

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**

January 28, 2013

A meeting of the Planning Commission was held on January 28, 2013 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Mark Rogen, Jeff Barth, Wayne Steinhauer, Mike Cypher and Susie O'Hara.

**STAFF PRESENT:**

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

The meeting was chaired by Susie O'Hara.

**CONSENT AGENDA**

The Planning Commission convened as the Zoning Board of Adjustment for Item 1 of the consent agenda. A motion was made by Steinhauer and seconded by Rogen to **approve** the consent agenda. The motion passed unanimously.

**ITEM 1. VARIANCE #13-01 to reduce the minimum required lot size in the A-1 Agricultural Zoning District.**

Petitioner: Dale Zweep

Property Owner: Thomas & Jeannie Dubbelde

Location: 3 miles west of Garretson

**General Information**

Legal Description – N ½ NW ¼ of Section 35-T103N-R48W

Present Zoning – A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size – 0.64 Acres

**Staff Report:** Pat Herman

**Staff Analysis**

The subject property is located in Section 35 of Edison Township. The surrounding land is in agricultural production with scattered rural acreages. Under the Revised 1990 Zoning Ordinance this property is zoned A-1 Agricultural. The A-1 District requires a minimum lot size of one acre.

This variance petition is requesting a reduction to the required one acre lot size to a lot size 0.64 acres. Dedicated right-of-way, West Pipestone Creek, and restricted access allowance have created a situation which cannot be brought into conformance with the zoning district lot size requirements. The petitioner owns a piece of ground that essentially has no legal access point due to the following conditions:

1. The land is bordered on the west by Hwy 11. The SDDOT has denied his request for access to his parcel from the highway.
2. The petitioner does not own the adjoining land to the north.
3. West Pipestone Creek prevents access from the petitioner's property to the east.
4. On the south border there is 66 feet of township right-of-way which runs along the section line, however the gravel road was not constructed on the section line. The road itself is 30 to 40 feet south of section line. This situation has created a strip of ground which is caught between the two dedicated right-of-ways which is not owned by the petitioner.

The property deed legal description gives ownership of this strip to the south property owner, Tom Dubbelde. To access his ground from the township road the petitioner, Dale Zweep, has to trespass on Mr. Dubbelde's property. With access denied by the SDDOT, the township road is the only alternative left to Mr. Zweep. To alleviate the trespass situation, Mr. Dubbelde has agreed to sell a portion of ground between the right-of-ways to Mr. Zweep.

- (A). **The particular physical surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.**

West Pipestone Creek creates a physically barrier that prevents the petitioner from gaining access through his own land to the particular piece of ground.

- (B). **The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification or other property substantially similar in use.**

This is a unique situation where the petitioner has been denied access to his land by the SDDOT. The alternative access from the township road is blocked due to dedicated right-of-way preventing a legal access from the gravel road. This situation was created prior to the existence of the Zoning Ordinance.

- (C). **The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located.**

This variance will not impact on the surrounding property owners or on the public.

- (D). **The proposed variance will not unreasonably impair an adequate supply of light and air to adjacent property; increase the congestion in the public streets; increase the danger of fire; endanger the public safety; or diminish or impair property values within the area.**

Reducing the minimum lot size will not endanger public safety nor diminish property values.

- (E). **That because of circumstances or conditions, there is no possibility that the property**

**can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.**

The restrictions for access created by dedicated right-of-way, West Pipestone Creek, and restricted access allowance of created conditions which necessitate the need for the lot size reduction. This will ensure the reasonable use of the property as viable farm ground.

**Recommendation**

Planning staff found that the request for a lot size reduction conforms with the Zoning Ordinance requirements and recommended approval of Variance 13-01 with the following condition:

1. The lot shall be platted and shall meet a minimum lot size of 0.64 acres excluding right-of-way.

**Action**

A motion was made by Steinhauer and seconded by Rogen to **approve** Variance #13-01 with the stated conditions. The motion passed unanimously.

**VARIANCE #13-01 - APPROVED**

### **CONSENT AGENDA**

The Planning Commission reconvened for the remainder of the agenda. A motion was made by Rogen and seconded by Duffy to **approve** Items 2 thru 7 and 9 thru 11 of the consent agenda and move Item 8 to the regular agenda. The motion passed unanimously.

#### **ITEM 2. Approval of Minutes** – November 28, 2012

A motion was made by Rogen and seconded by Duffy to **approve** the minutes from November 28, 2012. The motion passed unanimously.

#### **ITEM 3. ZONING ORDINANCE TEXT AMENDMENT #13-01 to amend Section 19.00 of the 1990 Revised Zoning Ordinance for Minnehaha County.**

Petitioner: Planning Staff

#### **Staff Report:** Pat Herman

#### **Staff Analysis**

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

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

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

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

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

This amendment delineates when the Planning Director could approve changes to an issued conditional use permit as outlined in (b) in the paragraph above. For example, in many instances a CUP has the condition that the property must meet the approved site plan, however during the development phase limitations with the property may arise. The amendment would allow

approval to relocate an access point or re-arrange buildings without holding a public hearing before the Planning Commission. As noted about in (c), major changes would still require approval of the Planning Commission.

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

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

**ARTICLE 19.00  
CONDITIONAL USE PERMITS**

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

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

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

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

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

19.04 INFORMATION ON SITE PLAN. In addition to the following information, plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the

provisions of this ordinance and all relevant laws, rules, and regulations.

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

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

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

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

- (A). NOTIFICATION. A good faith effort must be made by the applicant to notify all property owners (inclusive of Contract for Deed buyers) of land laying within five hundred (500) feet, inclusive of right-of-way, of the outer boundaries of the property involved in the request. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department

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

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

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

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

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

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

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

19.08 EXPIRATION. A conditional use permit which has been approved shall expire by



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

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

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

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

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

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

health and welfare of the public.

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

**Recommendation**

Staff recommended approval of zoning text amendment #13-01.

**Action**

A motion was made by Rogen and seconded by Duffy to **recommend approval** of Zoning Text Amendment #13-01. The motion passed unanimously.

**Zoning Text Amendment #13-01 – APPROVAL RECOMMENDED**

**ITEM 4. ZONING ORDINANCE TEXT AMENDMENT #13-02 to amend Section 12.03 and add Section 27.00 to the 1990 Revised Zoning Ordinance for Minnehaha County.**

Petitioner: Planning Staff

**Staff Report:** Pat Herman

**Staff Analysis**

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

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

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

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

540 Extensive retail - Farm Equipment

550 Extensive retail - new and used car dealer

560 Extensive retail - recreational vehicle, marine

570 Extensive retail - tires, batteries, auto accessories

580 Extensive retail - auto repair, body shop

590 Extensive retail - other w/ outside storage

Intensive Retail:

610 Food Store

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

630 Gasoline, auto service station

640 Department store, discount store, regional shopping center

650 Clothing and apparel

660 Specialty retail -jewelry, gifts, etc.

- 670 Furniture, household appliances.
- 680 Other retail

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

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

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

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

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

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

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

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

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

A new section will be added to the zoning ordinance Article 27.00 Land Use Codes. This will record the land use codes referenced in the changes to the home occupation portion of the ordinance.

