



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
September 27th, 2021**

A meeting of the Planning Commission was held on September 27th, 2021 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Adam Mohrhauser, Mike Ralston, and Doug Ode. were present at the meeting.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, Mason Steffen – County Planning
Eric Bogue – States Attorney's Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:19 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

Consent Agenda

Commissioner Duffy read each item of the consent agenda, and no items were requested to be moved to regular agenda.

A motion was made to approve the consent agenda consisting of Items 1, 2, 3, 4, 5, 6, 7, and 8 by Commissioner Ralston and seconded by Commissioner Ode. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

ITEM 1. Approval of Minutes – August 23rd, 2021

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner Ode to approve the meeting minutes from August 23rd, 2021. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.



ITEM 2. CONDITIONAL USE PERMIT #21-59 to replace a Manufactured House on the property legally described as the SW¼ NW¼ (Ex. Peterson Sub & Ex. Evjen Addn.) & W½ SW¼ (Ex. H-2 & Ex. Evjen Addn.) Section 34 T103N-R49W Sverdrup Township.

Petitioner: Wademan Peterson

Property Owner: Same

Location: 25565 475th Avenue, approximately 2 miles north of Renner

Staff Report: Kevin Hoekman

General Information:

Legal Description – SW¼ NW¼ (Ex. Peterson Sub & Ex. Evjen Addn.) & W½ SW¼ (Ex. H-2 & Ex. Evjen Addn.) Section 34 T103N-R49W Sverdrup Township.

Present Zoning – A1 Agriculture

Existing Land Use – Farmstead

Parcel Size – 90.67 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to replace a manufactured dwelling with another manufactured dwelling on a large farmstead composed of multiple dwellings. The subject property is located approximately 2 miles north of the Renner Corner gas station on South Dakota Highway 115. The neighborhood is composed of a large development of single-family dwellings on small acreages on both sides of the highway. The replacement of a non-conforming manufactured home with another manufactured home requires a conditional use permit prior to placement of the replacement.

The petitioner submitted a detailed packet of information for the proposed manufactured dwelling. The proposed manufactured dwelling is explained to be better and more updated than the existing manufactured dwelling. A couple key aspects of the new manufactured dwelling is that it will be handicap accessible and it will be a double wide unit which has a closer appearance to a stick frame building. The provided packet of information also includes descriptions of how the proposed CUP meets the required criteria. Below is the County Staff report on the permit criteria.

Conditional Use Permit Criteria:

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

The property is located in a residential subdivision north of the unincorporated area of Renner. The subject property already has 4 dwellings on it, two of which are stick frame buildings and two are manufactured homes. The four properties north of the site all include manufactured dwellings. Other single-family dwellings are located further north and across the street. The proposed manufactured dwelling will have little negative affect on the current uses of



neighboring properties. The proposed use may even increase property values as it will be more similar to a stick frame structure.

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

The area around the subject property is largely developed as far as allowed without zoning change. New development will not happen without more public hearings and permits. In addition, the location of the replacement manufactured dwelling is nearly a quarter mile away from any land which could be developed into something new. To the west of the site is the floodplain of the Big Sioux River.

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

This request will be to replace one manufactured dwelling with another in roughly the same place. All the access and utilities are already present on the site.

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

The parcel is large enough to accommodate off street parking. Off street parking requirements will be met when the dwelling is placed on the 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 placement of a manufactured home should not create any offensive odors, fumes, dust, noise, vibration, or lighting. The replacement dwelling will increase the expected lifespan of the house on the site.

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

The health, safety and general welfare should not be negatively affected by the proposed manufactured home. The parcel is within a developed area with many existing manufactured dwellings and stick built dwellings already working side by side.

Recommendation:

Minnehaha County staff recommends **approval** of Conditional Use Permit #21-59 with the following conditions:

- 1.) A building permit must be obtained prior to the placement of the mobile home.
- 2.) Each section of mobile home must bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.
- 3.) Prior to the issuance of a building permit, the building inspector must approve the use of the existing septic system or a new septic system must be permitted for the proposed dwelling.
- 4.) The manufactured home must comply with all requirements of Article 12.06 (C). of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 5.) Prior to the issuance of a building permit, a Right-to-Farm Notice Covenant must be filed on the deed with the Register of Deeds.



Action

As part of the consent agenda, a motion was made to approve Conditional Use Permit #21-59 with staff recommended conditions by Commissioner Ralston and seconded by Commissioner Ode. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-59 – Approved

ITEM 3. CONDITIONAL USE PERMIT #21-60 to allow a Manufactured House on the property legally described as Tract 1 Kuhnert Addition SE¹/₄ Section 28 T101N-R47W Valley Springs Township.

