarding outdoor storage and parking of customer equipment before and after work is complete. Often times a significant portion of the parking lot will be filled equipment waiting to be worked on or equipment waiting to be picked up by the owner. The planning commission has often required screen fencing for this type of outdoor storage. In addition to fencing allowing the larger sized building as requested may help with also allowing more internal storage space.

Finally, a diesel mechanics shop is often classified as an industrial use. The petitioner has noted that he will be leaving a location within the industrial zoning district around the Crooks/Renner Exit. This is not the typical migration for businesses to move from a business center to a home site. This type of business is not unfounded in the rural area of the county either; however, past mechanic type businesses were permitted under a Class 2 home occupation. A Class 2 home occupation must be related to a farm with 80 acres or more. This application for a diesel repair shop is located on a 10 acre parcel.

Conditional Use Permit Criteria:

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

The property is located a short distance away from a paved county highway. Another large acreage is located directly north of the gravel road. A small subdivision of residential acreages exist approximately one mile west of the subject property. Proper conditions of approval and the ordinance requirements for Class 1 home occupations should help mitigate concerns of surrounding property owners.

2) The effect upon the normal and orderly development and improvement of surrounding

vacant property for uses predominant in the area.

The surrounding area is primarily agricultural land uses with a few residential dwellings dotting the nearby area. It is unlikely that the proposed operation will affect future agricultural development, or the development of residential properties.

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

The petitioner will be required to obtain all necessary utilities for the proposed new building. A driveway permit is necessary for the proposed driveway onto 256th Street.

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

The site is fairly large to contain all parking and loading within the development area. All new parking and driveways should be required to be covered with gravel surface to prevent mud and debris from pulling out onto the highway. The site plan shows adequate parking for the size of the structure and 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.

The property will not be allowed to create a nuisance at any time. Operations will have to take place completely within the proposed building and not outside. Indoor operations will reduce noise and other nuisances. Hours of operation must be maintained. And conditions may be added to mitigate other concerns.

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

The proposed land use should have little to no health, safety, or general welfare concerns for the public. The proposed land use will primarily be located near a paved county highway with only some pasture land being removed for the construction of a building. The proposed land use will primarily serve agricultural production in an agricultural zoning district. The promotion of agricultural production is a major theme of the comprehensive plan.

Recommendation:

Staff recommends **approval** of Conditional Use Permit #17-67 to allow a Class 1 major home occupation of an agricultural repair shop with the following conditions:

- 1.) The diesel repair shop shall be secondary to the property being a single family residence. If the is removed, the home occupation shall cease.
- 2.) The home occupation shall be limited to indoor operations within the proposed 47' by 60' building.
- 3.) All outside storage and equipment parking shall be located to the west of the proposed building and screened with a 6 foot tall privacy fence. The privacy fence must screen views from the north, east, and south.
- 4.) The applicant shall be limited to one (1) non illuminated wall sign, which shall not be greater than two (2) square feet, and one (1) non illuminated free-standing sign, which shall not exceed four (4) square feet in area for the home occupation. A sign permit shall be obtained prior to the installation of any sign.

- 5.) All new driveways and parking for the proposed building shall have a gravel surface. The gravel surface of the driveway to the highway shall be maintained in good condition with a thickness of at least four inches at all times.
- 6.) The petitioner must annually apply dust control to the township road from county highway 105 west to the driveway of the home occupation. The petitioner must work with the township to determine appropriate timing of dust control applications.
- 7.) The operation of the home occupation shall meet all requirements for a Class 1 home occupation in the 1990 Revised Zoning Ordinance for Minnehaha County.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the home occupation at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made by Commissioner Duffy and seconded by Commissioner Randall to **approve** Conditional Use Permit #17-67 with staff recommended conditions. The motion passed unanimously.

Conditional Use Permit #17-67 – Approved

ITEM 9. CONDITIONAL USE PERMIT #17-69 to exceed 1,200 square feet of total accessory building area – requesting 2,880 sq. ft. on the property legally described as Tract 4, O’Kane Addition, NE1/4, Section19-T102N-R51W.

Petitioner: Chris Rieff

Property Owner: same

Location: 46075 259th St. Approximately 2 miles west of Hartford

Staff Report: David Heinold

This would allow 2,880 square feet of total accessory building area.

General Information:

Legal Description – Tract 4, O’Kane Addition, NE1/4, Section 19-T102N-R51W

Present Zoning – A-1 Agricultural District

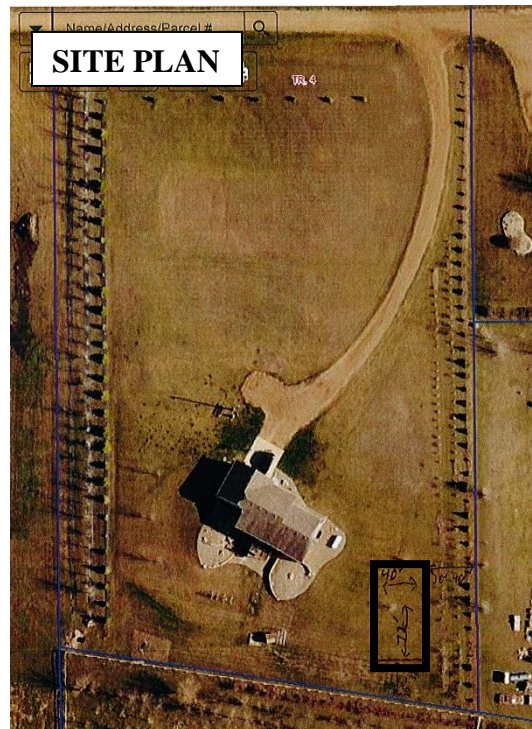
Existing Land Use – Residential

Parcel Size – 3.58 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow 2,880 square feet of total accessory building area. The site plan, at right, indicates that the proposed 40’x72’ accessory building will be located in the southeast corner of the subject property. The applicant provided an explanation that the proposed building will be used for general home use as well as personal storage.