**ARTICLE 27.00  
LAND USE CODES**

SECTIONS: 27.01 Land Use Codes

27.01 LAND USE CODES.

Minnehaha County Land Use Codes

Residential Code Description

- 110 Single Family
- 119 Farmstead
- 120 Residential accessory building
- 130 Duplex
- 140 Apartment house (stories)
- 150 Apartment house (4 + stories)
- 160 Dormitories
- 170 Manufactured home (single-wide)
- 171 Manufactured home (double-wide)
- 172 Mobile/Manufactured home court
- 180 Vacant lot

Light Manufacturing Code Description

- 210 Apparel and textiles
- 220 Wood, furniture, fixtures
- 230 Lumber yards
- 240 Printing and publishing
- 250 Warehouse, indoor storage.
- 260 Electronic, scientific, optical
- 270 Construction yard, including plumbing, electrical, heating contract
- 280 Chemical, petroleum storage
- 290 Other light, pollution free manufacturing

Heavy Manufacturing Code Description

- 310 Food, agricultural processing, stockyards, rendering
- 320 Paper and pulp
- 330 Chemical, petroleum, rubber, plastic
- 340 Stone, glass, clay, cement, brick
- 350 Primary metal, smelting
- 360 Metal fabricating
- 370 Salvage, junkyard, resource recycling
- 380 Other heavy manufacturing

Transportation, Communication and Utilities Code Description

- 410 Bus, railroad yards, terminals, right-of-way

- 420 Airport
- 430 Auto parking ramps and lots
- 440 Highway and street right-of-way
- 450 Communication (Radio, TV, etc)
- 451 Cellular Telephone Towers
- 455 Wind Towers
- 460 Utilities (gas, water, sewer)
- 461 Public water wells
- 470 Truck terminal
- 480 Military base
- 490 Other transportation, communication, utilities

General Commercial Code Description

- 505 Sign
- 510 Wholesale - food, produce
- 520 Wholesale - other
- 530 Extensive retail - building supplies including; lumber, home repair
- 540 Extensive retail - Farm equipment
- 550 Extensive retail - new and used car dealers
- 560 Extensive retail - recreational vehicle, marine
- 570 Extensive retail - tires, batteries, auto accessories
- 580 Extensive retail - auto repair, body shop
- 590 Extensive retail - other w/ outside storage

Intensive Retail Commercial Code Description

- 610 Food Store
- 620 Neighborhood commercial, hardware, drug store, laundromat, beauty salons
- 630 Gasoline, auto service station
- 640 Department store, discount store, regional shopping center
- 650 Clothing and apparel
- 660 Specialty retail -jewelry, gifts, etc.
- 670 Furniture, household appliances.
- 680 Other retail

Office, Institutions, and Services Code Description

- 710 Banks and financial institutions
- 720 Churches
- 730 Nursing homes and hospitals
- 740 College and universities, adult education
- 750 Primary and secondary education
- 760 Day care centers
- 770 Medical offices, clinics
- 780 Government offices
- 790 Other offices - real estates, law, etc.

Cultural, Entertainment, and Recreation Code Description

- 810 Cultural activities - libraries, museums, etc.
- 820 Assembly areas, arenas, stadiums
- 830 Theaters
- 840 Restaurants, bars, lounges
- 850 Hotels, motels, resort lodging
- 860 Golf courses, fairgrounds (public owned)
- 861 County parks/recreation areas
- 862 State parks/recreation area
- 863 City parks
- 870 Private country club or other recreational use
- 871 Campground
- 880 Other cultural, entertainment, and recreation
- 881 Wildlife preserves or production areas
- 882 Trap shooting, gun club, sportsmen's club
- 883 Amusement park

Agricultural, Resource and Other Code Description

- 905 Agricultural accessory building
- 910 Crop land and farms.
- 911 Dwelling Unit on farm stead.
- 920 Feed lots
- 930 Grass lands
- 940 Mining and quarrying (active)
- 941 Mining and quarrying (inactive)
- 950 Cemetery
- 960 Sanitary landfills, rubble dumps
- 970 Vacant
- 980 Other
- 981 Wetlands

**Recommendation**

The planning staff recommended approval of zoning text amendment #13-02.

**Action**

A motion was made by Rogen and seconded by Duffy to **recommend approval** of Zoning Text Amendment #13-02. The motion passed unanimously.

**Zoning Text Amendment #13-02 – APPROVAL RECOMMENDED**

**ITEM 5. CONDITIONAL USE PERMIT #13-01 to exceed 1200 square feet of accessory building area – 2176 Requested.**

Petitioner: Russell Healy

Property Owner: same

Location: 46061 259<sup>th</sup> Street; 2 miles west of Hartford

**General Information**

Legal Description – Tract 1A B & L O’Kane Addition NE ¼ of Section 19-T102N-R51W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 3.7 Acres

**Staff Report:** Scott Anderson

**Staff Analysis**

The property is located approximately two (2) miles west of Hartford, on 259<sup>th</sup> Street. The parcel is located in Hartford Township.

The petitioner would like to construct an accessory building on this site. 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 2,176 square feet is the same size as the largest existing accessory building in the area. The petitioner’s request would be consistent with the other large accessory building in the area. The other large existing accessory building in the area is located at 46050 259<sup>th</sup> Street as shown on the map included with this report.

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

Given the existence of the other larger accessory building 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.

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

There is existing access from 259<sup>th</sup> Street. As this is only an accessory structure, 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.

Staff finds that the requested conditional use is appropriate for this residential area. The recommended conditions of approval will help to ensure 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 found that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #13-01 with the following conditions:

1. The total accessory building square footage shall not exceed 2,176 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 2,176 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.

**Action**

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-01 with the stated conditions. The motion passed unanimously.

**CUP #13-01 - APPROVED**

**ITEM 6. CONDITIONAL USE PERMIT #13-03 to exceed 1,200 square feet of accessory building area – 2,240 Requested.**

Petitioner: Glen & Sharon Hoekman  
Property Owner: same  
Location: 47147 258<sup>th</sup> Street; 1/5 miles southeast of Crooks

**General Information**

Legal Description – E329' Tract 2 & E329' N141.5' Tract 7 Walkers Addition N ½  
NW ¼ of Section 13-T102N-R50W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 2.51 Acres

**Staff Report:** Dustin Powers

**Staff Analysis**

The property owner has applied for a conditional use permit to exceed the 1,200 sq. ft. accessory building area on property legally described as E329' Tract 2 & E329' N141.5' Tract 7 Walkers Addition N ½ NW ¼ of Section 13-T102N-R50W. The property owner is requesting this conditional use permit to construct a 1,200 (24' x 50') square foot addition to the already existing 1,040 (26' x 40') square foot accessory building for a total of 2,240 square feet of accessory building area.

In this area there are three properties that exceed 1,200 square feet of accessory building area. The total accessory building areas are: 2,880 square feet on 47160 258<sup>th</sup> Street, 4,000 square feet at 47154 258<sup>th</sup> Street and 2,739 square feet at 47135 258<sup>th</sup> Street.

