

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION  
February 28, 2005**

A meeting of the Planning Commission was held on February 28, 2005 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Deb Bunde, Mike Cypher, Anne Hajek, Susie O'Hara, Don South and Wayne Steinhauer.

STAFF PRESENT: Scott Anderson, Phil Kappen and Pat Herman.

The meeting was chaired by Don South.

**ITEM 1. APPROVAL OF MINUTES – March 24, 2004**

A motion was made by Bunde and seconded by Steinhauer to approve the minutes. The motion passed unanimously.

**APPROVAL OF THE CONSENT AGENDA**

There being no objections from the Planning Commission or audience, a motion was made by Bunde and seconded by O'Hara to approve the consent. The motion passed unanimously.

**ITEM 2. CONDITIONAL USE PERMIT to allow two single family dwellings.**

Legal Description – SW1/4 (Ex. RR & Ex. Edmundson's) Tr. 1 in Section 3-T102N-R47W  
Location - 4 miles southeast of Garretson  
Petitioner / Owner- Arlen Edmundson  
Present zoning - A-1 Agricultural  
Existing Land Use - Agriculture  
Parcel Size - Approx. 17 acres

**Report by:** Phil Kappen

**Staff Analysis** - The subject property is located north of 257<sup>th</sup> Street just east of 487<sup>th</sup> Avenue. The area is predominantly agricultural with scattered acreages. The old farmstead on this quarter section has been broken out as a rural acreage. The remainder of the quarter has three residential eligibilities. Because of the date by which the acreage had been separated from the remaining property the first eligibility is a permitted use, the other two eligibilities are by conditional use permit.

The Planning Commission may wish to consider the following three factors in their review of this Conditional Use Permit application.

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

Due to the agricultural nature of the area, a right-to-farm notice covenant should be required on all lots prior to the issuance of any building permits. This would help inform potential buyers of the residential lots that the surrounding area is predominantly agricultural and of the realities of adjacent agricultural uses.

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

The proposed clustering of the homes should aid in preserving the potential for agricultural production on the remainder of the property.

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

There are some areas along 257<sup>th</sup> Street, a township road, that have severe sight distance problems due to the rolling topography along the road. Staff has received information from Red Rock Township acknowledging that there are sight distance problems. The township has stated that they believe that 3 driveways might be possible provided that the petitioner check with the township for final approval on the location and construction specifications for the driveways.

**Recommendation**

Staff finds that the proposed transfer is in conformance with the precepts of density zoning and can be made to conform with surrounding land uses. Staff recommended approval of conditional use permit # 05-12 with the following conditions:

1. All lots shall be platted and a right-to-farm notice covenant filed on all lots prior to the issuance of any building permits.
2. The petitioner will obtain written approval from Red Rock Township for all driveways onto 257<sup>th</sup> Street and will construct the approved driveways to township specifications prior to the issuance of any building permits.

Based on the staff review, a motion was made by Bunde and seconded by O'Hara to approve the conditional use permit with the conditions as stated. The motion passed unanimously.

**ITEM 3. CONDITIONAL USE PERMIT to transfer one residential building eligibility.**

From - SW1/4 SW1/4 in Section 35-T101N-R48W

To- SE1/4 SE1/4 in Section 34-T101N-R48W

Location - 4 miles east of Sioux Falls

Petitioner / Owner- Earl Grimmus

Present Zoning - A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size - 40 Acres

**Report by:** Pat Herman

**Staff Analysis**

The subject property is located 3.5 miles east of Sioux Falls. Lyon County, Iowa lies to the south of the site, Mryl & Roys Quarry is one mile to the northwest, and Rowena is 1.5 miles northeast of the site. The surrounding land is zoned for agricultural use but much of the ground has quarry outcroppings which limit farming practices. There are three acreages within a quarter mile to the west of the site and one within a half mile to the east. Just north of the property is a 700' radio tower.

In July 2004 the petitioner was approved by the Planning Commission to transfer two residential building eligibilities. Combined with one permissive eligibility, three lots were platted so that each lot was adjacent to the county highway. A total of two driveways was approved for the three lots. The lot to the west was sold with a single driveway. The two remaining lots were sold to one individual who replatted them into one parcel with only one building eligibility. At this time construction has not begun on either site.

The petitioner is requesting to transfer the remaining eligibility to a lot which will be located to the west of the previously platted lots. The new lot will be approximately 10 acres in size.