Petitioner: Kyle & Marcia Kuhnert

Property Owner: Same

Location: 48654 267th Street, approximately 4 miles south of Valley Springs

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 1 Kuhnert Addition SE¹/₄ Section 28 T101N-R47W Valley Springs Township

Present Zoning – A1 Agriculture

Existing Land Use – Farmstead

Parcel Size – 13.01 acres

Staff Report: Mason Steffen

Staff Analysis:

The petitioner is requesting to place a manufactured house for primary residence on the site of a previous farmstead. The placement of a manufactured house on a lot outside of a designated manufactured home park, requires a conditional use permit. Finally, the proposed manufactured house to be placed on the property is 56' long and 30' wide, which satisfies the width requirement in the ordinance.

On September 8th, 2021, staff conducted a site visit of the proposed site for the manufactured house. The area surrounding the proposed site consists mostly of agricultural uses. There is one existing residence directly south of the proposed site, but the remaining area in the immediate vicinity is farmland. The low density of residential properties in the area will reduce much of the concerns of a manufactured house being different than a typical stick framed house. Finally, section 12.06 (C). of the Minnehaha County Zoning Ordinance includes several requirements for the placement of manufactured houses, which the petitioner must follow if the conditional use permit is approved.



Conditional Use Permit Criteria:

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

The area is mostly comprised of agricultural lands with farmsteads and there are few non-farm acreage sites. A right-to-farm covenant will be required prior to a building permit being issued for the proposed manufactured house. The right-to-farm covenant informs property owners of some of the realities of living on a rural site. The low density of residential properties in the area will reduce much of the concerns of a manufactured house being different than a typical stick framed house.

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

The primary use of the general area is agriculture. The erection of a manufactured house on a site where a previous farmstead resided will not inhibit the agricultural production of the area. There should be no anticipated impact on the normal or orderly development of vacant properties in the area.

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

The proposed site of the manufactured house will be in the same location as a previous farmstead. The site is already serviced with utilities and a driveway onto 267th Street. The placement of a manufactured house will cause minimal effect to the drainage of the property.

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

Each residence is required to have two (2) off-street parking spaces. The site of the proposed manufactured house is large enough to accommodate this residential parking requirement.

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

A typical residential use will not create any offensive odor, fumes, dust, noise, or vibration. Any new lighting will be required to be shielded and pointed downward, and the property must be maintained in accordance with the public nuisance ordinance.

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

The zoning ordinance includes requirements to minimize the negative aesthetics associated with a manufactured house. The requirements include minimum width, roof pitch, and standard building materials. A manufactured house can be an affordable housing option for the owner. With general requirements and low density of the area, the placement of a manufactured house will not negatively affect the health, safety, or general welfare of the public.



Recommendation: Staff recommends **approval** of Conditional Use Permit #21-60 with the following conditions:

- 1) A building permit must be obtained prior to the placement of the mobile home.
- 2) Each section of mobile home must bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.
- 3) The manufactured house must comply with all requirements of Article 12.06 (C). of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 4) Prior to the issuance of a building permit, a Right-to-Farm Notice Covenant must be filed on the deed with the Register of Deeds.

Action

As part of the consent agenda, a motion was made to approve Conditional Use Permit #21-60 with staff recommended conditions by Commissioner Ralston and seconded by Commissioner Ode. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-60 – Approved

ITEM 4. CONDITIONAL USE PERMIT #21-61 to exceed 1,600 square feet of accessory building space (requesting 2,200 square feet) on the property legally described as the S½ Vacant Alley Lying Adjacent & Lots 7 to 16 Block 7 Lyons Village Addition T103N-R50W Lyons Township.

Petitioner: Brian Schmid
Owner: Same
Location: 318 4th Street in Lyons
Staff Report: Mason Steffen

General Information:

Legal Description – S½ Vacant Alley Lying Adjacent & Lots 7 to 16 Block 7 Lyons Village Addition T103N-R50W Lyons Township.
Present Zoning – R1 Residential
Existing Land Use – Residential
Parcel Size – .82 acres

Staff Report: Mason Steffen

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow 2,200 square feet of total accessory building area. There are already three detached accessory buildings on the property totaling 1,184 square feet, and the new accessory building will be a 26'x 35' building. The proposed building will be located in the southeast corner of the property to the south of an existing detached building, and the new building will be connected to the existing driveway for



the property. Finally, no commercial use or storage will be allowed in the proposed accessory building at any time.