The property owner would like to construct this accessory building addition east of the primary structure. Regulations regarding accessory buildings found in *Article 15.07 Accessory Buildings and Uses* shall be met. Setbacks for an accessory building that is located in front of the primary structure in the A-1 Zoning District are front yard 30' (50' front yard along arterial or section line roads), side yard 7', and rear yard 30'. Detached accessory buildings may have a 3' side yard and 3' rear yard setback if the building is located in the rear yard with more than 10' between the house and accessory building.

In residential developments which exceed five or more lots in size, accessory building area is limited to 1,200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

**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 larger accessory structures in the general area of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure should have little impact on neighboring properties. The construction of this accessory building 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 construction of the proposed building should have no impact on further construction or development within the subdivision or general area. The building will only be used for the owner's personal storage or residential related items and no commercial or business activities are allowed.

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

Access to the proposed accessory building would be through the current access to the primary structure (258<sup>th</sup> Street). No other infrastructure improvements are required at this time.

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

The property has sufficient parking for all residential activities.

**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. All outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries. The proposed building will only be used for personal storage and no commercial or business related activities will be allowed.

Staff has found that these conditions for approval will help ensure that over-sized accessory buildings will fit in with the character of the surrounding properties. The planning department will perform a building inspection to ensure that the accessory building adhered to the submitted site plan and conditions.

**Recommendation**

Staff found that the proposed accessory building size conforms to the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #13-03 with the following conditions:

1. That the accessory building area on the property shall not exceed 2,240 square feet.
2. That the building shall not exceed 35 feet in height.
3. That a building inspection is required to measure the outside dimensions of the building.
4. That a building permit is required.
5. That the building shall be an accessory use to the continued use of the property as a residential lot.
6. That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
7. That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
8. That the Planning & Zoning Department reserves the right to enter and inspect accessory buildings at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

**Action**

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-03 with the stated conditions. The motion passed unanimously.

**CUP #13-03 - APPROVED**

**ITEM 7. CONDITIONAL USE PERMIT #13-05 to allow the transfer of one residential building eligibility from the SW1/4 NW1/4 to the NE1/4 NW1/4 of Section 3-T101N-R52W.**

Petitioner: Rose Sieverding  
Property Owner: Rose Sieverding  
Location: 3.5 miles south of Humboldt

**General Information**

Present Zoning – A-1 Agricultural  
Existing Land Use - Agricultural  
Parcel Size – 40 Acres

**Staff Report:** Scott Anderson

**Staff Analysis**

The applicant wants to transfer a building eligibility from the SW ¼ of the NW ¼ to the NE ¼ of the NW ¼ to allow for the development of a residential lot. The proposed building site would be located south of 262nd Street and located near the existing farmstead. The transfer will allow the applicant's son to build a house near the family farm.

On January 9, 2013, staff conducted a site visit. There are no animal confinement operations near the location of the transfer. There are approximately six (6) single-family residences located within a one (1) mile radius of the subject property, three to the northwest and three along 262<sup>nd</sup> Street in the NW 1/4.

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

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

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

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

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

Rural water is available in the area and a waste water system will be utilized. The applicant indicated that the proposed building site will use an existing approach.

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

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

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

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

**Recommendation**

Staff found this conditional use permit request to be consistent with density zoning and recommended approval of Conditional Use Permit #13-05 with the following condition:

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

**Action**

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-05 with the stated conditions. The motion passed unanimously.

**CUP #13-05 - APPROVED**

**ITEM 9. CONDITIONAL USE PERMIT #13-09 to allow retail sales, service, display and manufacturing of agricultural products.**

Petitioner: New Direction Equipment Company  
Property Owner: Green Valley Development, LLP  
Location: North Cottonwood Ave, Crooks exit from I-29

**General Information**

Legal Description – Lot 1 and Lot 2A in Block 3 Green Valley Addition NE ¼ of Section 12-T102N-R50W  
Present Zoning – I-1 Industrial  
Existing Land Use - vacant  
Parcel Size – 4.72 Acres

**Staff Report:** Dustin Powers

**Staff Analysis**

The petitioner is requesting approval of Conditional Use Permit #13-09 to allow the retail sales, service, display and manufacturing of agricultural products (New Direction Equipment Company). The subject property is located in Section 12 of Benton Township and within the industrial park area in the northwest corner of the Crooks/Renner Exit off of Interstate-29. The parcel as described is located on the east side of Cottonwood Avenue at the intersection of Cottonwood Avenue and Haylie Street. The proposed property to be purchased by New Direction Equipment Company is approximately 4.72 acres in size.

The surrounding properties are all zoned I-1 Industrial District with the exception of the land that is zoned A-1 Agricultural across Interstate-29 to the east. The area on the east side of Interstate-29 is used mainly for farming operations.

The applicant has submitted a site plan that indicates there will be construction of a 13,000 square foot building that will provide shop, office and showroom space. Also a gated fenced area will provide space for outdoor storage. Staff would like to note that a screening fence shall surrounded the entire storage yard and be a minimum of eight (8) feet in height with a minimum of 90% opacity. The site plan also indicates an asphalt parking lot with 17 spaces on the south side of the building and an additional driveway on the north side of the building that accesses the storage yard and loading dock.

Please see the petitioner's site plan for more details regarding the location of the use.

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

This is an industrial area, so the proposed use should blend in quite well and should not impact the use and enjoyment of other property in the area. This type of business will not impact property values, provided no materials, supplies or equipment are stored outside of the fenced/screened area.

To preserve the view from all roadways proper screening shall be erected around all outside

storage areas. All outside storage is required to be screened from public view. The screening fence shall be at a minimum of eight (8) feet in height with a minimum of 90% opacity maintained over the entire height of the fence. The fence shall be maintained in earth-tone colors such as browns or greens.

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

The proposed use should be compatible with those types of uses that are predominant in this industrial development. The proposed use is consistent with the types of uses found in industrial zoning districts and should not impede future industrial development in the area.

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

Access to the site will be provided off of Cottonwood Avenue. Two accesses are being proposed at this time, one to access the office/shop area and the other to access the fenced storage yard and loading dock. All natural drainage shall be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water. No other utilities or facilities are being proposed at this time.

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

The Zoning Ordinance specifies two (2) parking spaces for each three (3) employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection with the business. This parking requirement assumes that the property is being used for storage, warehousing and other industrial type purposes and that no retail space is constructed. The applicant indicated that 6 employees will use the facility on a day-to-day basis. Because there will be retail sales the parking requirement of one (1) space for each 300 feet of gross floor area would be applicable to this use as well. At this time staff is satisfied with the 17 parking spaces that the applicant has proposed on the site plan.

The Zoning Ordinance also requires that one (1) 14' x 35' loading space for each 10,000 square feet of gross floor area. The employee, customer parking, and loading areas must be hard-surface. The site plans shows these parking areas to be paved.

**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 applicant will be conducting a business that will produce some noise, dust and vibration. The owner shall take measures to control the amount of these nuisances so that adjacent property owners are not affected. The area is located within an industrial area and should not be out of line with noises typically found in an industrial area. All outside lighting shall be fully cut-off and fully-shielded with recessed lights that prohibit the spillage of light beyond the boundaries of the property.

