

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION  
September 26, 2005**

A meeting of the Planning Commission was held on September 26, 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, Mark Rogen, Don South, and Wayne Steinhauer.

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

The meeting was chaired by Don South.

**APPROVAL OF THE CONSENT AGENDA**

There were request that Items 5 & 7 be placed on the regular agenda. There being not other changes from the Planning Commission or audience, a motion was made by Steinhauer and seconded by Bunde to approve the consent agenda (Items 5 & 7 removed). The motion passed unanimously.

**ITEM 1. MINUTES – August 22, 2005.**

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

**ITEM 2. PRELIMINARY SUBDIVISION PLAN.**

Legal Description – E1/2 SW1/4 and W1/2 W1/2 SE1/4 of Section 7-T101N-R47W

**General Information**

Location -	2 miles southwest of Brandon
Petitioner / Owner-	Hazel McHardy
Present zoning -	A-1 Agricultural
Existing Land Use -	Agricultural
Parcel Size -	65 acres

**Report by:** Phil Kappen

**Staff Analysis**

A condition use permit was approved at the July meeting to transfer a number of building eligibilities in order to create this subdivision. A preliminary subdivision plan was also approved at that meeting. The petitioner has made some changes to the preliminary plan and asks approval of the revised plan.

The preliminary subdivision plan shows a total of 6 lots accessing 264<sup>th</sup> Street via a subdivision road and a single driveway. Upon approval of the preliminary subdivision plan, all subsequent plats must conform with the preliminary plan. No building permits could be issued until the final plats are completed, and any requirements from the conditional use permit are met.

**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 topography, most of the building sites will be situated lower than the township road. In many cases, the view from the road will almost be above the proposed homes.

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

The proposed layout of the subdivision places the residential lots in a pasture area and preserves cropland areas. Some of the lots include area within the base flood elevation (100-year flood), however, all lots have ample area beyond the flood area for construction of a home and the necessary septic systems.

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

The subdivision ordinance notes that cul-de-sacs should generally be limited to 500 feet. If a cul-de-sac is proposed longer than that length, the petitioner should show justification for the added length. In this situation, the topography of the site, specifically the difference in elevation between the majority of the site and the road, limits where access can be made onto the township road. The best means of accessing the subject property is through the proposed road/driveway pattern. The road would access 264<sup>th</sup> Street at a high point along the township road (the location of an existing field approach) and at a driveway toward the eastern

boundary of the property. The road would then be curved around the hillside to minimize the required slope on the roadway.

The proposed road will have to either be platted as a publicly-dedicated right-of-ways or as a private roadway.

If platted as a public ROW the plats will be required to either show that the township agrees to accept responsibility for the road or that a home owner's association will be established with responsibility for all road maintenance and repair. If the road is to be a private roadway, a homeowner's association would be required to accept responsibility for the road.

The petitioner has contacted the township regarding the possibility of a direct access onto 264<sup>th</sup> Street from lot 5. The township has agreed to allow the driveway access for that lot.

Staff recommended approval of the preliminary subdivision plan.

Based on the staff report a motion was made by O'Hara and seconded by Rogen to approve the preliminary subdivision plan. The motion passed unanimously.

**ITEM 3. CONDITIONAL USE PERMIT #05-79 to allow the commercial stabling of horses with riding arenas.**

Legal Description - NW1/4 NW1/4 (ex W540' & ex pt Haensel Tr. 1) in Section 7-T101N-R50W

**General Information**

Location -	46613 263 <sup>rd</sup> Ave., 2.5 miles west of Ellis
Petitioner / Owner-	Scott Boyd
Present zoning -	A-1 Agricultural
Existing Land Use -	Agricultural / Residential
Parcel Size -	22.62 Acres

**Report by:** Scott Anderson

**Staff Analysis**

The surrounding land uses are a mix of both agricultural and residential uses. There are six (6) other residences located within a ½ mile radius of the subject property. The subject property appears to be well suited for horses, as it has rolling hills, which would be too steep to cultivate.