On September 8th, 2021, staff conducted a site visit of the proposed site for the accessory building. The subject property is located inside of Lyons and is surrounded by similar sized residential lots. In addition, the property directly to the west of the subject property is about .46 acres, and they received conditional use permit approval for 2,500 square feet of accessory building space in 2001.

Conditional Use Permit Criteria:

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

There should be no anticipated negative effect upon the use and enjoyment of the residential properties in the immediate vicinity. Property values in the area should also not be negatively impacted due to the personal use of the proposed accessory building.

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

The proposed site of the accessory building is located in an area surrounded by other similar residential lots. There should be no anticipated impacts to the normal and orderly development and improvement of the surrounding vacant residential lots. The proposed size of the accessory building is generally compatible with other residential properties in the immediate vicinity.

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

The petitioner will be required to extend all required utilities to the structure. The proposed accessory building will be accessed by the existing driveway for the single-family dwelling on the property. The accessory building should not have any negative effects on the drainage of the surrounding area.

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

The proposed site of the accessory building is large enough to accommodate the off-street parking requirement. The new accessory building will also add additional parking and storage to the 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.

No commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.



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

The health, safety, and general welfare of the public will not be negatively affected by the construction of the proposed accessory building. The proposed use will fit within the uses of other properties in the residential area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #21-61 with the following conditions:

- 1) The building location shall adhere to the submitted site plan.
- 2) The total area of all accessory buildings may not exceed 2,200 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That only personal storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5) That all outdoor lighting shall be of a fully-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit is required prior to construction of the accessory building.
- 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 full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made to approve Conditional Use Permit #21-61 with staff recommended conditions by Commissioner Ralston and seconded by Commissioner Ode. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-61 – Approved



ITEM 5 CONDITIONAL USE PERMIT #21-62 to exceed 2,400 square feet of accessory building space (requesting 4,650 square feet) on the property legally described as Tract 2 Zweep's Addition SE¼ Section 9 T103N-R48W Edison Township.

Petitioner: Scott Longhenry

Owner: Same

Location: 48082 252nd Street, approximately 4 miles northwest of Garretson

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 2 Zweep's Addition SE¼ Section 9 T103N-R48W Edison Township

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 2.6 acres

Staff Report: Mason Steffen

Staff Analysis: The subject property is located approximately 4 miles northwest of Garretson, a ¼ mile west of the intersection of 252nd Street and 481st Avenue. The petitioner is requesting conditional use permit approval to allow 4,650 square feet of total accessory building space. There is already a 56'x 58' detached accessory building on the property, and the proposed new space will be a 24-foot extension onto the north side of this building. This will make the overall dimensions of the accessory building 80'x 58', which is a total square footage of 4,640. The petitioner has explained that the proposed addition will be to store their camper, and the use of the building will continue to be accessory to the residential use of the property. No commercial use or storage will be allowed in the proposed accessory building.

On September 8th, 2021, staff conducted a site visit of the proposed site for the accessory building. The subject property is located next to a few residential acreages, but the predominant use in the immediate vicinity is agricultural. In addition, the subject property has tree lines on the north and east sides of the property that will reduce the concerns about the sightlines of neighboring properties being affected.

Conditional Use Permit Criteria:

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

There should be no anticipated negative effect upon the use and enjoyment of the residential properties in the immediate vicinity. Property values in the area should also not be negatively impacted due to the personal use of the proposed accessory building.



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

The proposed site of the accessory building is located in an area surrounded by other similar residential acreages and farmland. There should be no anticipated impacts to the normal and orderly development and improvement of the surrounding vacant farmland or residential acreages. The proposed size of the accessory building is generally compatible with other residential properties in the immediate vicinity.

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

The petitioner will be required to extend all required utilities to the structure. The accessory building will continue to be accessed by the same driveway onto the property. The addition to the accessory building should not have any negative effects on the drainage of the surrounding area.

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

The proposed site of the accessory building is large enough to accommodate the off-street parking requirement. The new addition to the accessory building will also add additional parking and storage to the 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.

No commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

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

The health, safety, and general welfare of the public will not be negatively affected by the construction of the proposed accessory building. The proposed use will fit within the uses of other properties in the rural area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #21-62 with the following conditions:

- 1) The building location shall adhere to the submitted site plan.
- 2) The total area of all accessory buildings may not exceed 4,650 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That only personal storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5) That all outdoor lighting shall be of a fully-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit is required prior to construction of the accessory building.



- 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 full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made to approve Conditional Use Permit #21-62 with staff recommended conditions by Commissioner Ralston and seconded by Commissioner ode. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-62 – Approved

ITEM 6. CONDITIONAL USE PERMIT #21-63 to allow Sand & Gravel Mining on the property legally described as Tract 1 Sierra Addition SE¹/₄ SE¹/₄ Section 6 T101N-R50W.