According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

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

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

There are several accessory building sizes in the immediate area with buildings larger than the applicant’s request. The property owner, 25911 461st Ave., located to the immediate east of the subject property has a 5,000 square foot accessory building on approximately 4.20 acres. Comparatively, the property located to the south and adjacent to the subject property at 25915

461st Ave. on about 8.61 acre parcel. The remaining accessory building sizes in the surrounding area range from 1,230 sq. ft. to 8,000 sq. ft. on similar lot configurations.

On September 11, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed building southeast of the existing house. The proposed building will be located on a 3.58 acre parcel.



On September 13, 2017, staff received notification from the City of Hartford and they expressed no concern over the proposed accessory building size.

Conditional Use Permit Criteria:

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

There are a few other properties within a half-mile of the subject property that has a building size larger than the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a ten-lot subdivision within a quarter-mile.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 2,880 sq. ft. of accessory building area would be congruent with the land composition.

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

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

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

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

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

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

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

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the transition area identified in the Envision 2035 Comprehensive Plan, which have the primary purpose of maintaining the rural landscape until the eventual development of residential and/or municipal development. Goal 1, Action 1.2, on Page 90 of the Envision 2035 Comprehensive Plan recommends utilizing existing and future development policies and regulations in a consistent manner for similarly sited parcels in order to create fair and orderly development.

In the Future Land Use Plan section of the Envision 2035 Comprehensive Plan,

Goal #1 aims to develop a countywide land use pattern that ensures compatibility and functional relationships among jurisdictions and related land use activity.

The subject property is located outside all of the incorporated municipality growth areas. The surrounding area is a fully developed with few remaining building eligibilities for residential development and over one mile outside of the transition area for the City of Hartford. The immediate area does not have availability of sanitary sewer, which the present land use composition will likely remain the same except for the addition single family dwellings with available building eligibilities during the planning period.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-69 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,880 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

Action

As part of the consent agenda, a motion was made by Commissioner Duffy and seconded by Commissioner Randall to **approve** Conditional Use Permit #17-69 with staff recommended conditions. The motion passed unanimously.

Conditional Use Permit #17-69 – Approved

Commissioner Randall made a motion to approve the regular agenda with the addition of item 2. The motion was seconded by Commissioner Ralston. The motion passed unanimously.

Regular Agenda

ITEM 2. CONDITIONAL USE PERMIT #17-60 to exceed 1,200 square feet of total accessory building area – requesting 10,960 sq. ft. on the property legally described as Tract 1 Otterbys Addition, NE1/4, Section 12-T102N-R50W.

Petitioner: Chris Lodes

Property Owner: Gene Lodes

Location: 25715 472nd Ave. Approximately 1.5 miles east of Crooks

Staff Report: David Heinold

This would allow 10,960 square feet of total accessory building area.

General Information:

Legal Description – Tract 1 Otterby’s Addition, NE1/4, Section 12-T102N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

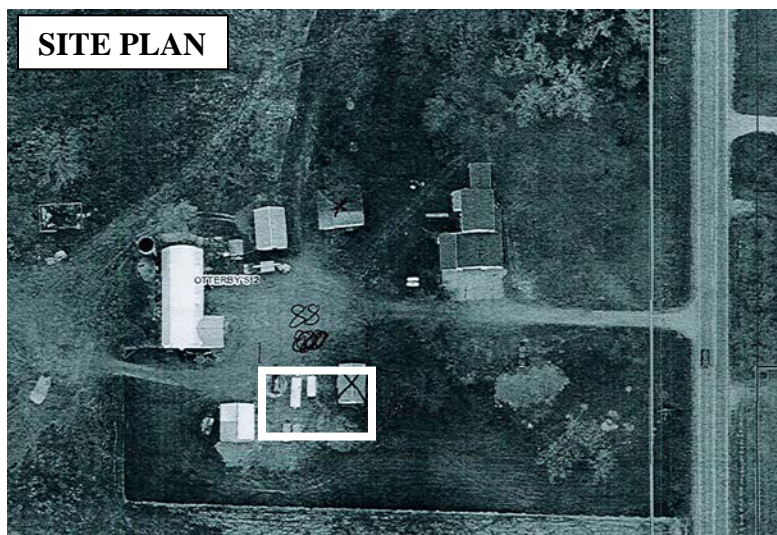
Parcel Size – 33.69 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow 10,960 square feet of total accessory building area. The site plan, at right, indicates that two of the farm buildings will be removed and a 60’x88’ accessory building is proposed to be placed just southwest of the existing house on the subject property.