On September 14, 2005, staff conducted a site inspection. The applicant's single family residence is located on the subject property. The driveway coming off of 263<sup>rd</sup> Street only approximately 13 feet wide and asphalted. Staff has concerns about the width of this driveway. The width is not sufficient for two vehicles to pass each other. This could lead to stacking issues on 263<sup>rd</sup> Street. Staff recommends that prior to the operation of the stable the driveway from 263<sup>rd</sup> Street leading to the arena be improved to a width of twenty (20) feet for a distance of forty (40) feet.

Staff met with the applicant, who provided a tour of the proposed boarding facility. Four (4) horses will be boarded in a barn, six (6) horses will be kept in outdoor stalls, which are under construction and ten (10) horses will be pastured. It appeared that there were ample facilities to board twenty (20) horses on the 22 acre parcel.

**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.**

With proper management and use, the proposed arena/stable should not impact the uses or enjoyment of properties in the vicinity. Hours of operation should be set in order to minimize any impact on neighboring properties. Staff recommends that the hours of operation should be between 7:00 a.m. and 10:00 p.m. daily.

**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 nature of the surrounding properties. The mixture of residential and agricultural uses will not be hindered with the establishment of a horse arena and

stable facility.

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

As staff noted, the access road into the site is only approximate 13 feet wide. Staff does not feel this width is adequate for safe vehicular traffic to pass one another without leaving the existing driving surface. With the proposed additional use of horse boarding, vehicles with horse trailers will be accessing the property on this driveway. The driveway into the property will need to be expanded. Staff will include widening this road to a safe width of twenty (20) feet in the recommended conditions of approval

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

The applicant has not indicated any off-street parking on the site plan submitted. The applicant will have to meet all of the requirements of Article 15 of the Minnehaha County Zoning Ordinance or obtain a Variance reducing or waiving parking standards. There appeared to be ample parking observed during staff's visit.

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

There is a potential for increased odor and dust associated with this use. There will be increased dust associated with the increase of traffic into and out of the arena/stable facility. The applicant must properly dispose of animal waste so that no odor occurs and flies are kept at a minimum. With proper maintenance, however, dust and odor should not reach a level that would constitute a nuisance.

Staff finds that the proposed use can be operated with minimal impact on neighboring land uses. Staff recommended approval of Conditional Use Permit #05-79 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-stranding 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 shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed a total of four (4) employees on site.
- 4) That this Conditional Use Permit allow the stabling of up to twenty (20) horse other than horses owned by the applicant and arena to be used for horse training.
- 5) That at least one (1) 2A-BC dry chemical fire extinguisher be located in the stable area and accessible to all guests at all times.
- 6) That the applicant informs Metro Communications of the business name, address and activities occurring on the subject property.
- 7) That the applicant meets all of the parking requirements as outlined in Article 15 of Minnehaha County's Zoning Ordinance.
- 8) That the applicant obtains a Sales Tax License as required by the South Dakota Department of Revenue and any other licenses for horse boarding that may be required by the state.
- 9) That prior to the operation of the boarding/training facility, the applicant shall increase the width of the existing access road to a width of twenty (20) feet from the intersection of 263rd Street (County Highway 140) to the south for a distance of forty (40) feet.
- 10) That the hours of operation for the arena shall be between 7:00 a.m and 10:00 p.m. All horse boarding activities should be completed during the same hours when possible.
- 11) That all animal waste be disposed of in such a manner that any odor is limited and the number of flies is mitigated.

Based on the staff report a motion was made by O'Hara and seconded by Rogen to approve conditional use permit #05-79 with the stated conditions. The motion passed unanimously.

**ITEM 4. CONDITIONAL USE PERMIT #05-80 to allow the transfer of one residential building eligibility.**

From – Tract 4 Miller’s Addition in Section 27-T101N-R51W  
To – Tract 1 Miller’s Addition in Section 27-T101N-R51W

**General Information**

Location - 46353 266<sup>th</sup> St, ½ mile east of Wall Lake  
Petitioner / Owner- Ronald Nelson  
Present zoning - A-1 Agricultural  
Existing Land Use - Residential  
Parcel Size – 21.90 Acres

**Report by:** Pat Herman

**Staff Analysis**

The property is located a half mile east of Wall Lake. This site is zoned A-1 Agricultural as are the surrounding properties. In 2001 the Planning Commission approved the transfer of two residential building eligibilities in the north half of Section 27. That same year a plat was approved for four residential lots abutting 266<sup>th</sup> Street, each lot having one building eligibility. The petitioner is requesting to transfer one eligibility from Tract 4 to Tract 1. Tract 1 has an existing house.