Petitioner: Great Bear Sand & Gravel LLC.

Property Owner: Same

Location: Approximately 3 miles west of Sioux Falls

Staff Report: Scott Anderson

General Information:

Legal Description – Tract 1 Sierra Addition SE¹/₄ SE¹/₄ Section 6 T101N-R50W

Present Zoning – RC – Recreation/Conservation District

Existing Land Use – Pasture

Parcel Size – 37.22 Acres

Staff Report: Scott Anderson

Staff Analysis: Location and Background

The site is located west of Sioux Falls and north of Ellis at the intersection of County Highway 140 (the extension of Maple Street) and 467th Avenue. Sand and gravel deposits are found along the slopes and basin of the Skunk Creek and other extraction operations currently exist throughout this area. Pasture and crop land are the predominate land uses in the area. As you move to the east into Sioux Falls, significant residential development is occurring along Maple Street. This site has been mined in the past and was sold by Minnehaha County in the spring of 2021.



Planning Considerations

The applicant has not provided the Planning Department with an estimate on the duration of the mining activity on the subject property. The projected life of most mining operations is dependent on the demand for aggregate for construction. Extraction will be done with earth moving equipment. No blasting will occur on the site. Staff will recommend that all mining activity be concluded within ten (10) years. Should more sand and gravel extraction be called for, then the applicant will need to amend this conditional use permit to extend the life of the permit.

The applicant has not shown any internal haul roads. It is likely that any internal haul roads would change as the mining moves around the site. The applicant has stated that the primary haul road would exit onto County Highway 140 with a secondary access onto 467th Avenue. The applicant has met with the County Highway Department to discuss the use and impact to County Highway 140. No formal documentation for access onto County Highway 140 has been provided to the Planning Department but the applicant says that the County will allow access onto County Highway 140. The applicant is on the agenda with Wayne Township to discuss the use of 467th Avenue. A haul road agreement must be obtained from both Minnehaha County and Wayne Township prior to any mining occurring on the site.

The zoning regulations list developmental and operational criteria for use in evaluating extraction activities. Following is a review of the proposal based on the criteria. Please note that the proposed use is for rock, sand and gravel extraction as regulated by Article 12.08 of the 1990 Zoning Ordinance for Minnehaha County.

Buffer area - The suggested minimum setback between extraction areas and existing residences is 1000 feet. There is an existing unoccupied residence located directly south of the subject property across County Highway 140. There is a second occupied residence located at 26266 467th Avenue, approximately 525 feet away from the edge of the subject property. A third residence is located at 46672 County Highway 140, directly west of the proposed mining activity. The applicant does not have a waiver from any of those property owners. Prior to any mining activity occurring on the site, the applicant shall obtain a waiver from the property owners to the south, east and west.

Hours of operation - The zoning criteria suggests that mining operations be limited to the hours from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays. Other activities such as office or maintenance operations, which produce no noise, are not restricted to the times listed above.

Berms - Berms are commonly used to screen on-site activities from public view and to minimize noise. The petitioner has indicated that berms would be considered if requested. Given the close proximity to existing residences, staff recommends that berms be constructed to minimize the impacts. Staff recommends a 300-foot berm along the southwest property line and a 350 foot berm along the south property line adjacent to the existing residences. No berm will assist in the screening for the house located to the east. It is located on property that is significantly higher than the proposed mining activity. The applicant shall submit a landscape plan showing the



location of the proposed berms and how they will be vegetated to the County Planning Director prior to opening of the sand and gravel pit.

Noise - 55 decibels recorded over a 10-minute period measured at the nearest residence. This standard is generally addressed on a complaint basis.

Dust - Air quality should not be a concern due to the nature of the extraction operation. Dust from truck traffic can be controlled by applying dust control agents to the haul road. The applicant has offered to pave this portion of the haul road to minimize the dust. The balance of the haul road shall be treated with a dust suppressant so that dust is eliminated. The County Planning Department should be given authority to require the operator to install on-site monitoring devices if air quality becomes a problem.

Hydrology, dewatering and drainage – The applicant has indicated that no dewatering of the pit is anticipated so the area’s hydrologic conditions should not be impacted. The applicant shall be required to obtain a South Dakota Surface Water Discharge Permit for Storm Water Associated with Industrial Activities if required by the state.