The applicant provided a narrative explanation that they are working to clean up the image of the farm and use the proposed building for personal storage.



According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

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

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

There are several accessory buildings larger than the 1,200 square foot requirement for areas with more than four subdivided parcels. The property owner, 47207 257th St., located just across the county highway to the immediate east of the subject property has 3,200 sq. ft. on about 5.15 acres parcel. Comparatively, the property located a little less than a quarter mile to the east at 47215 257th St. has 3,208 sq. ft. on approximately 6.60 acres and used in a winery operation. In May 2016, the planning commission approved a conditional use permit to allow 10,875 square feet at 47146 257th St. located about a half mile to the west across Interstate 29 that was extended administratively by planning staff at the request of the property owner until June 2018.

On September 11, 2017, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location for the proposed accessory building to the immediate southwest of the existing single family dwelling. The proposed building will be located on a 33.69 acre parcel.



Conditional Use Permit Criteria:

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

There are a few properties within a half mile of the subject property that have large accessory buildings. Specifically, two properties to the east have just over 3,200 sq. ft. and one property to the west was recently approved by the planning commission to allow 10,875 on about 4.82 acres. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage of equipment and vehicles. The area is primarily agricultural with a few dozen residential acreages in the immediate vicinity.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 10,960 sq. ft. of accessory building would be congruent with the land composition.

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

Access will be provided via an existing driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided. The property

owner maintains all of the land adjacent to the location of the proposed building, which provides a natural transition of agricultural land to surrounding properties.

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

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

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

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site. Any nuisances that arise should be reported to the county planning department to determine if enforcement action needs to be taken on the property owner.

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

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the transition area identified in the Envision 2035 Comprehensive Plan, which have the primary purpose of maintaining the rural landscape until the eventual development of residential and/or municipal development. Goal 1, Action 1.2, on Page 90 of the Envision 2035 Comprehensive Plan recommends utilizing existing and future development policies and regulations in a consistent manner for similarly sited parcels in order to create fair and orderly development.

In the Future Land Use Plan section of the Envision 2035 Comprehensive Plan,

Goal #1 aims to develop a countywide land use pattern that ensures compatibility and functional relationships among jurisdictions and related land use activity.

The subject property is located outside all of the incorporated municipality growth areas. The surrounding area is a fully developed with few remaining building eligibilities for residential development and one-half mile outside of the rural service area to the southwest at the Crooks/Renner Exit off of Interstate 29. The immediate area does not have availability of sanitary sewer, which the present land use composition will likely remain the same except for the addition single family dwellings with available building eligibilities during the planning period.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the surrounding area. Staff recommends **approval** of Conditional Use Permit #17-60 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 10,960 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no

commercial uses or commercial storage will be allowed at any time.

5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.

6.) That a building permit is required prior to construction of the accessory building.

PUBLIC TESTIMONY

David Heinold, County Planning, presented a brief overview of the staff report and analysis of the conditional use permit request.

Chris Lodes, 4304 E 37th Street, identified, identified himself as the petitioner and was available for questions. Commissioner Cypher noted that old barns are difficult to deal with.

Commissioner Barth commented that his questions were answered when he heard that a few buildings are being removed to make way for the proposed larger building. Commissioner Duffy clarified that the petitioner is the son of the landowner.

ACTION

Commissioner Barth made a motion to **approve** Conditional Use Permit #17-60 with staff recommended conditions. The motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #17-60 – Approved

ITEM 10. CONDITIONAL USE PERMIT #17-57 to allow a Contractor's Shop – Repair and Taxidermy Shop & Outdoor Storage on the property legally described as Part NW1/4 SW1/4 Lying South of Hwy. 38 & S1/2 SW1/4 & 100 Abandoned RR ROW South of H-1 (Ex. Johnson's Addn. & Ex. Brenkevco's Addn. & Ex. Carlson's Addn.), Section 30-T102N-R50W.

Petitioner: Ralph Tuschen

Property Owner: John Harr Family Trust

Location: SE of I-90 & SD Hwy. 38 Approximately 2 miles east of Hartford

Staff Report: David Heinold

This would allow a Contractor's Shop, Repair and Taxidermy Shop & Outdoor Storage.

General Information:

Legal Description – Part NW1/4 SW1/4 Lying South of Hwy. 38 & S1/2 SW1/4 & 100 Abandoned RR ROW South of H-1 (Ex. Johnson's Addn. & Ex. Brenkevco's Addn. & Ex. Carlson's Addn.), Section 30-T102N-R50W

Present Zoning – I-1 Light Industrial District

Existing Land Use – Agriculture

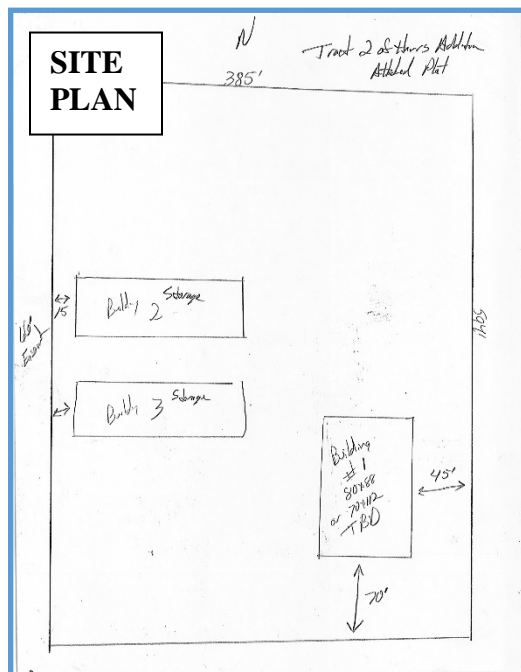
Parcel Size – 6.49 Acres

Staff Report: David Heinold

Staff Analysis:

The applicant is requesting conditional use permit approval to allow Contractor's Shop for a diesel truck repair and taxidermy business with outdoor storage on the property. The site plan, at right, shows the proposed building for these two businesses will include office space and heated storage bays for semi-tractor parking. The remainder of the buildings on the property will be used for personal storage and outdoor storage.

The narrative describes that the petitioner plans to build a chain link security fence for the proposed outdoor storage areas within a year upon approval, but will not be installed until the following summer. The petitioner requests additional time to install the fence due to scheduling conflicts due to harvest season.



The chart, below, indicates surrounding land uses and zoning adjacent to the subject property.

	Existing Land Use	Existing Zoning
North	Undeveloped/Vacant	I-1 Light Industrial District
South	Agriculture/Mining	R/C Recreation/Conservation District
East	Undeveloped/Vacant	I-1 Light Industrial District
West	Undeveloped/Vacant	I-1 Light Industrial District

On August 14, 2017, staff visited the site for the proposed diesel truck repair and taxidermy shop and determined the land use to be compatible with properties in the immediate vicinity.

On September 12, 2017, staff contacted the applicant for an update on the conditional use permit discussion with the neighboring property owner. It was mentioned that the applicant reached out to the neighboring property owner, but no comment was provided from the adjacent landowner.

Conditional Use Permit Criteria:

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

There are already commercial, industrial, and mining uses that are more intensive than the proposed use for a diesel truck repair and taxidermy shop with outdoor storage. The property at the northeast corner of 261st St. and 466th Ave. was approved by conditional use to allow a concrete precast plant on 11.43 acres. The property, 44624 South Dakota State Highway 38, also known as Buffalo Ridge has a mix of commercial and agricultural use for mainly tourist attraction. The remaining property to south and east is used for mining and residential, respectively.

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

The Envision 2035 Comprehensive Plan identifies the area firmly within the Transition Area for the City of Hartford, which has a primary purpose of maintaining the rural landscape until eventual development of residential and/or municipal development. On August 17, 2017, county planning staff contacted the City of Hartford for comments on the staff report and conditional use permit. The City of Hartford planning commission expressed consensus with the staff report.

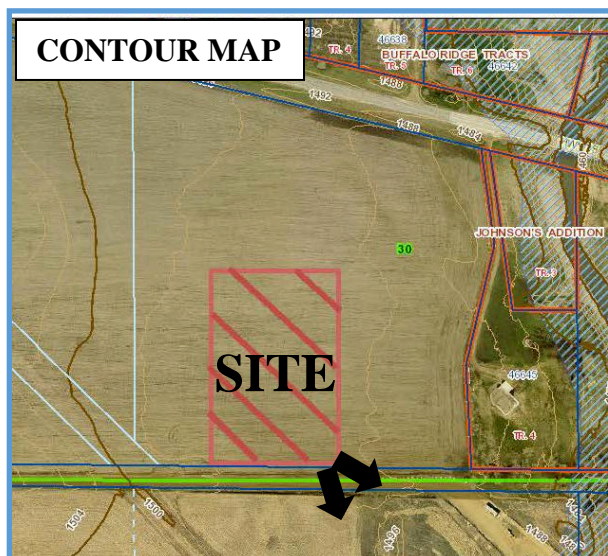
3) That utilities, access roads, drainage, and/or other necessary facilities are provided.

Applicant response: Can't get elevations until crops are out of the field

*Drainage to the south and east from the property, but can't determine until engineer says so
Bare ground, but need to work with the South Dakota Department of Environment and Natural Resources on septic, Minnehaha Community Water on water hookup, and electrical*

Gary Harr is aware of building the mutual access easement when development occurs

The petitioner indicated that the proposed accessory building will be utilizing a separate on-site wastewater treatment system. Access to the subject property will be provided via a dedicated road off of the road extension of 261st St. to the east of 466th Ave. 261st St. currently has a gravel surface.



The applicant explained that he will not be able to determine site grading and the effect on drainage patterns until the crops are out. According to the 4-foot contour map, at left, the majority of the water shed from the proposed buildings should runoff to the south and east from subject property towards the creek. Although without a proper review of the site development characteristics, it is difficult to determine the adequacy of drainage from the site and drainage can be a concern on similar sized lots when the larger drainage patterns are not considered. The entire parcel encompasses approximately 47 acres, which the site consists of 6.49 acres.

Therefore, staff suggests that a stormwater drainage plan be submitted for the site as described on the contour map, above, prior to issuing a building permit managing the type, amount, and intensity of water flow across the site.