**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.**

Transfer of the eligibility to the adjacent lot should have no effect on the surrounding properties. There is no increase in the number of residences allowed in the area, only a shifting of one dwelling unit 300’ to the east.

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

The transfer is consistent with density zoning and development in the area should not be affected. The lots were platted and right-to-farm notice covenants filed at the time the transfer was approved in 2001.

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

The utilities are already in place and a new wastewater system will be added for the new construction. There is existing driveway access to 266<sup>th</sup> Street.

Staff found the request to be in conformance with density zoning and recommended approval of conditional use permit #05-80 to transfer one residential building eligibility.

Based on the staff report a motion was made by O’Hara and seconded by Rogen to approve conditional use permit #05-80. The motion passed unanimously.

**ITEM 5. CONDITIONAL USE PERMIT #05-81 to allow the transfer of two residential building eligibilities.**

From – SE1/4 SE1/4 and NE1/4 SE1/4 in Section 19-T102N-R50W  
To – NW1/4 SE1/4 in Section 19-T102N-R50W

Item 5 was placed on the regular agenda.

**ITEM 6. CONDITIONAL USE PERMIT #05-82 to allow the transfer of one residential building eligibility.**

From – NE1/4 SW1/4 in Section 15-T101N-R47W  
To – NW1/4 SW1/4 in Section 15-T101N-R47W

**General Information**

Location - 1.5 miles south of Valley Springs

Petitioner / Owner- Forrest Miller / James Larsen  
Present zoning - A-1 Agricultural  
Existing Land Use - Agriculture  
Parcel Size – 40 Acres

**Report by:** Phil Kappen

The subject property is located 1½ miles south of Valley Springs. The surrounding properties are agricultural and residential acreages. The petitioner wishes to transfer one eligibility from a landlocked quarter-quarter to a parcel that would access County Highway 103.

**Staff Analysis**

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

The petitioner is requesting that only one eligibility be transferred. There are, however, a number of other eligibilities that are not being transferred, but would be used on site. Even though there are a number of acreages in the area, the predominant land use is agriculture. Right-to-farm notice covenants should be required on all lots.

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

A preliminary subdivision plan should be required to ensure that any lots that are broken out are properly platted and that access

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

There is an existing field approach located where the eligibility would be transferred. That driveway, however, would be safer if it were lined up across from the driveway on the west side of the county highway. The petitioner should be required to move the driveway so it lines up with the driveway on the west side of the highway.

There would be no new roads constructed as a part of this development, however, there would be a potential for a number of driveways that could be added. As there are locations on the property that would not allow safe access onto roads due to topography, a preliminary subdivision plan of the entire half section should be required to ensure that safe access is made and shared driveways are used where possible.

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

All parking for these uses shall be confined to the properties. No on-street parking shall be allowed.

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

The use of the properties strictly for single-family residences should result in no added nuisances. No other uses are authorized by this action.

Staff found that the proposed transfer complies with the precepts of density zoning and recommended approval of conditional use permit #05-82 with the following conditions:

- 1) The existing driveway just north of the creek on the subject property shall be removed and a new driveway constructed to align with the acreage driveway on the west side of the highway. No other driveways shall be allowed onto the county highway. A driveway permit shall be obtained from the Minnehaha County Highway Department prior to the construction of the new driveway.
- 2) A preliminary subdivision plan shall be prepared for the south half of the section showing, in addition to all required items, all existing or proposed lots in that portion of the section and all driveway access points. Where possible, shared driveways shall be utilized.
- 3) All lots shall be platted and a right-to-farm notice covenant shall be filed on each lot prior to

the issuance of any building permit.