The applicant provided general information on the site, which could be considered as a hydrologic review. It provided information on the water table, and depth of sand and gravel materials. This information from 2017 does not make a statement on whether there would be any impacts to surrounding shallow and deep wells as a result of the mining operations and a conclusion on the activities. Should the Planning Commission wish to have a more detailed hydrologic review for the subject property, the conditional use permit will need to be continued in order for the study to be prepared and reviewed by staff.

Haul roads - The most common problem associated with extraction operations is the use of gravel township roads for truck hauling. In this case, the haul road will exit directly onto County Highway 140. The applicant indicated in the narrative accompanying the application that they have contacted the County Highway Department and that they have granted access off of County Highway 140. The applicant will be required to obtain a Haul Road Agreement from the County Highway to use the existing approach for mining activities, as well as a Haul Road Agreement with Wayne Township for the existing approach onto 467th Avenue.

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

Reclamation – The plan submitted by the applicant simply indicates that the topsoil will be stripped and stockpiled for use in reclamation. The site will be reclaimed for agricultural uses either as tillable farm ground or pasture. The site shall be restored to a farmable or natural status within one (1) year of the conclusion of mining operations. Reclamation should result in the rehabilitation of affected land through contouring and soil stabilization, revegetation and other appropriate means so as to create an aesthetic appearance and promote the most appropriate future use of the property. The applicant shall be required to follow the reclamation



requirements of the Minnehaha County Zoning Ordinance as outlined in Article 12.08(G). The site shall be returned to agricultural use.

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

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

Other considerations - The entrance to the property should be gated to discourage individuals from disposing of refuse in the pit during non-working hours. The southwest corner of the subject property is located within a flood hazard area as defined by FEMA. The entire parcel is located within the Water Source Protection Overlay District. All standards of Article 11 – WS Water Source Protection Overlay District shall be followed.

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

The majority of uses in the general vicinity revolve around agricultural production. The proposed use should not impact the property values of the agricultural land in the general vicinity. With proper planning and execution of the plan, the proposed sand and gravel extraction should not effect of the enjoyment of other properties in the immediate vicinity.

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

The proposed use could have an impact on the development of surrounding vacant property. While most agricultural uses, such as animal husbandry or crop production, would not be impacted by the proposed use, some uses such as rural residences may not desire to locate near this proposed use. The proposed use will generate additional heavy truck traffic, and minor amounts of noise and dust. Staff is recommending that all mining activities conclude within ten (10) years.

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

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

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

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



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

With the proposed sand and gravel extraction, there is a possibility of noise, dust and vibration to occur. Staff has addressed dust and noise in the recommended conditions of approval. The hours of operation will reduce the possibilities of these elements becoming a nuisance. Staff is recommending that the first 100 feet of the haul road off County Highway 140 be hard surfaced. This will help to control dust from vehicular traffic.

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

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

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

Recommendation:

Staff finds that the proposed use for sand and gravel extraction is compatible with surrounding land uses as well as the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #21-63 with the following conditions:

- 1) An annual fee shall be paid to the County in accordance with Section 12.08(D) of the zoning regulations. (Note: An annual fee of \$10 per acre of unreclaimed land is assessed to the operator.)
- 2) Hours of operation shall be from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays.
- 3) That the only dewatering shall be for use in dust control, road projects and rock washing. The applicant shall obtain any required permits from the state for use of the water.
- 4) That prior to any sand or gravel extraction, the applicant shall enter into a Haul Road Agreement from the County Highway and Wayne Township for the new approaches onto County Highway 140 and 467th Avenue.
- 5) The haul road accessing County Highway 140 shall be hard surfaced with a minimum of a 6-inch granular base course and a 2-inch thickness of asphalt or a 7-inch thickness of Portland cement concrete for a minimum distance of 100 feet off of County Highway 140. The applicant shall maintain the haul road in good condition for the duration of the mining and reclamation activity.
- 6) The ambient air quality standards for total suspended particulate matter shall be 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once a year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM¹⁰ (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
- 7) The County Planning Department shall direct the operator to install air quality sampling stations if the standards appear to be exceeded. Such monitoring shall be at the operator's expense.