**Recommendation**

Staff found that the proposed use is appropriate within the industrial area and recommended approval of Conditional Use Permit #13-09 to allow for the retail sale, service, display and manufacturing of agricultural products with the following conditions:



- 1) That Conditional Use Permit #13-09 shall allow the retail sale, service, display and manufacturing of agricultural products.
- 2) That outside display areas shall be limited to the areas shown on the submitted site plan dated 12-26-2012.
- 3) That no unlicensed vehicles, inoperable or partially dismantled vehicles or equipment or parts shall accumulate or be displayed on the property.
- 4) That no materials, supplies or similar products associated with the facilities operations shall be allowed outside of the screen fenced storage area.
- 5) That all outside lighting shall be have a recessed light that directs light downward and prohibits the spillage of light beyond the boundaries of the subject property.
- 6) All onsite wastewater systems shall be constructed and operated in conformance with state regulations and with the Minnehaha County On-Site Wastewater Treatment Ordinance. No dumping of any wastewater shall be allowed at the site unless disposed into a properly sized and maintained wastewater system.
- 7) That the normal hours of operation shall be from 8:00 AM to 5:00 PM Monday-Friday.
- 8) That the lot shall adhere to the submitted site plan and application dated 12-26-2012.
- 9) That the fencing shall be a minimum of eight (8) feet in height with a minimum of 90% opacity maintained over the entire height of the fence. The fence shall be maintained in earth-tone colors such as browns or greens.
- 10) That the fence shall surround the entire storage yard.
- 11) That the applicant shall meet the parking requirements as outlined in Article 15 of the Minnehaha County Zoning Ordinance. At this time staff is satisfied with the 17 parking spaces that the applicant has proposed on the site plan dated 12-26-2012.
- 12) That all driveways, parking lots, and loading/unloading areas shall be constructed with a hard surface.
- 13) That all natural drainage shall be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water.
- 14) That the business operator shall obtain and maintain a South Dakota sales tax license.
- 15) That all setbacks for the property shall conform to all requirements stated in *Article 7.00 I-1 Light Industrial District*.
- 16) That all signage shall comply with the zoning ordinance requirements stated in *Article 16.00 On-Premise Signs*.
- 17) That a building permit is required before any construction is commenced or signage placed on the property.

**Action**

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-09 with the stated conditions. The motion passed unanimously.

**CUP #13-09 - APPROVED**

**ITEM 10. CONDITIONAL USE PERMIT #13-11 to allow the transfer of one residential building eligibility from the SE ¼ SE ¼ to the SW ¼ SE ¼ of Section 22-T101N-R48W.**

Petitioner: Alex Ode

Property Owner: Jane M. Ode

Location: 1.5 miles east of Sioux Falls

**General Information**

Present Zoning – A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size – 40 Acres

**Staff Report:** Ryan Streff

**Staff Analysis**

Conditional Use Permit #13-011 is a request to transfer one residential building eligibility. The property is located in Section 22 of Split Rock Township. The dominate land use of the surrounding area is agricultural with scattered residential acreages. The transfer will move the eligibility to the adjacent property to the west. Approval of this transfer request would move one eligibility from the SE ¼ SE ¼ to the SW ¼ SE ¼ all in section 22 of Split Rock Township.

**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 petitioner's request to transfer a building eligibility will not increase the number of dwellings allowed under density zoning. The transfer will move the eligibility from agricultural farm ground to adjacent agricultural farm ground to the west. The transfer should have no affect on surrounding property or property values.

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

There should be no major effect upon the normal and orderly development of the area.

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

The construction of new dwelling units is required to be in conformance with Minnehaha County's zoning, septic and building code. The County Highway Department does require driveway/culvert permits and the petitioner must receive approval from the County before constructing any new driveway or access. This approval must be obtained before Minnehaha County can issue a building permit for any structures on the property.

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

The minimum required lot size for a residential dwelling is 1 acre. This is sufficient space to meet any parking needs for a single family dwelling.

**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.**

These should not be at a level as to constitute a nuisance.

**Recommendation**

Staff found that the requested transfer is in conformance with the zoning ordinance and recommended approval of Conditional Use Permit #13-11 with the following condition:

1. That each housing site shall be platted and a right-to-farm notice covenant shall be filed prior to the issuance of a building permit.
2. That the County Highway Department shall approve any new driveway access.

**Action**

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-11 with the stated conditions. The motion passed unanimously.

**CUP #13-11 - APPROVED**

**ITEM 11. REZONING #12-09 from A-1 Agricultural to The Meadows PD.**

Petitioner: Mary Kidwiler

Property Owner: Mary Kidwiler

Location: northwest Edge of Hartford

Staff Report: Pat Herman & Ryan Streff

Requesting deferral to the February 25<sup>th</sup> meeting.

**Action**

A motion was made by Rogen and seconded by Duffy to **defer** Rezoning #12-09. The motion passed unanimously.

**Rezoning #12-09 – DEFERRED**

## **REGULAR AGENDA**

A motion was made by Cypher and seconded by Steinhauer to **approve** the regular agenda. The motion passed unanimously.

### **ITEM 8. CONDITIONAL USE PERMIT #13-08 to allow an agriculturally related operation (agronomy plant) with storage and distribution of anhydrous ammonia.**

Petitioner: Eastern Farmers Cooperative

Property Owner: Schut, L.C.

Location: 46389 245<sup>th</sup> Street; 2.75 miles north of Colton

#### **General Information**

Legal Description – NE ¼ & N ½ SE ¼ of Section 10-T104N-R51W

Present Zoning – A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size – 167 Acres

**Staff Report:** Scott Anderson

#### **Staff Analysis**

The applicant is requesting a Conditional Use Permit for an agriculturally related operation involving the handling, storage and shipping of farm products and a facility for the storage and distribution of anhydrous ammonia. Both of these uses are identified in the list of conditional uses within Minnehaha County's Zoning Ordinance as 3.04(X) and 3.04(Z).

The overall size of the site will encompass approximately 160 acres with the majority of activity taking place upon an 18 acre site near the intersection of County Highways 104 and 149. The plans indicate that a large rail loop will be constructed on the 160 acres to handle the shipping and receiving of product. It also appears that the site configuration will also allow for future development to the west of the proposed agronomy facility along the rail spur. Any future development and uses would require a new conditional use permit to be obtained. The applicant prepared a site plan for review, which is included in the staff report.

The applicant, Eastern Farmers Cooperative, a division of CHS, Incorporated, is a farmer owned cooperative. The customers served by the Cooperative are also the owners. The applicant would like to construct a full service agronomy center which would handle, store and distribute farm supply including crop nutrients, seed and crop protection products. At this site, crop nutrients would primarily be brought in by rail. The site would handle liquid crop nutrients, anhydrous ammonia and also market corn and soybean seeds and seed treatment products. The crop protection products would be packaged in bulk for farm use. The Eastern Farmers Cooperative also has a large variety of application equipment that they use to apply their products to their customers. The storage and maintenance of that equipment will also be at this site.

On January 10, 2013, staff conducted a site visit. Overall the area is very agricultural in nature. There is an existing church located at the northeast intersection of County Highways 104 and 149. There are three (3) existing farmsteads located within ½ mile of the site. One is located

directly across the road to the north and two are located to the west along County Highway 104.