Based on the staff report a motion was made by O'Hara and seconded by Rogen to approve conditional use permit #05-82 with the stated conditions. The motion passed unanimously.

**ITEM 7. CONDITIONAL USE PERMIT #05-83 to allow a home occupation for repair of pinball/vending machines.**

Legal Description - Gelderman Tr. A SW1/4 (ex. W1255.41' & ex. School Tr. 1) in Section 14-T102N-R50W

Item 7 was placed on the regular agenda.

**REGULAR AGENDA**

A motion was made by O'Hara and seconded by Rogen to approve the regular agenda with the addition of Items 5 & 7. The motion passed unanimously.

**ITEM 5. CONDITIONAL USE PERMIT #05-81 to allow the transfer of two residential building eligibilities.**

From – SE1/4 SE1/4 and NE1/4 SE1/4 in Section 19-T102N-R50W  
To – NW1/4 SE1/4 in Section 19-T102N-R50W

**General Information**

Location -	3 miles east of Hartford
Petitioner / Owner-	John Andersen
Present zoning -	A-1 Agricultural
Existing Land Use -	Agriculture
Parcel Size –	40 Acres

**Report by:** Pat Herman

**Staff Analysis**

The property is located approximately 3 miles east of Hartford on Benton St. The surrounding land use is agricultural. There is a cattle lot a ½ mile to the east and staff notified the operator about this application.

The petitioner is requesting a transfer of two residential building eligibilities. The receiving parcel has one eligibility available, so there would be a total of three eligibilities in the NW1/4 SE1/4. There is an existing acreage which uses the remaining eligibility for this quarter.

**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.**

Transfer of the eligibilities would place the homes on ground used as pasture and maintain the prime crop acres. The transfer would move two eligibilities closer to an existing CAFO. A right-to-farm notice covenant should be required on the deed of each property. The petitioner should inform potential buyers of the CAFO's location and that there is the possibility that it could expand in the future.

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

Transfer of the eligibilities should not effect the development of the vacant property. There are available eligibilities on the 40 to the north and west of this site, and there is a planned auction for both those sites, as well as these proposed transfer eligibilities, in October.

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

Access to the three building sites would come from an existing driveway which extends from Benton St. south for a quarter mile to an established acreage. The driveway was platted as 40' wide tract in 1963 and is owned by the petitioner. The driving surface itself is only 12-13' wide, insufficient for safely accommodating vehicles for four dwelling sites or for emergency vehicles. The driveway should be replatted as a 66' right-of-way as regulated by the County Subdivision Ordinance. The road may be designated as either public or private, but the driving surface must be 24' wide. Because this road will

about a gravel township road (Benton St.) hard surfacing is not required.

Transfer of the two eligibilities and the existing eligibility, combined with the existing acreage, results in a small subdivision. The petitioner shall be required to submit a preliminary plan which addresses the road issue, shows contour lines, and the other required items as listed in section 4.01 of the Subdivision Ordinance.

As the transfer of the two eligibilities conforms with density zoning and preserves crop ground, staff recommended approval of conditional use permit # 05-81 with the following conditions:

- 1) A preliminary plan and final plat shall be submitted and approved prior to the issuance of any building permits.
- 2) A right-to-farm notice covenant shall be filed on the deed of each lot prior to the issuance of any building permits.
- 3) Access to all three lots shall be from the private or public road to be shown on the preliminary plan and final plat. No access will come from Benton Street.

#### **Public Testimony**

Ms. Herman explained that the maintenance for the existing easement driveway was paid by the owner of the existing acreage and she feels the new owners should share in that cost. The petitioner has agreed to a fourth condition being added which reads:

- 4) A maintenance agreement for the road must be submitted which is agreed to by the property owner(s) of Melins Tract 3 W1/2 SE1/4 in Section 19-T102N-R50W and the owners and/or developers of the new lots prior to the issuance of a building permit.

Commissioner Bunde was conflicted on this request to transfer eligibilities. The transfer would result in clustering the houses but would move them closer to an existing CAFO. If they are left where they are, they will be in the middle of the farm ground. She noted that more homes would lead to more conflicts on the roads between cars and farm machinery. She would like to reexamine the issue of eligibilities and wondered if Minnehaha County was really promoting agriculture. This item is hard because neither way is really better.