The Environmental Stewardship section of the Envision 2035 Comprehensive Plan implies:

That development should not be allowed prior to completion of a drainage plan which defines natural drainage corridors and identifies the number and location of detention facilities needed to accommodate additional runoff from impervious surfaces. The Plan encourages land developers to use natural areas for aesthetic, open space, hydrologic, and ecological purposes.

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

*Applicant response: 1 taxidermist and 1 repair (need 2 parking spaces), but hopefully it grows
The outside storage area will be for trucks*

The Zoning Ordinance requires that the parking area should be big enough to accommodate two parking spaces for each three employees on maximum shift, plus space to accommodate trucks and other vehicles used in connection with proposed taxidermy business. Since the applicant indicated that there will only be two employees at this time, both the repair and taxidermy shop require one parking space for each employee. The outdoor storage area is planned to be used for truck parking. There should also be adequate space to maneuver in-and-out of the driveway.

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

The proposed diesel repair and taxidermy shop may by general nature present noise issues in repair procedures and operations, but should not be at a level as to constitute a public nuisance to surrounding property owners as compared to the uses already permitted in the area. The surrounding area consists primarily of vacant light industrial-zoned land with a few commercial businesses, mining operations, residential homes, and agricultural land. The proposed use should have a minimal effect on adjacent future commercial, industrial, and residential properties.

Lighting should be directed downward onto the property to prevent light pollution off the site.

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

Staff recognizes that this approach to only developing a small portion of the approximately 47 acres the subject property encompasses is a piecemeal way to develop the area 6.49 acres at a time as opposed to presenting a comprehensive site plan addressing site conditions, topography, drainage issues, and traffic impact. The Envision 2035 Comprehensive Plan encourages commercial and industrial development at this location. The subject property is zoned I-1 Light Industrial, which allows for permitted uses such as office, warehousing, and retail sales and trade. Furthermore, the addition of conditions to this permit allows planning staff a preferred method in insuring that the goals and policies of the Plan and intent of the Zoning Ordinance are upheld.

The proposed use will be located in an area identified as transition area in the Envision 2035 Comprehensive Plan. The primary goal of this area is to focus new growth and development within municipalities and areas adjacent to existing municipalities where infrastructure will be available. The immediate area is well served by transportation access to highways including Interstate 90 and proximity to municipal development. The proposed use is compatible with surrounding land uses and should not significantly affect the health, safety, and general welfare of the public.

In the Growth Management section of the Envision 2035 Comprehensive Plan,

Goal #2 aims to enhance communication and cooperation among the several governmental and quasi-governmental entities who have the potential to impact and influence development patterns. The result of this coordination among entities is a pattern of development in the transition areas that can be integrated into municipal planning areas without the need for costly and inefficient public infrastructure expenditures.

Recommendation:

Staff finds that the proposed use is compatible with the zoning ordinance and Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #17-57 with the following conditions:

- 1.) That CUP #17-57 shall allow a contractor's shop and storage yard, diesel truck repair and taxidermy shop.
- 2.) That the property shall adhere to the submitted site plan dated 7-25-2017.
- 3.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 4.) That a set of plans certified by a registered professional engineer be submitted for review and approval prior to the building permit(s) being issued for all buildings.
- 5.) That the applicant shall provide a 90% opaque screening fence around the outdoor storage area.

- 6.) That a Stormwater Pollution Prevention Plan and Soil Erosion and Sediment Control Plan be submitted for review and approval to the Planning Director prior to construction.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 8.) That the Planning Department reserves the right to enter and inspect the contractor's shop and storage yard, diesel truck repair and taxidermy shop at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

PUBLIC TESTIMONY

David Heinold, County Planning, presented a brief review of the staff report and analysis of the conditional use permit request.

Commissioner Randall clarified with David that the nearest house is approximately 500 feet away.

Commissioner Cypher asked if there was any plans to change the road surface from gravel to hard surface to avoid problems in the future. David responded that there are no such plans for hard surfacing.

Ralph Tuschen, 45749 262nd St., identified himself as the petitioner and indicated that he met with Mr. Howard, the neighboring property owner. Mr. Tuschen noted that Gary Harr is likely willing to sell land to the neighbor if the neighbor requests it for a buffer.

Commissioner Randall asked about the condition of private road and the amount of truck traffic. Mr. Tuschen responded that his proposal will not have as many trucks as the current gravel quarry located to the south of the site.

Commissioner Barth commented that much discussion has happen on this topic in the last couple meetings, and that issues of the neighbor have been somewhat addressed.

ACTION

Commissioner Barth made a motion to **approve** Conditional Use Permit #17-57 with staff recommended conditions. The motion was seconded by Commissioner Randall. The motion passed unanimously.

Conditional Use Permit #17-57 – Approved

ITEM 11. CONDITIONAL USE PERMIT #17-64 to allow Gravel Mining on the properties legally described as Lot 2 (Ex. Meyer's Addn.) & W1/2, Lot 1 (Ex. S16.5 & Ex. Meyer's Addn.); E627.25' W1908.49', S1/2 NW1/4; and W1/2 SW1/4 & S 1 Rod, SW1/4 NW1/4; all in Section 6-T101N-R50W.

Petitioner: Myrl & Roy's Paving, Inc.
Property Owner: AGM Farms, LLC
Location: Approximately 4.5 miles west of Sioux Falls
Staff Report: Scott Anderson

This would allow Gravel Mining.