The Planning Commission may wish to consider the following five factors in their review of this Conditional Use Permit application.

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

A single family dwelling is consistent with the existing and planned residential uses in this area and should not effect the uses already permitted in the area or property values.

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

Transfer of this residential building eligibility does not increase the number of dwelling units allowed under density zoning and the transfer clusters this eligibility with other planned single family dwellings. Because there are agricultural practices in the area a right-to-farm notice covenant should be required.

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

Access is from County Highway 150. The highway department must approve the placement and construction of the driveway access. An on-site wastewater system will be needed and must be designed to meet the county's standards.

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

The minimum lot size allowed for a single family dwelling is one acre which adequately provides enough space to accommodate the required one off-street parking space.

**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 factors should not be an issue for a single family dwelling.

Staff supports the request to transfer one residential building eligibility as it is in conformance with density zoning and the comprehensive plan.

**Recommendation**

Staff recommended approval of Conditional Use Permit # 05- 14 with the following conditions:

1. The lot shall be platted and a right-to-farm notice covenant filed on the deed prior to the issuance of a building permit.
2. Written approval for driveway access is required from the County Highway Department prior to the issuance of a building permit.

Based on the staff review, a motion was made by Bunde and seconded by O'Hara to approve the conditional use permit with the conditions as stated. The motion passed unanimously.

**ITEM 4. CONDITIONAL USE PERMIT to replace single-wide manufactured home with a double-wide manufactured home.**

Legal Description – S585' W1936' E1981' SW1/4 in Section 2-T103N-R48W  
Location - 4 miles northwest of Garretson  
Petitioner / Owner - David Bly  
Present Zoning – General Agriculture District  
Existing Land Use - Residential  
Parcel Size – 26 Acres

**Report by:** Scott Anderson

**Staff Analysis** – The applicant is requesting a Conditional Use Permit to replace an existing sixteen (16) foot by eighty (80) foot manufactured home with a new twenty-eight (28) foot by seventy (70) foot manufactured home. The applicant indicated that the existing single-wide manufactured home has been on the subject property since 1985. They now wish to upgrade their residence.

On February 9, 2005 staff conducted a site visit. The existing land use for the area consists of agricultural uses. The closest existing agricultural operation is located less than ¼ mile to the west at the intersection of 251<sup>st</sup> Street and 482<sup>nd</sup> Avenue. The subject property is well screened from most adjacent properties by a large shelter belt located to the north, east and west. Staff noted two dilapidated accessory structures on the property.

The Planning Commission may wish to consider the following five (5) factors in their review of this Conditional Use Permit application:

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

Upgrading the existing single-wide manufactured home with a newer double-wide manufactured home should not effect the uses already permitted in the area or property values.

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

The proposed Conditional Use Permit should not impact the agricultural/residential nature of the surrounding properties. The property owner will be upgrading the structure with a new manufactured home that has a more house-like appearance. The proposed replacement of the smaller manufactured home with a larger unit will have minimal impact on the development and improvement of any vacant properties in the area.

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

251st Street provides access to the site. No new roads will be needed to access the site. The property is served by a community water system and an on-site wastewater disposal facility. All required utilities exist to the single-family residence.

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

The applicant must provide one (1) off-street parking space for the existing single-family residence. Staff's inspection of the site found that several spaces are available.

**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 location of a new manufactured home on the property as a permanent single-family residence should not create dust, noise, or fumes in any amounts that would constitute a nuisance.

Staff supports the request to upgrade the residence on the subject property with a newer manufactured home. The applicant has indicated that the new manufactured home will have house-type siding and a peaked, nonreflective roof. The proposed manufactured home will better blend into the existing housing stock of the area than the existing single-wide manufactured home.

**Recommendation**

Staff recommended approval of Conditional Use Permit #05-15 to allow a double wide manufactured home to be placed on the subject property with the following conditions:

1. That a building permit be obtained for placement of the new manufactured home and any accessory structures, which requires a site plan to be reviewed and approved by the Planning Director; and,
2. That a manufactured home with the minimum dimensions of 24 feet by 40 feet be allowed on the property meeting all of the requirements of Section 12.06 (C) of the Minnehaha County Zoning Ordinance.

Based on the staff review, a motion was made by Bunde and seconded by O'Hara to approve the conditional use permit with the conditions as stated. The motion passed unanimously.