The proposal was routed to the County Highway Department for review. In addition, staff, the applicant and the representatives from the County Highway Department met on January 15, 2013 to discuss the proposed use and impacts it may have on the highway system. Several items were discussed such as the need for a grading, drainage and utility plan in order to determine what impacts there might be on the County's highway system. Shannon Schultz, County Highway Engineer, prepared a report outlining issues and concerns. The report is included for your review. Staff will recommend that prior to construction, the applicant submit a grading, drainage and utility plan to the County Highway Engineer for review and approval. The report also recommends that runoff from the entire parcel should not exceed existing 5 year and 100 year flow rates. The drainage plan should show the contours along with existing and proposed drainage patterns.

**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.**

It is unlikely that there will be significant impacts on the use and enjoyment of the surrounding properties or the property values. The areas surrounding the subject property are currently used for agriculture.

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

The subject property would fit well into what is called a rural service area. The subject property is located at the intersection of two paved county highways and has direct rail access. The site is also located approximately 8 miles west of an interstate interchange. This agri-business fits well into that area. The agricultural community should benefit from this new business activity.

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

It appears that some of the facility and railroad tracks may be located in wet areas. The applicant will be required to obtain any necessary permits to fill or alter any federally designated wetlands. The only vehicular access to the site will be from County Highway 104. Prior to constructing the new approaches, the applicant shall obtain an Approach Permit from the County Highway Department.

As there will be sensitive material stored on the site, staff recommends that a security fence be installed around the perimeter of the site. The fence shall be a minimum of 6 feet tall and the applicant may also use barbwire on top of the fencing.

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

Article 15.02(O) requires two (2) off-street parking spaces for each three (3) employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection with the use. The applicant has not indicated the number of employees on the maximum shift. Staff will recommend that the off-street parking requirements of Article 15.02(O) be met.

Furthermore, the applicant will be required to pave the parking areas as the driveways and parking areas are located on a hard surfaced road. Staff recommends that the applicant follows the minimum improvement and maintenance standards for driveways, parking lots and

loading/unloading areas as outlined in Article 15.04 of the Minnehaha County Zoning Ordinance.

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

This proposed use will create some noise and dust, but the amounts should not be significant enough to constitute a nuisance. The applicant may have security lighting. Any lighting should meet the standards typically required by the Planning Commission and designed to reduce light pollution. The lighting must be a shoe box style that directs the lighting downward.

Based on the information provided by the applicant, the proposed agronomy plant and rail lines are an appropriate use for this location. The proposed use will be providing a service to the greater agricultural community.

**Recommendation**

Staff recommended approval of Conditional Use Permit #13-08 to allow an agriculturally related operation (agronomy plant) with storage and distribution of anhydrous ammonia and associated railroad loading track with the following conditions:

1. A minimum of 14 off-street parking spaces shall be provided.
2. All exterior lighting shall be shoe box style that directs the lighting downward.
3. All signage installed by the applicant on County Highways 104 and 149 shall meet or exceed the requirements of the 2009 edition of the "Manual of Uniform Traffic Control Devices".
4. That two (2) off-street parking spaces for each three (3) employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection with the use be provided.
5. That the applicant follow the minimum improvement and maintenance standards for driveways, parking lots and load/unloading areas as outlined in Article 15.04 of the Minnehaha County Zoning Ordinance.
6. The applicant shall obtain an Approach Permit from County Highway Department for the approach onto County Highway 104.
7. That prior to construction, the applicant submit a grading, drainage and utility plan to the County Highway Engineer for review and approval. Runoff from the entire parcel should not exceed existing 5 year and 100 year flow rates.
8. All pipes used in the County right-of-way shall be sized to handle the flows in the ditch and shall be sized by the applicant or applicant's engineer. The pipe shall be concrete pipe (RCP) with flared ends and tie bolts. The applicant size, type and location within the right-of-way shall be reviewed and approved by the County Highway Department prior to installation.
9. That a security fence be installed around the perimeter of the site. The fence shall be a minimum of 6 feet tall and the applicant may also use barbwire on top of the fencing.
10. Two (2) 4' by 8' on-premise business signs, which may be lighted, shall be allowed with the issuance of a sign permit.

**Public Testimony**

Commissioner Cypher asked if there was any consideration of the Department of Environment and Natural Resources (DENR) requirements for a fertilizer plant. Scott Anderson stated that it could be a requirement but the applicant will have to meet the conditions whether it is a condition of the permit or not.

Commissioner O'Hara asked why there were not any days or hours of operation listed on the conditional use permit. Scott Anderson indicated that given the nature of the business and different operational hours during peak times of the year it would be hard to set hours of operation.

Tony Van Overschelde, Agronomy Manager for Eastern Farmers Coop, stated that they are looking to consolidate the Crooks and Baltic plants into one new larger plant that will meet the new requirements for these types of facilities. He described their need for a larger plant that will be able to handle more products as farmers are utilizing a larger variety and quantity of products. When choosing a location they needed to find a site that was located on a rail line that did not cross or block any major highways. They will have approximately five (5) trains a year that will come on-site to unload (at about 85 cars. They are allowed only 24 hours to unload the cars. Mr. Overschelde stated there will be a security fence that will have a coded gate. The gate will automatically lock at a certain time and only the senior employees will have the code to reopen the gate during locked hours. He stated that before they are able to build a fertilizer plant they have to meet all state codes.

Commissioner O'Hara asked if he anticipated that they would be working on Sundays. Mr. Van Overschelde stated that he had been working for the company for 15 years and have never been on a site that has been running on Sunday, but he cannot promise that it will not happen. The busy season is 2-3 weeks in the spring time during planting season and they are usually working 6 days a week at that time. From July to November it is usually five (5) days a week. During fall fertilization period they may be open on some Saturdays before going back to a five (5) day a week work schedule until spring again. During the busy days in spring they could see up to 40 semi-trucks a day.

Robert Vandelinde, 46408 246<sup>th</sup> Street, stated that his north pasture is directly across from the south side of the subject property. He stated that he doesn't think this use is allowed under the agricultural zoning district. He believes this is a mess of concentrated chemicals and that dust will be a problem. He handed out a petition signed by a number of neighbors that are against the proposed agronomy plant. He is worried that the water runoff mixed with the chemicals will hurt his pasture as it flows across it.

Rick Ramstad is the attorney for Doug & Louise Hanson who reside at 46392 245<sup>th</sup> Street, the property directly north of the subject area for the agronomy plant. Mr. Ramstad noted that the staff report does not indicate the volumes and truck traffic that the use will create. The primary concern for this board should be the noise and emissions, specifically as they relate to anhydrous ammonia. Anhydrous ammonia has been classified by the United States Department of Transportation as an extremely hazardous material. Exposure can be dangerous to the health and life of anyone who comes in contact with the substance. There has been no consideration of the



placement of the facility based on the health and safety of the public. There has been no discussion on the amount of anhydrous ammonia stored on the property at one time or whether or not the emergency responders can handle a situation if a release of the substance were to occur. Mr. Ramstad submitted a copy of the 2012 Emergency Response Guidebook.