- 8) The sound level from on-site operations shall not exceed an average of 55 decibels recorded over a 10-minute period measured at the nearest residence.
- 9) That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
- 10) The boundaries of the extraction area shall conform to the site plan submitted with the application.
- 11) Topsoil and overburden shall remain on the site and be used in final reclamation.
- 12) Only clean fill shall be used as backfill.
- 13) There shall be no storage or accumulation of inoperable or discarded equipment or parts.
- 14) A gate shall be required at the haul road entrance to the property.
- 15) That all mining activity is concluded by January 1, 2032 and that reclamation shall be in accordance with the plan filed with the State and outlined in the application and all reclamation of the site shall be completed by December 31, 2032 in accordance to all requirements outlined in Article 12.08(G) of the 1990 Zoning Ordinance for Minnehaha County.
- 16) That if one (1) or more acres of area is disturbed, the applicant is required to obtain a General Permit from the Department of Environment and Natural Resources.
- 17) That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
- 18) The sand and gravel operations shall be secured during non-working hours by means of gates and fencing. The property shall be continuously secured until all required reclamation activities have been completed.
- 19) The applicant shall submit a landscape plan showing the location of the proposed berms and how they will be vegetated to the County Planning Director prior to opening of the sand and gravel pit.
- 20) The applicant shall abide by all regulations outlined in Minnehaha County Flood Management Ordinance, MC48-17, when working in the 100-year floodplain and/or floodway.
- 21) That all requirements and standards of Article 11 – WS Water Source Protection Overlay District shall be followed.
- 22) That the applicant obtains a waiver from the property owners of 46697 263rd Street, 26266 467th Avenue, and 46672 263rd Street or remain at least 1,000 feet from the residences located on each parcel.
- 23) That the Planning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Zoning Ordinance for Minnehaha County.

Action

As part of the consent agenda, a motion was made to approve Conditional Use Permit #21-63 with staff recommended conditions by Commissioner Ralston and seconded by Commissioner Ode. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-63 – Approved



ITEM 7. CONDITIONAL USE PERMIT #21-64 to exceed 10,000 square feet of commercial building space on the property legally described as Lot 4 Block 1 Sorum’s First Addition NE¼ NE¼ Section 16 T102N-R49W Mapleton Township.

Petitioner: Jensen Electric LLC
Property Owner: Jensen Holdings LLC
Location: Along State Highway 115 in Renner
Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 4 Block 1 Sorum’s First Addition NE¼ NE¼ Section 16 T102N-R49W Mapleton Township
Present Zoning – C – Commercial District
Existing Land Use – Vacant Lot
Parcel Size – 2.15 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner has been developing this area of land south of Renner Corner for several years. This request is to allow more than 10,000 square feet of commercial building space on a commercial zoned property. Last year, the Planning Commission approved three similar requests for larger buildings and large additions to existing buildings. This request will allow the largest building in the development at a size of 23,151 square feet of floor area with a 17,600 square feet footprint on the property.

The proposed building is depicted on a detailed site plan. The use of the building is also shown on the site plan as an indoor archery range. A small portion of the building will have two stories with a total of 34 lanes for archery and a retail section. A large portion of the building is labeled as indoor target area. The site plan shows 106 parking spaces planned for the parking lot.

Conditional Use Permit Criteria:

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

The parcel is located within a Rural Service Area with neighboring commercial and residential lots. Many parcels are already developed or under construction for large buildings. The large buildings have similar architectural styles and signage to make a uniform development. The subject property is the last parcel in the development to have a building. The proposed building will complete the development and add another draw to the businesses area.

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

The parcel is located within a Rural Service Area with neighboring commercial and residential lots. The development area is already near full development. As this proposal building is one of



four similar existing commercial buildings, approval will likely little to no effect on the other neighboring lots.

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

This site is the last lot in the development and the property already has access roads available. The petitioner will be responsible for any additional utilities required.

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

The zoning ordinance has a general parking requirement of a rate of one space per 300 square feet. The site plan points out that the zoning ordinance would require 77 parking spaces. The site plan indicates 106 parking spaces total to exceed the requirement. All parking must meet the 15 feet setback from front yards, and the subject property fronts streets on 2 sides. The easement on the east site will count towards the 15 feet setback from South Dakota Highway 115.

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.

All activities of the proposed building are shown to take place within the building. This will minimize potential nuisances. All new lighting should be required to be pointed downward to prevent direct spillage of light onto neighboring properties and glare.

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

The proposed building will expand an existing commercial development within a Rural Service area. The building will be constructed to match design and scale of the existing buildings. There will be no negative effect to the health, safety, general welfare.

Recommendation:

Minnehaha County staff recommends **approval** of Conditional Use Permit #21-64 with the following conditions:

- 1.) The property shall adhere to the submitted site plan.
- 2.) The footprint of the building shall not exceed 17,600 square feet.
- 2.) A building permit is required prior to the construction of the new addition. Plans must be reviewed and approved by the Minnehaha County Building Inspector.
- 3.) Parking must be provided to meet county ordinance requirements.
- 4.) All parking and loading areas must be hard surfaced according to requirements of Article 15.04 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 5.) That the Planning & Zoning Department reserves the right to enter and inspect the site at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.