General Information:

Legal Description – Lot 2 (Ex. Meyer's Addn.) & W1/2, Lot 1 (Ex. S16.5 & Ex. Meyer's Addn.); E627.25' W1908.49', S1/2 NW1/4; and W1/2 SW1/4 & S 1 Rod, SW1/4 NW1/4; all in Section 6-T101N-R50W
Present Zoning – A1 - Agriculture
Existing Land Use – agriculture
Parcel Size – 208.60 acres

Staff Report: Scott Anderson

Staff Analysis:

Location and Background

The location of the site is approximately 4 miles west of Sioux Falls north of the intersection of 466th Avenue and 263rd Street (County Highway 140). Sand and gravel deposits are common in the areas adjoining Sunk Creek and other extraction operations currently exist north and south of this area. Pasture and crop land are the predominate land uses in those areas which have not yet been mined and on reclaimed land.

The proposed extraction area is located primarily on the west side of Skunk Creek north of County Highway 140 (263rd Street) and east of 466th Avenue. There appears to be one (1) residence located in the general vicinity within ¼ mile of the area to be mined.

Planning Considerations

The applicant has not provided the Planning Department with an estimate on the duration of the mining activity on the subject property. The projected life of most mining operations is dependent on the demand for aggregate for construction. Extraction will be done with earth moving equipment. No blasting will occur on the site. Staff will recommend that all mining activity be concluded within fifteen (15) years. Should more sand and gravel extraction be called for, then the applicant will need to amend this conditional use permit to extend the life of the permit.

The applicant has also requested to be allowed to set up and operate a temporary asphalt or concrete plant on the site from time to time. This has been allowed in other sand and gravel operations with approval from the Planning Director. The Planning Director's review and

approval would state the length of time the facility would remain on the property and any other appropriate conditions. Staff will include this as a condition of approval.

The applicant has not shown any internal haul roads. It is likely that any internal haul roads would change as the mining moves around the site. The applicant will be utilizing a private haul road extending approximately $\frac{3}{4}$ of a mile from the extraction area to the south and meeting up onto County Highway 140. County Highway 140 is a hard surfaced road. The applicant has met with the County Highway Department to discuss the use and impact to County Highway 140. A summary of the meeting with County Highway is included for review.

There is designated floodplain located on the property. The subject property is located within the Skunk Creek drainage basin. The subject property is located over an aquifer recharge area. With property management, the aquifer should not be significantly impacted.

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. There is one (1) residence located within the buffer area. The applicant provided a waiver from the owner of the property located at 26224 466th Avenue.

Hours of operation - The zoning criteria suggests 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 8 p.m. weekdays and from 6:00 am to noon on Saturdays. The requested hours of operation exceed the criteria and what has been typically approved by the County. The Planning Commission has given more latitude to hours of operation and staff can support the proposed hours of operation.

Berms - Berms are commonly used to screen on-site activities from public view and to minimize noise. The petitioner has indicated that no berms will be constructed. Given the existing land use with the other existing gravel operation located nearby, staff does not feel berms would successfully minimize the view of the mining activities from the public and will not be recommending berms be constructed for this conditional use permit.

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 applicant has offered to pave this portion of the haul road to minimize the dust. The balance of the haul road shall be treated with a dust suppressant so that dust is eliminated. 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 pit is anticipated so the area’s hydrologic conditions should not be impacted. The applicant shall be required to obtain a South Dakota Surface Water Discharge Permit for Storm Water Associated with Industrial Activities if required by the state.

The applicant provided the Planning Department with a Hydrologic Review of the site prepared by Leggette, Brashears & Graham dated August 24, 2017. The study provides information on the site, background information, information on the geologic setting, site reconnaissance and date review, some discussion of the findings and a conclusion. The report from Leggette, Brashears & Graham indicates that the sand and gravel material is found near the surface and up to a depth of 35 feet with some areas of sand and gravel having a depth of up to 160 feet deep. The study indicated that no dewatering will result from the mining activities. The mining activity may be both above and below the water table. If the mining occurs below the water table, a drag line will be used in the mining activities and there will be no dewatering. The study anticipates no impact to surrounding shallow and deep wells as a result of the mining operations. Should any dewatering in the future be planned, a dewatering permit would be required by the S.D. Department of Natural Resources – Water Rights Division. The review concludes that based upon the geologic and hydrogeological information they reviewed and the mining method to be used, that the sand & gravel operation will not adversely impact the ground water quantities or elevations in the wells.

Haul roads - The most common problem associated with extraction operations is the use of gravel township roads for truck hauling. In this case, the haul road will exit directly onto County Highway 140. The applicant has provided staff with a summary of a meeting with the County Highway Department dated August 30, 2017. The applicant will be required to obtain a “Highway Access Permit” from the County Highway Department for the new haul road. The applicant will hard surface the haul road for a distance of 100’ north of County Highway 140. This will reduce dust and mud tracking onto County Highway 140. The applicant will be responsible for the maintenance of the hard surfacing of the portion of the haul road for the duration of the extraction. Once extraction is concluded and the site has been completely reclaimed, the applicant shall either remove the hard surfacing or leave the hard surfacing depending on the wishes of the property owner.