**ITEM 5. CONDITIONAL USE PERMIT to exceed 1200 sq. ft. of accessory building area (2000 sq. ft. requested.)**

Legal Description – Tract 4A Christensen's 2<sup>nd</sup> Addition S1/2 SW1/4 in Section 23-T102N-R51W

Location - east edge of Hartford  
Petitioner / Owner- Dennis Husman  
Present Zoning - A-1 Agricultural  
Existing Land Use - Residential  
Parcel Size - 1 acre

**Report by:** Pat Herman

**Staff Analysis**

The applicant is requesting a conditional use permit to exceed the 1200 sq. ft. accessory building area established for residential subdivisions by the zoning ordinance. The property is located in a small (6 housing units) residential subdivision on the east edge of Hartford. The property is zoned A-1 Agricultural as are the surrounding properties. There is a 1999 double wide manufactured home on the property which does not have an attached garage, and an 884 sq. ft. accessory building. The existing accessory building is in poor shape and will be removed from the property. The applicant did obtain a building permit for a 192 sq. ft. accessory building this month. At the time of the application the petitioner had not determined the exact size of his new building but felt that a 2000 sq. ft. maximum would be sufficient for his needs.

The Planning Commission may wish to consider the following five factors in their review of this Conditional Use Permit application.

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

The existing accessory building square footage for the neighboring properties ranges in size from 884 sq. ft. to 3,731 sq. ft. The latest application approved by the Planning Commission in this development was for 3,700 sq. ft. in 2002. (Construction never occurred with that application). The petitioner's requested size falls midway between the largest and smallest accessory building areas. This request is reflective of the existing development.

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

As there is no existing attached garage, the construction of a large accessory building should enhance the property by providing adequate storage space for the petitioner. The proposed building should not impact the surrounding properties.

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

Access to the building is from Hwy 38 and the existing driveway will be used.

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

Commercial uses are not allowed in the building so no additional parking spaces are required.

**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 building will be used for personal storage only so there should be no impacts from the above listed offenses.

To ensure the proper size building is constructed a building inspection should be required. This inspection will be handled by the Minnehaha County Building Inspector who will measure the outside dimensions of the building.

Staff supports the request to exceed 1200 sq. ft. of accessory building area as the requested size does not exceed that of the existing accessory buildings and the size will conform to the neighborhood.

**Recommendation**

Staff recommended of approval of the conditional use permit with the following conditions:

- 1) Accessory building area shall not exceed 2000 sq. ft.
- 2) Accessory building height is limited to one story.
- 3) No commercial uses shall be permitted.
- 4) A building inspection is required.
- 5) The 884 sq. ft. accessory building shall be removed from the property within one month of the completion of the new accessory building.

Based on the staff review, a motion was made by Bunde and seconded by O'Hara to approve the conditional use permit with the conditions as stated. The motion passed unanimously.

**ITEM 6. CONDITIONAL USE PERMIT to allow a Class One Major Home Occupation Photography Studio.**

Legal Description – Benson's Tract 1 in Lot 2 NW1/4 NW1/4 in Section 3-T104N-R57W  
Location - 6 miles north of Sherman  
Petitioner / Owner- Marie Thesenvitz  
Present Zoning – General Agriculture District  
Existing Land Use - Residential  
Parcel Size – 5 Acres

**Report by:** Scott Anderson

**Staff Analysis** – The applicant is requesting a Conditional Use Permit to allow a class one home occupation on the above described property. The applicant has indicated that in addition to the residence, an accessory structure will be used in conjunction with the operation of the home occupation. The photo studio use requires the applicant to store and utilize backdrops. These backdrops are stored and utilized in the accessory structure. The proposed accessory structure will be approximately thirty (30) feet by forty (40) feet in size. The proposed size of the accessory structure exceeds the general guidelines for a Major Home Occupation as outlined in Section 12.0302 of the Minnehaha County Zoning Ordinance, which is 750 square feet.

On February 9, 2005, Staff conducted a site visit. The applicant indicated that the use of the accessory structure will occur at a later date, once the business is more established. The proposed 30 foot by 40 foot structure would be built on the north side of the existing steel building, which is southwest of the residence.

The surrounding land uses consist of agricultural uses. The closest farmstead is located approximately ¼ mile to the north in Moody County. In addition, another farmstead is located approximately ½ mile to the

northeast, also in Moody County. Two (2) farmsteads are located ½ mile to the west. The subject property is completely screened from adjacent properties by both deciduous and large evergreen trees.