Commissioner Cypher wondered how the road standards would be enforced. Ms. Herman explained that the preliminary plan will address the road issues. The buyers will have to post a letter of credit to cover the cost of road construction.

Commissioner Hajek suggested that the right-to-farm notice covenant be expanded to add the type and number and of animal units of the nearby CAFO, and the size that it could expand to. The other Commissioners agreed and suggested reexamining the right-to-farm notice covenant.

Forrest Miller with Merle Miller Real Estate represented the petitioner, John Andresen, who was also present. Mr. Miller stressed that the eligibilities were being moved from tillable land to less desirable pasture and creek. He wants to make this work with the county's objectives. They do not want access from Benton St. and have no problem with the added condition. When selling this property they always stress the negatives of living in the county and require the buyers to sign the right-farm notice covenant. Mr. Andresen had recently purchased this land but does own and farm the adjacent 120 acres.

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

Commissioner South noted that the recent purchase of land and quickly transferring and selling off the eligibilities continues to bother him. Commissioner Bunde realizes that everyone has to live somewhere, however CAFO's can only be in an agricultural area. Commissioner Hajek stated that the sellers should be required to inform the buyers of the existing CAFO.

Based on the staff report and public testimony a motion was made by Steinhauer and seconded by O'Hara to approve conditional use permit #05-81 with the following conditions:

- 1) A preliminary plan and final plat shall be submitted and approved prior to the issuance of any building permits.
- 2) A right-to-farm notice covenant shall be filed on the deed of each lot prior to the issuance of any building permits.

- 3) Access to all three lots shall be from the private or public road to be shown on the preliminary plan and final plat. No access will come from Benton Street.
- 4) A maintenance agreement for the road must be submitted which is agreed to by the property owner(s) of Melins Tract 3 W1/2 SE1/4 in Section 19-T102N-R50W and the owners and/or developers of the new lots prior to the issuance of a building permit.
- 5) The right-to-farm notice shall contain the type and number of animal units of the existing CAFO and an explanation of the expansion options of the operation.

The motion passed unanimously.

**ITEM 7. CONDITIONAL USE PERMIT #05-83 to allow a home occupation for sales and repair of pinball/vending machines .**

Legal Description - Gelderman Tr. A SW1/4 (ex. W1255.41' & ex. School Tr. 1) in Section 14-T102N-R50W

**General Information**

Location -	47046 259 <sup>th</sup> St., ½ mile south of Crooks
Petitioner / Owner-	Daniel Kearney
Present zoning -	A-1 Agricultural
Existing Land Use -	Residential
Parcel Size –	6.92 Acres

**Report by:** Scott Anderson

**Staff Analysis**

The applicant has requested Conditional Use Permit to allow the operation of a class 1 home occupation. The applicant wants to repair vending and pinball machines out of an accessory structure. The repair work will be conducted out of a proposed new structure approximately 3500 square feet in size. Initially the applicant indicated that approximately 1500 square feet of the proposed structure will be used for the proposed repair business. As this home occupation can only be classified as a Class 1 occupation due to the limited lot size, only 750 square feet of an accessory structure can be used for the home occupation. There will be very limited customer traffic to the site. The applicant indicated a maximum number of customers to range between 5-10 per month. The majority of business related traffic will be associated with the applicant transporting vending and pinball machines to and from the site.

On September 14, 2005, staff inspected the property. The subject property was clean and there did not appear to be any zoning violations. The driveway has good site distance. The surrounding land uses consist primarily of agricultural uses.

**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 closet residences are located approximately 1/3 of a mile to the east and west. The applicant indicated that all pinball and other amusement devices will be kept indoors. No stock or trade will be stored outdoors. The site will maintain a residential appearance.

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

The establishment of a home occupation on this property should have little or no impact on the normal and orderly development of vacant property in the area. The proposed home occupation has very little customer traffic associated with it, thus it will primarily be the residents of the property at the site.