Leo Ross, 46335 246<sup>th</sup> Street, stated that he doesn't believe the fertilizer plant is necessary because there is a plant 5 miles north in Chester, SD and another 2 miles south at the Colton Elevator which have the same products.

Connie Fetters, 24487 464<sup>th</sup> Avenue, stated that she has an in-home day care and kids that play outside. She and the parents of the children she takes care of have concerns about the plant and she does not want to lose her business because this is approved.

Commissioner O'Hara asked what the amount of anhydrous ammonia would be on site and the safety features that would be utilized. Mr. Van Overschelde stated that the anhydrous ammonia would be coming in on truck; they will be following all state and federal codes. He believes that there would be a 30,000 gallon tank. He stated that there are quick release valves that will lock up any time there is a rush of gas due to a break or other type of malfunction.

Commissioner Barth asked if there had been any attempt to contact or speak with the neighbors. Mr. Van Overschelde indicated that they had spoken with approximately half to three-quarters of the neighbors.

### **Discussion**

Commissioner Cypher stated that it is an appropriate use for this property. He stated that those state and federal laws are set in place and must be followed when using anhydrous ammonia. He said that his only concern is the traffic and affect on the roads. Commissioner Cypher mentioned that most farmsteads have anhydrous ammonia on site.

Commissioner Rogen indicated that he would move approval for the conditional use permit.

Commissioner Barth asked if there was a need for a turn lane at this site. Scott Anderson indicated that in his discussions with the County Highway Department they stated that this is the most underutilized highway in the county and there have been discussions to revert this road back to gravel, so at this time there is not a need for a turn lane.

### **Action**

A motion was made by Rogen and seconded by Cypher to **approve** Conditional Use Permit #13-08 with the stated conditions. The motion passed unanimously.

**CUP #13-08 - APPROVED**

**ITEM 12. CONDITIONAL USE PERMIT #13-10 to amend CUP 09-12 by expanding allowed parking areas.**

Petitioner: GEM-L Inc.

Property Owner: Dennis Tilden

Location: 48185 Hwy 42; ½ mile west of Rowena

**General Information**

Present Zoning – I-1 Light Industrial

Existing Land Use - Industrial

Parcel Size – 2.05 Acres

**Staff Report:** Pat Herman & Ryan Streff

**Staff Analysis**

The petitioner is requesting Conditional Use Permit #13-010 to amend Conditional Use Permit #09-012 to allow additional areas on the property for employee and customer parking and display parking for sales of semi-tractors and semi-trailers. The current Conditional Use permit #09-012 allowed for light manufacturing, vehicle repair and sales of semi-tractors and semi-trailers. The petitioner has indicated that the current business involves repairing, fabricating, welding and manufacturing of items for agricultural industries, trucking industries, construction industries and farming operations.

The property is located approximately a ½ mile west of Rowena, at the intersection of Hwy 42 and 482<sup>nd</sup> Avenue. The subject property is zoned I-1 Light Industrial. The property immediately to the west is zoned for commercial use and is occupied by Red Rock Bar & Grill. Mryl & Roy's quarry is located to the southwest of the subject property and the land to the south and east is used for pasture and tillable farm ground. Directly north across State Highway 42 is Preston Place, a 24 lot residential subdivision.

At this time the light manufacturing business know as GEM-L is not adhering to their conditional use permit in regards to the submitted site plan (dated 12-29-08), employee & customer parking and outside storage. In order to abate these violations staff is adding an additional condition to the proposed Conditional Use Permit #13-010 that states that all violations regarding outside storage, employee & customer parking, and display areas shall be abated by May 31, 2013.

The current Conditional Use Permit #09-012 operates under the following conditions, which was approved by the Planning Commission on February 23, 2009.

- 1) The use shall operate with a South Dakota sales tax license.
- 2) The property shall adhere to the submitted site plan dated 12/29/2008.
- 3) Outside equipment display shall be limited to the area shown on the submitted site plan, dated 12/29/2008.
- 4) No unlicensed vehicles, inoperable or partially dismantled vehicles or equipment or parts shall accumulate or be displayed on the property.
- 5) All outside lighting shall be have a recessed light that directs light downward and

- prohibits the spillage of light beyond the boundaries of the subject property.
- 6) The operation shall conform to all sign requirements as set forth in the county zoning ordinance.
  - 7) Commercial equipment shall not be parked on the roads or in the right-of-way.
  - 8) The commencement of business shall not occur until the County Building Inspector has given approval.

The amount of employee parking, customer parking and display areas for sale operations have increased due to the expansion of the business. The applicant has submitted a proposed site plan for the Planning Commission's review. The submitted site plan from Gary Schweitzer/GEM-L delineates the remaining portion of the lot that is not occupied by current structures as parking and display areas.

\*The petitioner has provided a narrative and site plan for your review. See the attached site plan and the areas labeled as A, B, C, and D.

Staff has reviewed the submitted site plan and has determined that it is not a comprehensive site plan for the facility or its operations, as it does not effectively address the parking, display areas and outside storage concerns. Staff would like to note that the property has not been approved in the past for outside storage areas. Staff attempted to contact Mr. Schweitzer about these matters but received no response from him. In an effort to resolve the concerns on the property regarding parking, display areas and storage, staff has created a comprehensive site plan for the property. The site plan created by staff delineates parking and display areas from other uses on the property.

\*See the attached site plan that delineates multiple uses on the property.

**Attachments:**

- 1) Applicant Narrative
- 2) Applicant Site Plan
- 3) Current Survey 5-15-12
- 4) Site Plan dated 1-7-13 (Planning & Zoning)

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

This subject property is zoned I-1 Industrial and has been used for commercial purposes for many years. The commercial use of the property was established prior to the development of the residential subdivision directly to the north. The continued use of the property for manufacturing should not affect other uses or property values 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 overall use of the property has not changed. Adjusting the parking, display areas and other similar uses on the property should have no impact on further construction or development within the general area.

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

The frontage of the lot is along State Highway 42. However, the designated access to this lot is from 482<sup>nd</sup> Avenue, which is a graveled township roadway. Access may also be gained from State Highway 42 through the adjoining properties to the west. A waste water system and holding tank are in place on the subject property.

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

A manufacturing and retail establishment is required to have one (1) parking space for each 300 square feet of floor area. The total square footage of the facility is approximately 12,417, which would require 42 parking spaces. After further review of the property Planning & Zoning Staff determined that 26 parking spaces would be efficient at this time, due to the current number of employees and expected customers. The Planning Department would require 25 - 9'x18' parking spaces and 1 - 11'x18' handicapped parking space. The applicant stated that GEM-L has 20 full-time and part-time employees.

Staff has determined that due to the small nature of the lot that a max of eight (8) semi-trailers and five (5) semi-tractors can be properly displayed on the property without interfering with other uses on the lot. All tractors and trailers that are displayed on the lot must be fully fabricated and ready for sale or transport. Staff would like to note that all manufacturing of trailers and other fabrication practices will be contained within the structures on the property. No fabrication, assembly or repair can be completed outside.

The site plan that was prepared by staff shows sufficient parking and display areas to meet the requirements for employee and customer parking and sale display areas. However, if the business and number of employees expands significantly and the property cannot retain the appreciate amount of parking for the areas listed the business will need to update their site plan and find an alternative solution to resolve this matter.