The Planning Commission may wish to consider the following five (5) factors in their review of this Conditional Use Permit application:

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

The proposed home occupation of a photographic studio as a home occupation should have limited effect on the uses already permitted in the area or property values. The applicant has indicated that traffic to the site should be very limited. Some of the photography will take place off-site.

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

The proposed Conditional Use Permit should not impact the agricultural/residential nature of the surrounding properties. The applicant may not change the outside appearance of the residence to indicate any business activity. The proposed home occupation will have minimal impact on the development and improvement of any vacant properties in the area.

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

244th Street provides access to the site. This road is paved and in excellent condition. No new roads will be needed to access the site. All required utilities exist to the single-family residence.

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

The applicant must provide one (1) off-street parking space for the existing single-family residence and should provide two (2) off-street parking spaces in front of the building to be used for the home occupation. Staff's inspection of the site found that 6-8 parking spaces are available.

**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 has indicated that the business conducted on the property will consist of a photography studio. If the home occupation is conducted within an enclosed structure located on the property and the traffic to and from the site is limited, the home occupation should create little of the above-listed elements in amounts that would constitute a nuisance.

**Recommendation**

Staff recommended approval of Conditional Use Permit #05-18 to allow a photography studio as a Class 1 home occupation with the following conditions:

1. That no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential or agricultural use;
2. That the applicant be limited to one (1) non-illuminated wall sign, which shall not exceed two (2) square feet and one (1) non-illuminated free-standing sign, which shall not exceed four (4) square feet each in area for the home occupation. A Sign Permit shall be obtained prior to the installation of any sign;
3. That the employees of the home occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site;
4. That no stock or trade shall be displayed or stored outside the enclosed structures located on the property;
5. That a minimum of three (3) off-street parking spaces be provided. Each parking space shall measure at least nine (9) feet by eighteen (18) feet and shall be kept in a dust free manner;
6. That the home occupation be limited to a photographic studio. Any expansion beyond this will require the Conditional Use Permit to be reviewed;
7. That the applicant obtain a Sales Tax License; and,
8. That the applicant obtains a Building Permit prior to beginning construction on the accessory

structure that will be used for the photo studio. This will require a site plan to be submitted indicating the setbacks and information outlining the disposal of any wastewater.

Based on the staff review, a motion was made by Bunde and seconded by O'Hara to approve the conditional use permit with the conditions as stated. The motion passed unanimously.

The Dell Rapids Planning Commission joined the meeting. Members present: Bob Davis, Roger Dearduff, Dale Dunn, Chair Bob Lamberty, Chris Mullaney, and Larry Skatvold.

Item 7 was deferred from the January 28, 2005 meeting and was heard jointly with the Dell Rapids Planning Commission.

**ITEM 7. CONDITIONAL USE PERMIT to exceed 1200 sq. ft. of accessory building area (1944 existing, 768 proposed) and allow 2712 sq. ft. of accessory building area.**  
Legal Description – Overvaag Tr. 8 SW1/4 in Section 8-T104N-R49W  
Location - ½ mile west of Dell Rapids  
Petitioner / Owner- Russ Nelsen  
Present Zoning - RR-5 Rural Residential  
Existing Land Use - Residential  
Parcel Size - 6.3 Acres

**Report by: Pat Herman**

**Staff Analysis**

The subject property is located on the west edge of Dell Rapids and north of Highway 115. The parcel is zoned RR-5 Rural Residential with a required minimum lot size of five acres. This zoning district is only found on the west and south edges of Dell Rapids. The Dell Rapids Comprehensive Plan 2000-2020 depicts this area for residential development.

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

The petitioner proposes to exceed 1200 sq. ft. of accessory building area which requires conditional use permit approval. There is an existing 1944 sq. ft. accessory building and a new 768 sq. ft. accessory building would be constructed. This would bring the total accessory building area to 2712 sq. ft. The existing accessory buildings located in this neighborhood range in size from 288 sq. ft. to 3200 sq. ft. Past actions by the Planning Commissions have limited the maximum allowed accessory building area per lot to 3200 sq. ft.

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

The building size proposed by the applicant is consistent with the development of other properties in the neighborhood.

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

Existing roads and utilities will service the building.