Action

As part of the consent agenda, a motion was made to approve Conditional Use Permit #21-64 with staff recommended conditions by Commissioner Ralston and seconded by Commissioner Ode. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-64 – Approved

ITEM 8 CONDITIONAL USE PERMIT #21-66 to exceed 3,600 square feet of accessory building space (requesting 5,320 square feet) on the property legally described as Tract 3 Gates Third Addition SE¼ Section 18 T102N-R51W Hartford Township.

Petitioner: Dawn Howey

Owner: Same

Location: 46068 SD Hwy 38, Approximately 2 miles west of Hartford

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 3 Gates Third Addition SE¼ Section 18 T102N-R51W Hartford Township

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 10.31 acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow 5,320 square feet of total accessory building area. The accessory building will be used for personal storage of vehicles and equipment. The proposed conditional use permit will allow for a 45’x 88’ storage building attached to an existing 30’x 45’ accessory building on the property.

On September 8th, 2021, staff conducted a site visit of the proposed site for the accessory building. The surrounding residential area has several properties with large accessory buildings. This includes a 4.2-acre parcel about a ¼ mile to the southeast of the subject property that received a conditional use permit for 5,200 square feet of accessory building space in 2014. The new accessory building will be located in the center of the 10-acre lot attached to an existing accessory building, and a short distance from the single-family dwelling on the property. The purpose of the building would be used to store vehicles and equipment that are currently being stored outdoors on the property. In addition, the subject property is large enough that the proposed building will not affect the enjoyment of neighboring properties. Finally, the proposed building is setback far enough that it will not affect the sightlines on the highway.



Conditional Use Permit Criteria:

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

There should be no anticipated negative effect upon the use and enjoyment of the residential properties in the immediate vicinity. Property values in the area should also not be negatively impacted due to the personal use of the proposed accessory building.

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

The proposed site of the accessory building is located in an area surrounded by large lots of residential acreages and farmland. There should be no anticipated impacts to the normal and orderly development and improvement of the surrounding vacant farmland. The proposed size of the accessory building is generally compatible with other residential properties in the immediate vicinity

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

The petitioner will be required to extend all required utilities to the structure. The proposed accessory building will be accessed by the existing driveway for the single-family dwelling on the property. The addition of an accessory building should not have any negative effects on the drainage of the surrounding area.

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

The proposed site of the accessory building is large enough to accommodate the off-street parking requirement. The new accessory building will also add additional parking and storage to the 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.

No commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

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

The health, safety, and general welfare of the public will not be negatively affected by the construction of the proposed accessory building. The proposed use will fit within the uses of other properties in the rural area.



Recommendation: Staff recommends **approval** of Conditional Use Permit #21-66 with the following conditions:

- 1) The building location shall adhere to the submitted site plan.
- 2) The total area of all accessory buildings may not exceed 5,320 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That only personal storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5) That all outdoor lighting shall be of a fully-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit is required prior to construction of the accessory building.
- 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 full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made to approve Conditional Use Permit #21-66 with staff recommended conditions by Commissioner Ralston and seconded by Commissioner Ode. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-66 – Approved



ITEM 9. TEMPORARY USE PERMIT #21-01 to allow a temporary camper site during construction on the property legally described as Tract 1 Smithback Addition SW¼ SE¼ Section 26 T102N-R-52W.

Petitioner: Jordan Smithback

Property Owner: Same

Location: 45860 261st Street, Approximately 4 miles southwest of Hartford

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 1 Smithback Addition SW¼ SE¼ Section 26 T102N-R-52W

Present Zoning – A-1 Agriculture

Existing Land Use – construction site for single family dwelling

Parcel Size – approximately 5.99 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The Minnehaha County Planning Department was informed by the building inspector that the property owner was living in a camper on this property. Planning staff sent a violation letter to the property owner, and the property owner has applied for a temporary use permit to resolve the violation. A temporary use permit application includes notifying the neighbors of the proposed use and allows for someone to request a public hearing on the proposed use. A neighboring property owner sent a letter to staff which refers the request to the Planning Commission.

The petitioner is requesting to allow the temporary use of a camper during the construction of a single-family dwelling on the property. Construction on the single-family dwelling has already begun, and the application notes the expected completion date of the dwelling in February 2022.

Standards for Review:

The County Zoning Ordinance includes 9 standards that shall be used to determine the suitability and compatibility of a temporary use request. Below is a list of standards with a description of how the proposed use meets the standard.

1) The temporary use will have no adverse effect on nearby properties or jeopardize public health, safety, and general welfare.