**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.**

It is anticipated that with light manufacturing there will be some odor, dust, noise and vibration, but not at a level as to constitute a nuisance. All outside lighting should be installed and maintained to prevent light spillage off of the property.

**Recommendation**

Staff found that the requested use is appropriate on industrially zoned property and that light manufacturing, sales and repair will not negatively impact the neighborhood. Staff recommended approval of Conditional Use Permit #13-010 with the following conditions:

1. That Conditional Use Permit #09-012 shall be repealed.
2. That Conditional Use Permit #13-010 shall allow light manufacturing, sales and repair.
3. That a 15' buffer shall be provided along all right-of-way frontages (State Highway 42 and 482<sup>nd</sup> Avenue). No parking or display areas shall be allowed within this 15' buffer.
4. That the property shall adhere to the site plan dated 1-7-13.

5. That outside equipment and display areas shall be limited to the areas shown on the submitted site plan dated 1-7-13.
6. That 25 - 9'x18' parking spaces and 1 - 11'x18' handicapped parking space shall be required. That the handicapped parking space shall be designated with the proper signage per the International Building Code.
7. That all 26 parking spaces shall be delineated so that they are defined from other areas or surfaces such as the access road/driveway and display parking. Parking signs, barricades, fencing, hard-surfacing or a similar approved application shall be used to delineate these areas.
8. That the parking plan shall be approved by the Planning Director and implemented by May 31, 2013.
9. That a max of eight (8) semi-trailers and five (5) semi-tractors shall be allowed to be displayed at any one time on the property. That all tractors and trailers on display shall be fully fabricated and ready for sale or transport.
10. That employee parking, customer parking, equipment display, storage or similar uses shall not be allowed within any right-of-way or occur on any roadway.
11. That no unlicensed vehicles, inoperable or partially dismantled vehicles or equipment or parts shall accumulate or be displayed on the property.
12. That all manufacturing including fabrication, assembly and repair shall be conducted within the approved structures on the property. That no outside fabrication, assembly or repair shall be allowed.
13. That no materials, supplies or similar products associated with the facilities operations shall be allowed outside. All materials shall be stored within a permanent structure on the property.
14. That all violations regarding outside storage, employee & customer parking, and display areas shall be abated by May 31, 2013.
15. That all outside lighting shall be have a recessed light that directs light downward and prohibits the spillage of light beyond the boundaries of the subject property.
16. That all new structures or signs shall conform to the requirements as set forth in the Minnehaha County Zoning Ordinance and/or the Red Rock Overlay District.
17. That the hours of operation shall be from 6:00 AM to 10:00 PM Monday-Saturday.
18. That the use shall operate with a South Dakota sales tax license.

### **Public Testimony**

Commissioner Duffy indicated that she did go out to the property and met with Mr. Schwietzer. She asked if there is ability to compromise on the number of trailers that are allowed on the property. Pat Herman indicated that could be a possibility.

Commissioner Steinhauer asked what the width of the driveway was thru the property. Pat Herman indicated that it is 24' on the plat.

Gary Schwietzer, 216 S. Country Club Avenue, Brandon, SD, indicated that they do not store much outside except for what is immediately behind the building therefore there should be no need for screening.

Commissioner O'Hara asked Mr. Schwietzer what their opposition was to the employee and customer parking. Mr. Schwietzer indicated that they like to move their product around on the property as a good marketing technique, so it is hard to dedicate certain areas for parking when they like to use those areas as display areas.

Commissioner Steinhauer indicated that they could potentially use curb stops to delineate the employee and customer parking.

Dan Gary, Owner of GEM-L, stated that they would like the flexibility to move the trailers around during the weekends to allow for a better display of the product.

Commissioner Steinhauer stated that he felt that there should not be a limitation to the number of trailers displayed, as long as they were out of the r.o.w., access easement area, and parking area adjacent to the building. He feels the parking is a requirement and it needs to be marked. Other members of the Commission voiced their agreement.

### Action

A motion was made by Rogen and seconded by Cypher to **approve** Conditional Use Permit #13-10 with the following conditions:

- 1) That Conditional Use Permit #09-012 shall be repealed.
- 2) That Conditional Use Permit #13-010 shall allow light manufacturing, sales and repair.
- 3) That a 15' buffer shall be provided along all right-of-way frontages (State Highway 42 and 482nd Avenue). No parking or display areas shall be allowed within this 15' buffer.
- 4) That the property shall adhere to the site plan dated 1-31-13.
- 5) That 25 - 9'x18' parking spaces and 1 - 11'x18' handicapped parking space shall be required. That the handicapped parking space shall be designated with the proper signage per the International Building Code.
- 6) That all 26 parking spaces shall be delineated so that they are defined from other areas or surfaces such as the access road/driveway and display parking. Parking signs, barricades, fencing, hard-surfacing or a similar approved application shall be used to delineate these areas.
- 7) That semi-trailers and semi-tractors shall be allowed to be displayed on the property. That all tractors and trailers on display shall be fully fabricated and ready for sale or transport.
- 8) That employee parking, customer parking, equipment display, storage or similar uses shall not be allowed within any right-of-way or occur on any roadway.
- 9) That no unlicensed vehicles, inoperable or partially dismantled vehicles or equipment or parts shall accumulate or be displayed on the property, excluding vehicles or equipment brought in for repair or those displayed for sale.
- 10) That all manufacturing including fabrication, assembly and repair shall be conducted within the approved structures on the property. That no outside fabrication, assembly or repair shall be allowed.
- 11) That outside storage of supplies or similar products shall be fenced with an 8 foot high, 90 % opacity fence unless the outside storage is located adjacent to the south side of the building as shown on the site plan dated 1-31-13. No fencing is required for the storage

- area on the south side of the building.
- 12) That all violations regarding outside storage, employee & customer parking, and display areas shall be abated by May 31, 2013.
  - 13) That all outside lighting shall be have a recessed light that directs light downward and prohibits the spillage of light beyond the boundaries of the subject property.
  - 14) That all new structures or signs shall conform to the requirements as set forth in the Minnehaha County Zoning Ordinance and/or the Red Rock Overlay District.
  - 15) That the hours of operation shall be from 6:00 AM to 10:00 PM Monday-Saturday.
  - 16) That the use shall operate with a South Dakota sales tax license.
  - 17) The access easement dedicated on the plat of Tract 1E and shown on the site plan dated 1-31-13 shall remain clear and free of parked vehicles and equipment.

The motion passed unanimously.

**CUP #13-10 - APPROVED**

**ITEM 13. CONDITIONAL USE PERMIT #13-12 to amend CUP #81-010, #82-010, #01-095, & #11-019 and to allow five short range shooting bays.**

Petitioner: Charles Heck, President

Property Owner: Big Sioux Rifle and Pistol Club, Inc.

Location: 25951 484<sup>th</sup> Ave.; 1.5 miles northeast of Brandon

**General Information**

Present Zoning – A-1 Agricultural

Existing Land Use - Rifle and Pistol Range

Parcel Size – 11.68 Acres

**Staff Report:** Ryan Streff

**Staff Analysis**

The petitioner submitted an application, Conditional Use Permit #13-012, to allow five (5) short range shooting bays. The short range shooting bays would be in addition to the three (3) previously approved long range shooting bays from 1981.