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

Commercial uses are not allowed in the building so no additional parking spaces are required.

**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 building will be used for personal storage only so there should be no impacts from the above listed offenses.

To ensure the proper size building is constructed a building inspection should be required. This inspection will be handled by the Minnehaha County Building Inspector who will measure the outside dimensions of the building.

**Recommendation**

Staff found the requested accessory building area to be compatible with the existing development standards and recommended approval of the conditional use permit with the following conditions:

- 1) Accessory building area shall not exceed 2712 sq. ft.
- 2) Accessory building height is limited to one story.
- 3) No commercial uses shall be permitted.
- 4) A building inspection is required.

**Public Testimony**

The petitioner, Russ Neslen, stated the building would have 10-12' side walls and would match his existing building. The new building will be used for storage and as a barn for a pony. Ms. Herman explained that a conditional use permit would be needed to have a pony on this residentially zoned property.

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

A motion was made for the County by Bunde and seconded by O'Hara to approve the conditional use permit with the conditions as stated. The motion passed unanimously. Same motion for the City by Dearduff and seconded by Davis. The motion passed unanimously.

Item 8 was heard jointly with the Dell Rapids Planning Commission.

**ITEM 8. CONDITIONAL USE PERMIT allow mini-storage units.**

Legal Description - Lot 11A Sward Addition E1/2 in Section 16-T104N-R49W  
Location - south edge of Dell Rapids of Dell Rapids  
Petitioner / Owner- Scott Crisp  
Present zoning - I-1 Industrial  
Existing Land Use - vacant industrial  
Parcel Size - 0.47 acres

**Report by:** Phil Kappen

**Staff Analysis** - The subject property is located along Centennial Place on the south edge of Dell Rapids. The property to the north is commercial land within the Dell Rapids City limits. The properties to the immediate west, south and east are industrial. There is one legal non-conforming residence on the I-1 zoned property two lots to the west of the subject property and two residences on agriculturally zoned land approximately 400 feet to the southeast.

The property is the same on which the Planning Commission considered a CUP for a body shop in August of 2004 (CUP #04-76). The petitioner has determined that the proposed use would be a better fit on the property and now wishes to construct storage garages on the property rather than the previously-approved body shop and auto sales. The buildings would be placed along the wet boundary of the property and the driveway would be constructed along the east side of the property.

The Planning Commission may wish to consider the following five factors in their review of this Conditional Use Permit application.

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

The proposed use is of a type that is commonly found in commercial or industrial areas.

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

There are some existing trees existing on the lot, some of which would have to be removed to accommodate the proposed use. Where possible, trees on the site should be retained. In keeping with other uses in the area, street trees should be required along Centennial Place.

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

The site accesses Centennial Place which is a hard-surfaced road. Therefore, all driving and parking surfaces on the site must also be hard-surfaced. The zoning ordinance requires that any parking areas adjacent to a residential use area must be screened from the residential area. As has been noted, there are existing trees on the site. As the residential lots are not immediately adjacent to the site, and since no outside storage is proposed, the preservation of any trees along the eastern boundary should provide any necessary screening.

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

There can be no on-street parking of vehicles. All vehicles associated with the use must be able to park on the site. The petitioner's site plan does not show any outside storage and, with the potential expansion, there would be little room for such storage. Therefore, all outside storage should be prohibited.

**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.**

Any outdoor lights should be limited to shoebox style that direct the light downward and prevent the spillage of light onto any adjacent properties. Any signs must conform with the requirements set forth in the ordinance and a building permit must be obtained prior to erecting any signs.

**Recommendation**

Staff found the proposed use to be consistent with the types of uses found in the I-1 zoning district and that the use can be made consistent with surrounding land uses. Staff recommended approval of conditional use permit #05-18 with the following conditions:

1. The proposed use shall conform with the site plan submitted as a part of the CUP application and no outside storage shall be allowed on the site.
2. The trees along the boundaries of the property shall be retained wherever possible. Trees shall also be planted within the required fifteen-foot setback along Centennial Place at a maximum spacing of 40 feet on center. Deciduous trees shall be a minimum caliper of 1¼ inches and coniferous trees shall be a minimum of five feet in height. All trees shall be planted by June 1, 2005.
3. All parking and driving surfaces shall be hard surfaced. The hard-surfacing shall be completed prior to the commencement of the use.
4. All outdoor lighting shall be of a shoebox style that directs the light downward and prevents the spillage of light onto any adjacent properties.