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 plan submitted by the applicant simply indicates that the topsoil will be stripped and stockpiled for use in reclamation. The site will be reclaimed for agricultural uses either as tillable farm ground or pasture. The site shall be restored to a farmable status within one (1) year of the 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 site

shall be returned to agricultural use.

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 51-17). 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 majority of uses in the general vicinity revolve around agricultural production. The proposed use should not impact the property values of the agricultural land in the general vicinity. With proper planning and execution of the plan, the proposed sand and gravel extraction should not effect of the enjoyment of other properties in the immediate vicinity. The applicant will be able to maintain the suggested 1,000 foot buffer from adjacent residences with the exception of one residence. A waiver from the sole residence within the suggested buffer has been obtained.

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

The proposed use could have an impact on the development of surrounding vacant property. While most agricultural uses, such as animal husbandry or crop production, would not be impacted by the proposed use, some uses such as rural residences may not desire to locate near this proposed use. The proposed use will generate additional heavy truck traffic, and minor amounts of noise and dust. Staff is recommending that all mining activities conclude within fifteen (15) years.

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

The existing road infrastructure will be utilized for this proposed land use. The applicant has worked with the County Highway Department and will meet their requirements. No other infrastructure is needed for this land use.

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

Article 15 does not set any off street parking requirements for this land use. Staff recommends that a minimum of one off-street parking space for each employee and an additional two off-street spaces for customers 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.

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. The hours of operation will reduce the possibilities of these elements becoming a nuisance. Staff is recommending that the 100 feet of the haul road north of County Highway 140 be hard surfaced. This will help to control dust from vehicular traffic.

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

This area has been identified in the Envision 2035 Comprehensive Plan as an area that is suitable for mineral extraction. With this type of use, there can be safety concerns, but staff feels these safety concerns have been mitigated by the recommended conditions of approval.

Staff finds the proposed sand and gravel extraction use compatible to the surrounding land uses and 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 #17-64 to allow rock, sand and gravel extraction with the following conditions:

- 1) An annual fee shall be paid to the County in accordance with Section 15.14 of the zoning regulations. (Note: An annual fee of \$10 per acre of unreclaimed land is assessed to the operator.)
- 2) There shall be no fuel storage allowed in areas designated as a ground water protection area or flood plain.
- 3) Hours of operation shall be from 6:00 am to 8:00 pm on weekdays and 6:00 am to noon on Saturdays.
- 4) That the only dewatering shall be for use in dust control, road projects and rock washing. The applicant shall obtain any required permits from the state for use of the water.
- 5) That prior to any sand or gravel extraction, the applicant shall obtain a Highway Access Permit from the Minnehaha County Highway Department for the new approach onto County Highway 140
- 6) The haul road shall be hard surfaced with a minimum of a 6 inch granular base course and a 2 inch thickness of asphalt or a 7 inch thickness of Portland cement concrete for a minimum distance of 100 feet north of County Highway 140. The applicant shall maintain the haul road in good condition for the duration of the mining and reclamation activity.
- 7) The ambient air quality standards for total suspended particulate matter shall be 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once a year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM¹⁰ (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
- 8) The County Planning Department shall direct the operator to install air quality sampling stations if the standards appear to be exceeded. Such monitoring shall be at the operator's

expense.

- 9) The sound level from on-site operations shall not exceed an average of 55 decibels recorded over a 10 minute period measured at the nearest residence.
- 10) That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
- 11) The boundaries of the extraction area shall conform to the site plan submitted with the application.
- 12) Topsoil and overburden shall remain on the site and be used in final reclamation.
- 13) Only clean fill shall be used as backfill.
- 14) There shall be no storage or accumulation of inoperable or discarded equipment or parts.
- 15) A gate shall be required at the haul road entrance to the property.
- 16) That all mining activity is concluded by January 1, 2032 and that reclamation shall be in accordance with the plan filed with the State and outlined in the application and all reclamation of the site shall be completed by December 31, 2032 in accordance to all requirements outlined in Article 12(G) of the Minnehaha County Zoning Ordinance.
- 17) That if one (1) or more acres of area is disturbed, the applicant is required to obtain a General Permit from the Department of Environment and Natural Resources.
- 18) That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
- 19) The applicant shall abide by all regulations outlined in Minnehaha County Flood Management Ordinance, MC51-17, when working in the 100 year floodplain and/or floodway.
- 20) The sand and gravel operations shall be secured during non-working hours by means of gates and fencing. The property shall be continuously secured until all required reclamation activities have been completed.
- 21) The operator shall obtain the approval of the County Planning Department prior to placing an asphalt or concrete plant on the site. The approval shall state the length of time the facilities may remain on the property and other appropriate conditions.

PUBLIC TESTIMONY

Scott Anderson, County Planning, presented a brief review of the staff report and presented the recommended conditions of approval.

Patty Nohr, Myrl & Roy's Paving Inc., spoke on behalf of the petitioning company. Patty described that the nearby quarry the company runs is at the end of production, and therefore, a new site is needed in the area. She described the proposed site plan and methods that the company will take to alleviate concerns that were heard from neighbors. Patty added that the request is also to have temporary asphalt batch plants on the site when needed for nearby jobs. A couple videos were shown to show the proposed quarry from a drone vantage point and to so the reclamation work that has happened on the nearby quarry.