The property is located at 25951 484<sup>th</sup> Avenue and is legally described as the N606 W840 N2/5 SE1/4 24-103-48. The subject property is located in Section 24 of Brandon Township, approximately two (2) miles northeast of Brandon. This property is 11.68 acres in size and is located in the A-1 Agricultural zoning district. Adjacent properties that surround this site are zoned A-1 Agricultural and are mainly used for agricultural farming and mining operations with a few scattered residential acreages around the area.

There are currently two (2) active conditional use permits associated with this use. The first conditional use permit #81-10 was approved by the County Commission to allow a rifle and pistol range on December 29, 1981. The second Conditional Use Permit #11-019 (replaced Conditional Use Permit #01-95) was obtained to amend condition #8 to extend the hours of operation.

**Current Conditions of Conditional Use Permit #81-10.**

- 1) A new site plan shall be submitted to the Planning Office which takes into consideration all conditions placed on the rifle range. All construction shall be in accordance with this site plan.
- 2) A gate shall be erected at the east end of the driveway.
- 3) The driveway shall be widened to permit two vehicles to meet.
- 4) A 10-foot earth embankment shall enclose the firing line.
- 5) A bar shall be placed across the firing bench to restrict the angle of fire and ensure that bullets remain within the embankment. A baffle may be required later if problems develop.
- 6) Bury or remove all junk on the property. The junk shall not be moved to another location on the property.
- 7) Install some type of restroom facilities since the range will be open to the public.
- 8) The range shall not be open for more than four days per week and the hours shall be limited to 8 a.m. to sunset with the following exception: the range may be operated one



additional day per week for a maximum of six weeks between September 15<sup>th</sup> and December 1<sup>st</sup>.

- 9) Night firing shall be prohibited.
- 10) A compliance inspection must be performed prior to the range being opened for use.

The petitioner (Big Sioux Rifle & Pistol Club) has now applied to amend their conditional use permit in order to add five (5) short range shooting bays. To avoid confusion the best way to address the additional request of the short range shooting bays is to repeal all previous conditional use permits and combine them into one (1) permit. In order to address the concerns of the Planning and County Commissions regarding the current facility one (1) comprehensive permit detailing the entire facility is needed to maintain the operations effectively.

Attachments:

- 1) Big Sioux Rifle & Pistol Club Narrative
- 2) Range Evaluation Report (Bruce Plate – NRA Range Technical Team Advisor)
- 3) Site Plan Dated January 8, 2013 (Details all shooting bays)
- 4) Big Sioux Rifle & Pistol Club Site Plans 1-7

**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 change to add five (5) short range bays in addition to the three (3) long range bays should have minimal impact on the neighboring properties. This facility has been in existence at this site since the 1980's and the short range bays have been in operation since 2004. Noise from the additional short range bays and the associated range operations will have some impact on the enjoyment or use of the surrounding properties or affect property values.

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

The change in the permitted area should have no impact on further construction or development within the general area. This change will not affect the residential uses or agricultural land in the area.

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

Infrastructure that is needed for the Big Sioux Rifle and Pistol Club to operate has been provided. No other infrastructure improvements are required at this time.

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

The property has sufficient parking for all associated activities. Gates have been placed at the entrance of the facility and also at the entrance of the short range bays. These gates remain locked when the facility is closed.

**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.**

This use will generate some amount of noise because of the nature of the rifle and pistol facility. The petitioner has installed berms along all the shooting bays and trees are located throughout the property, which will reduce the amount of noise and visual impacts that may cause a

nuisance to neighboring property owners. No other uses at this facility should constitute a nuisance.

### **Recommendation**

Staff found that the most effective way to move forward with an amendment to a conditional use permit that is currently in violation is to simultaneously repeal all previously issued conditional use permits associated with this use, while creating one (1) new comprehensive permit detailing the entire facility. Staff can then address the entire facility and all safety concerns related to the three (3) long range bays and the five (5) short range bays in order to maintain effective operational procedures.

Staff recommended approval of Conditional Use Permit #13-012 to allow a Rifle & Pistol Range with three (3) long range bays and five (5) short range bays, with the following conditions.

- 1) The Conditional Use Permit #13-012 shall allow a Rifle & Pistol Range consisting of three (3) long range bays and five (5) short range bays.
- 2) That the property shall adhere to the site plan dated 1-8-13.
- 3) That the range officer(s) on duty shall not be participating in any shooting activities and shall only be there to enforce the safety rules by observing shooters and running the firing line and ranges.
- 4) That a range officer(s) shall be required to be present when the range is open to the public.
- 5) That Blue Sky Baffles shall be installed and maintained on all three (3) long range bays.
- 6) That all Blue Sky Baffles shall be completely installed on all three (3) long range bays by January 1, 2015.
- 7) That when the baffling system is not applicable or where "blue sky" can be seen (i.e. from the prone position) a bar or similar device shall be placed across the firing bench or firing area in the long range shooting bay(s) to restrict the angle of fire and ensure that bullets remain within the embankments.
- 8) That 10' foot berms or earth embankments shall enclose all firing lanes or shooting bays at all times.
- 9) That gates shall be erected and maintained at all entrances or exists in order to mitigate trespassing and to insure proper access to the facility. That the gates shall be locked when the range is closed.
- 10) The range shall not be open for more than four days per week and the hours shall be limited to 8 a.m. to sunset with the following exception: the range may be operated one additional day per week for a maximum of six weeks between September 15<sup>th</sup> and December 1<sup>st</sup>.
- 11) That no shooting shall occur at the facility from dusk till dawn.
- 12) That all materials, supplies and products associated with the facility shall be stored within an approved structure, storage facility or screened from public view.
- 13) That adequate restroom facilities shall be provided at the property. When an onsite wastewater system is used it shall be constructed in conformance with South Dakota State and Minnehaha County regulations.
- 14) That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.

- 15) That parking and loading regulations outlined in Article 15.00 of the Minnehaha County Zoning Ordinance shall be met.
- 16) That no unlicensed, inoperable or partially dismantled vehicle, equipment or parts shall accumulate on the property.
- 17) That further safety inspections and/or safety precautions shall be required if the public's health and safety are threatened due to the lack of projectile containment or similar life threat incidents.
- 18) That all previous conditional use permits for this property regarding the Rifle & Pistol Range be repealed. These include Conditional Use Permits #81-010, #82-010, #01-095 and #11-019.

### **Discussion**

Commissioner O'Hara stated that the Planning Commission had received requests from both the proponents and opponents to defer this item until February 25<sup>th</sup>, 2013.

### **Action**

A motion was made by Rogen and seconded by Duffy to **defer** Conditional Use Permit #13-12 to the February 25<sup>th</sup> Planning Commission Meeting. The motion passed unanimously.

### **CUP #13-12 – DEFERRED**

### **Old Business**

No Items.

### **New Business**

- A. Commissioner O'Hara was re-elected Chairman.
- B. Ryan Streff indicated that there will be a task force meeting on February 7<sup>th</sup> for the Envision 2035 Comprehensive Plan.