**Public Testimony**

The petitioner, Scott Crisp, stated that these units would be used for indoor camper storage. He will not have any outdoor storage. Mr. Crisp stated that he is in agreement with the recommended conditions.

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

A motion was made for the County by Cypher and seconded by O'Hara to approve the conditional use permit with the conditions as stated. The motion passed unanimously. Same motion for the City by Skatvold and seconded by Dunn. The motion passed unanimously.

**ITEM 9. CONDITIONAL USE PERMIT to amend CUP #86-25 - hours of operation for trap shooting.**

Legal Description – E1/2 NW1/4 SE1/4 & Ne1/4 SE1/4 (Ex. Tr. 1 Alvine's Addn. & Ex H-1) in Section 36-T101N-R51W

Location - 3 miles west of Sioux Falls

Petitioner / Owner- Francis Phillips

Present zoning - A-1 Agricultural

Existing Land Use - private recreation facility

Parcel Size - approx. 56 acres

**Report by:** Phil Kappen

**Staff Analysis -** The subject property is located ¼ mile north of 268<sup>th</sup> Street and to the west of 466<sup>th</sup> Avenue (S.D. Hwy 17). The properties to the north, west and south are agricultural and the property across the highway to the east is residential. The petitioner has been operating a trap shooting business as a part of the Wild Water West complex since 1987. The shooting range is in the western portion of the

amusement park area and the shooting range clubhouse is situated in the southwest corner of the property.

**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 conditional use permit for the shooting range use was approved by the Planning Commission in July of 1986 (CUP # 86-25) with the following conditions:

1. A five foot berm shall be placed along the south and east sides of the range.
2. Hours of operation shall be from 10:00 AM to sunset.
3. The Planning Office shall monitor the noise level.
4. Operation of the range shall commence no earlier than June 1, 1987. The Planning Commission shall review the operation before June 1, 1988 and determine if the conditional use permit should remain in effect.

The petitioner wishes to change the hours of operation from 9:00 AM to 10:00 PM.

The layout of the site allows the firing of guns only to the west. This feature should be continued as the greatest distance to residences lie in that direction. The closest houses are found 3400' to the WNW; 3000' to the SW; 1100' to the S; 1800' 1900' and 2000' to the SE; and 2000 feet to the east.

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

Staff has not received a comprehensive site plan for the amusement park. Past additions and changes to the park have been addressed in a piecemeal fashion, with no apparent long range plan for the development of the area. This is the eleventh conditional use application which our office has received regarding the amusement park or various related uses. Before any additional expansion or construction within the park a master plan should be provided to the Planning Office which shows all existing uses and all proposed additions. In addition to park features the plan should also show all parking areas and the areas designated for wastewater treatment and storage. Accompanying documentation should also be provided which shows the maximum occupancy load of the amusement park on a peak day and the hours of operation of the park.

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

Access to the trap shooting site is through the south parking area of Wild Water West and along a gravel access road to the southwest corner of the amusement park.

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

Staff does not know the numbers of patrons which might have to be served at any particular time as we do not have peak loading capacities. The amusement park, however, has ample overflow parking space for the trap shooting use.

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

The trap shooting site currently has lighting only next to the clubhouse. It is assumed that the extension of the hours of operation after sunset will require additional lighting. All lighting should be limited to shoebox style lighting which directs the light downward and prevents the spillage of any light beyond the boundaries of the subject property.

Staff is not aware of any complaints that have been filed against the trap shooting use in the past, however, extending the hours to 10:00 PM could become problematic. There could be instances when a group isn't quite done with the trap shooting course at 10 o'clock and is allowed to finish. Given that fact that there are residential uses in the area, it may be more appropriate to require that the trap course close at 9:00 PM to ensure that the use is closed down and the potential for noise ends well before ten o'clock.

The site is not currently set up for rifle or pistol use and should be limited to the use of shotguns only.