Commissioner Randall Asked how many trucks will use the quarry in a day? Patty Nohr responded that she would estimate 25 trucks a day based on the average daily use of the nearby closing quarry at Benson Farms.

Commissioner Barth asked a couple questions about why the Benson farm quarry is closing and will the company reclaim land as the gravel is extracted or leave the pit open? Patty Nohr replied that the landowner of the previous site was ready to be done with the pit, and that the landowner of the proposed quarry wants to return to farming as soon as possible.

Todd Olson, 26333 466th Avenue, voiced some concerns for the project. The first concern was regarding potential truck traffic that would travel south on 466th Ave., because there is already quite a bit of traffic on the road. He also raised concern over the request for additional hours of operation, and he asked what comparable quarries in the area have for hours of operation. Todd Olson finished with asking how many trucks are not company owned that may not comply with company rules and haul roads.

Charles Cain, 26245 466th Avenue, noted that he owns land to the west of the proposed site where his family operates a daycare. He noted that noise is a concern for the daycare, and requested a berm to be built to prevent noise. Charles also raised concern about truck traffic along 466th Ave.

Micah Mauney, 26281 466th Avenue, began by noting that he purchased land to the west of the site in order to build on it. He noted that he did not anticipate truck traffic on the road and asked if access to the proposed quarry could be routed through the neighboring existing quarry. Micah Mauney echoed the concern that the hours of operations may be too long. He noted that he thought the permit should be for 10 years.

Wayne Gulickson, 808 S. Dakota Ave, Noted that he is speaking on behalf of his mother-in-law who lives south of the highway along with several other acreages. Wayne raised concern about the location of the access onto the highway as there is a large hill that cause problems with visibility. He also raised concern about property values of the nearby residences.

Brian Oakleaf described his location as the corner of 263rd Street and 466th Avenue. Brian asked if Myrl & Roy's has any way of controlling trucks that are not theirs as to where they drive for haul roads.

Dave Nolz, 26153 466th Avenue, asked who enforces the "no trucks signs" on the roads. Commissioner Barth responded that the Sheriff's Department enforces speed limits. Dave Nolz noted that he wanted to make sure the proposed quarry knows that trucks are not supposed to go onto 466th Avenue.

Patty Nohr, Myrl & Roy's, responded to many of the concerns raised by residents of the area. She noted that the company has the right to refuse service to customers who do not follow haul road directions. She also commented that the request for extended hours was to allow for some time for longer days for when DOT projects need to be finished by a deadline.

Commissioner Cypher asked a series of questions pertaining to concerns that were raised earlier. Patty Nohr responded that the number of separate contractor trucks that use the quarry varies with season and the markets. She added that this quarry is a bigger source of gravel and that 10 years may not be sufficient to extract what is there.

Commissioner Ode asked at what point would the company know that they would need to extend the permit? Patty Nohr responded that it would be hard to know until that time since it would depend on a number of factors including the market.

Commissioner Cypher asked when a proposed start date would the quarry open. Patty Nohr responded that they intend on building the road this fall and beginning extraction in the spring.

Commissioner Cypher closed the floor for further discussion by the Planning Commission.

DISCUSSION

Commissioner Barth commented that issues like traffic and hours of operation will always be a concern. He added that there needs to be a little margin for error for when the operation needs to exceed hours of operation.

Commissioner Ode commented that Myrl & Roy's has been around for 55 years and they do things right. He suggested to the crowd that if they have concerns to call the company directly and they will get things straightened out.

Commissioner Ralston added that he will support the proposal as the company is known for going above and beyond what is required of them.

Commissioner Randall stated that the Planning Commission is tasked with deciding appropriate land use, and that gravel extraction is appropriate for the area. She added that the permit has reasonable conditions for the request.

Commissioner Duffy noted that she has past experience with Myrl & Roy's has been an exceptional experience working through the concerns of the neighbors.

ACTION

Commissioner Barth made a motion to **approve** Conditional Use Permit #17-64 with staff recommended conditions. The motion was seconded by Commissioner Ralston. The motion passed unanimously.

Conditional Use Permit #17-64 – Approved

Old Business

Commissioner Cypher discussed rural subdivisions like the proposal that was recently denied by the County Commission. He noted that he was not opposed to septic systems, but rather a development that size would be better to have a sanitary sewer so that it would be easier to hook up for future annexation. Commissioner Barth noted that the development south of Wall Lake was too many houses in one area to be considered.

Commissioner Barth noted that the size of accessory buildings will continue to be of importance and something to consider with all jurisdictions of the county. Scott Anderson, County Planning Director, added that he met with the city of Sioux Falls regarding accessory buildings. He noted that the city was considering 1,600 sq. ft. for 1 acre lots, 2,400 sq. ft. for 1 to 3 acre lots, and 3,600 sq. ft. for lots larger than 3 acres.

New Business

Scott Anderson, County Planning Department, reported on the South Dakota Planners Conference. He specifically described a presentation by Mike Cooper who stated that they will not approve a subdivision without first being annexed into the city.

Commissioner Barth reported on the Southeast District of Counties meeting in Yankton where many counties in the southeast are having troubles with CAFO ordinances and want to know more about how Minnehaha County wrote theirs.

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Ode. The motion passed unanimously. The meeting was **adjourned** at 9:10 pm.