The property currently has an open building permit for a single-family dwelling. A camper on the property during construction will have little to no effect on neighboring properties. If there is any effect of having an occupied camper on the property, the effect will short lived when the house is complete.

2) The temporary use will not create hazardous traffic conditions or result in traffic in excess of the capacity of the roads serving the use.

The proposed use will not generate more traffic than if the property already had a single-family dwelling.



3) The site is adequate to accommodate the proposed use, including the provision for on- and off-site parking.

The property is already being used for the camper site. The property has hookups for utilities and it is large enough to accommodate all parking for the property.

4) Adequate sanitation facilities will be available on the site.

The camper has a bathroom available for the use of the family occupying the camper.

5) The time period and hours of operation for the temporary use are clearly specified.

Since the request is to allow the temporary occupancy, the camper will be occupied potentially 24 hours a day. Other than construction on the permitted dwelling, outside use will be typical of any other dwelling.

6) Provision is made for the removal, clean-up, and restoration of the site.

There is no submitted plan for the removal of the camper. Staff suggest that the camper must not be occupied any longer than the building permit. After the temporary use is complete it is likely that the camper will be stored on the site when not in use.

7) The temporary use will not adversely impact the natural environment.

With available septic system on the site. Using the camper will have minimal impact on the natural environment.

8) The site is suitable for the proposed temporary use, considering flood hazard, drainage, soils, and other considerations which may constitute a danger to life, health, or property.

The property does not have any specific hazards. No floodplain is on the site. The placement of a temporary camper will not cause a dangerous situation off site.

9) All temporary improvements and any permanent structures proposed to be used will comply with all applicable provisions of the county's building code.

No building permit is required for the camper to be on the property. The petitioner already has a building permit for the dwelling and for the accessory building on the site.

Recommendation:

Staff recommends **approval** of Temporary Use Permit #21-01 with the following conditions:

1. Camper and any accessory buildings must be unoccupied as living space once the final inspection of the dwelling on the property is approved.
2. Septage from the camper must be dumped within an approved septic system or septic treatment center.

Public Testimony

Kevin Hoekman, of county planning staff, presented a brief overview of the staff report and recommendation.



Commissioner Ode asked what the petitioner would have to do if they needed to live in the camper past the one-year deadline. Kevin explained that if the single-family dwelling was not completed by the end of the one-year deadline, then the petitioner would have to reapply for a temporary use permit to extend the use of the camper.

The petitioner, Jordan Smithback, was present and available for questions from the commissioners. Mr. Smithback explained that he had a letter from a neighbor that he would like put into the file for the temporary use permit. He further stated that the footings for the dwelling are complete and the septic system has been backfilled, so he will be able to dump the sewage from the camper into this system. Finally, Mr. Smithback explained that they are hoping to have the framing for the dwelling done by November, and that finishing the dwelling by May of 2022 should not be a problem.

Commissioner Duffy then asked Kevin Hoekman if he was aware of the letter that was sent to the petitioner from the neighbor. Kevin explained that he was aware of the letter and that the letter was the reason the request needed to go through the planning commission. He further explained that the letter should have been in the commissioner's meeting packets, but it must have been accidentally left out. Finally, Kevin told the commissioners that the letter from the neighbor stated their concerns about the unsightliness of the property, included ATVs and other construction related equipment.

Commissioner Duffy asked Kevin if the letter was from a neighbor, and Kevin stated that it was a neighbor and that the notification setbacks for a temporary use permit are 600 feet.

Discussion

Commissioner Ralston stated that since no one was present to protest the request, it seemed reasonable to approve the request. Commissioner Ralston further stated that there is a finite end-date to the request, and the petitioner appears to know what they are doing.

Action

Commissioner Ralston motioned to approve Temporary Use Permit #21-01, and the motion was seconded by Commissioner Randall. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

Temporary Use Permit #21-01 – Approved

Old Business

None.

New Business

Scott Anderson, of county planning staff, briefed the commissioners on a bus tour of businesses in the county that is taking place on October 12th, 2021. Scott explained to the commissioners that all of them are welcome to attend, and the deadline for RSVP would be Friday October 8th, 2021.



Commissioner Mohrhauser asked Scott if it would be possible to attend only portions of the tour, instead of the whole day tour. Scott told the commissioners that the itinerary will have estimated times of arrival for each business, and that the commissioners could meet the tour at these businesses if they so desire.

Adjourn

A motion was made to adjourn by Commissioner Ode and seconded by Commissioner Mohrhauser. The motion was approved unanimously. The meeting was adjourned at 7:36 p.m.