**Recommendation –**

Staff found that the proposed use can be made to fit with surrounding uses if specific conditions are applied to the permit. Staff recommended approval of conditional use permit #05-13 with the following

conditions:

1. A five foot berm shall be placed along the south and east sides of the range.
2. Hours of operation shall be from 9:00 AM to 9:00 PM.
3. The Planning Office shall monitor the noise level. If noise complaints are received, the Planning Office can bring the permit back before the Planning Commission for further review.
4. The operation shall be limited to a trap shooting range for shotgun use only. The range shall be oriented so that the shooting is directed towards the west.
5. All exterior lighting shall be of a shoebox style which directs the light downward and does not allow the spillage of light beyond the boundaries of the property.
6. A master plan for the entire amusement park and trap shooting range should be provided to the Planning Office which shows all existing uses and all proposed additions. In addition to park features the plan should also show all parking areas and those areas designated for wastewater treatment and storage. Accompanying documentation should also be provided which shows the maximum occupancy load of the amusement park on a peak day and the hours of operation of the park.

### **Public Testimony**

The petitioner, Francis Phillips, described the layout of the trap shooting area. There is a club house which has two box lights in front. Two years ago they invested in new machines and automation which has led to an increase in business. He would like more hours to accommodate that growth. The morning hours would be used to host Game, Fish & Parks training days for children. In the winter the evening hours would be used for league shooting. Mr. Phillips envisions using the clubhouse for dinners, followed by time at the shooting range. The existing lights are sufficient for night shooting on the range. This is an opportunity to build a winter business. Mr. Phillips stated that he could live with a 9 p.m. closing time but would prefer 10 p.m. While his current CUP allows for shooting 7 days a week, during the winter he is only open 5 days a week.

Clara Bertsch, 26745 465<sup>th</sup> Ave., lives west of the site. She is not opposed to having the trap shooting, just concerned about the safety of shooting at night. She can hear the shooting now if outdoors and it doesn't bother her. She cannot hear noise inside her house.

Marlene & Stanley Plucker, 46510 268<sup>th</sup> St., owns the land south and southwest of the range and are very concerned about safety. They have been working in the field and gotten hit with BBs. It would be very scary to be out baling at night and have BBs dropping on them. Mr. Stanley feels that the range needs to be aligned so that the BBs drop on Wild Water West's land, not his. Besides his own safety, Mr. Plucker is also concerned about damage to his crops and land.

Brett Meadors, 46574 268<sup>th</sup> St., lives south of the range and has three small children. Safety is his big concern. He knew the range was there when he bought this house and the noise is not an issue. He feels that longer hours would allow more continuous use of the site. Mr. Meadors pointed out that pheasant hunting is only allowed until sunset. He wondered if the G, P & F training could not be handled through a temporary permit instead of changing the hours.

Mr. Phillips acknowledged that the wind could pull the targets from the northern machine to the south, causing shot to carry onto the Plucker's property. He is willing to shut down the range when the Pluckers are working in the field. There was a problem with clay pigeons landing on their property but Mr. Phillips has erected nets which have stopped that from happening. Mr. Phillips noted that the range was already in place when he purchased the property.

Commissioner Steinhauer suggested planting poplar trees along the west property line. The range is only 25 yards from the property line. Commission Hajek suggested a mesh barrier of some sort to block the shot. She pointed out that the shot should not be leaving Mr. Phillip's property. Commissioner Hajek wondered if the range could be moved. Mr. Phillips explained the machines were anchored in concrete and that it would be costly to move them. He also noted that no shooting is allowed if there is a high wind.

Mr. Plucker stated that he just wants the shot to fall on Mr. Phillip's property, not his. He noted the shot was capable of being carried 235 yards. He doesn't think there is a barrier that could be erected to stop the BBs.

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

Mr. Kappen explained that the petitioner has met all the requirements of the CUP issued in 1986. At that time noise seemed to be the major concern.

Commissioner Steinhauer stated that he was sympathetic to the petitioner's need to expand the business but this range is only 25 yards from the property line. He would like to see a plan or creative solution for barriers.

Expansion at this point would only increase an existing problem and he could not support it. Commission Hajek concurred but stated that even with a denial, there is still an existing safety issue. Mr. Anderson noted that staff had just become aware of the safety issue at this meeting tonight. After discussion staff did not feel the current CUP could be suspended but that the Planning Commission could address the safety issue even if the petitioner were to withdraw his application because a safety complaint had been raised at the meeting.

Mr. Phillips stated that he was not opposed to deferring the item so that he could devise a development plan that would address the safety concerns.

In order to allow the petitioner time to develop a site plan and address the Planning Commission's concerns a motion was made by Steinhauer and seconded by Cypher to defer this item to the April 25, 2005 Planning Commission meeting. The motion carried unanimously.