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

The property has direct access off of 259<sup>th</sup> Street. No other improvements will be required for the operation of the home occupation.

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

There is ample parking in front of the existing residence and within the remainder of the 3500 square foot

accessory structure.

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

The proposed use if properly operated should not produce odor, fumes dust, noise, vibrations or lighting in amounts that would constitute a nuisance. Staff will recommend conditions of approval that limit the hours of operation in order to eliminate activity during evening and early morning hours. Staff finds that the proposed home occupation can be operated with minimal impact on neighboring land uses.

Staff recommended approval of Conditional Use Permit #05-83 to allow a pinball and vending machine sales and repair business as a Class 1 home occupation with the following conditions:

- 1) That applicant shall abide by all requirements of Article 12.0302(A) of the Minnehaha County Zoning Ordinance.
- 2) The allowable hours of operation shall be between 7:00 a.m and 10 p.m.
- 3) That the applicant obtains a Sales Tax License as required by the South Dakota Department of Revenue and any other permits that may be required by the state.
- 4) That the applicant informs Metro Communications of the business name, address and activities occurring on the subject property.
- 5) 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-stranding 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.
- 6) 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.

**Public Testimony**

The petitioner, Daniel Kearney, stated that he needs more than 750 sq. ft. of accessory building area for his business. He has been fixing pinball machines since he was 17. He does not service commercial businesses, only those machines used for home entertainment. 90% of his work is done as service calls to the home. The machines themselves are physically huge, 34" wide and 5' long. Each manufacturer had a separate make and model and he needs one from each manufacturer up and running to be able to test parts on the machines. This means 12 to 15 machines set up at any given time. There are times when he may have to bring a machine to this site to work on. The business itself is a niche business and will be very clean. Mr. Kearney stated he would like at least 1500 square feet of area. He does maintain some machines to sell. About half of the 1500 sq. ft. would be taken up by the machines and the other half would be work space and storage of parts.

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

Commissioner Cypher, noting that the building would have to be insulated and cooled, was concerned what would happen to the building if the petitioner sold the property. Commissioner Steinhauer stated he had some concern with the showroom but didn't think it would generate much traffic.

Based on the staff report and public testimony, a motion was made by Steinhauer and seconded by Bunde to approve conditional use permit #05-83 with the following conditions:

- 1) That applicant shall abide by all requirements of Article 12.0302(A) of the Minnehaha County Zoning Ordinance with the exception of #2.
- 2) The allowable hours of operation shall be between 7:00 a.m and 10 p.m.
- 3) That the applicant obtains a Sales Tax License as required by the South Dakota Department of Revenue and any other permits that may be required by the state.
- 4) That the applicant informs Metro Communications of the business name, address and activities occurring on the subject property.

- 5) 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-stranding 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.
- 6) 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.
- 7) In addition to the dwelling, up to 1500 square feet of accessory building spaced may be used for the occupation.

The motion passed unanimously.

The Dell Rapids Planning Commission joined the meeting. Members Present: Bob Davis, Roger Dearduff, Darrel Donelan, Chair Bob Lamberty, Chris Mullaney and Larry Skatvod.

**Item 8 was deferred from the August 22, 2005 meeting and was heard jointly with the City of Dell Rapids.**

**ITEM 8. ZONING ORDINANCE TEXT AMENDMENTS – to amend those portions of the Joint Minnehaha County and City of Dell Rapids Zoning Ordinance pertaining to application and permit fees.**

**Report by:** Scott Anderson

**Staff Analysis**

Staff is proposing a fee increase for Temporary Use Permits, Rezonings, Conditional Use Permits, Variances and Appeals, Zoning Permits and Planned Developments. The proposed increase in fees is to better reflect the actual cost incurred by the County for the processing of applications. While it is impossible to give an exact amount each submittal costs to process, the County incurs the cost of processing the application, site visits and research, mailing notices, preparation of Planning Commission packets, staff overtime for meetings, and archiving the submittals. The amount currently collected for each submittal does not cover the actual cost incurred by the County.

The proposed fees were based on similar fees charged by the City of Sioux Falls. It should be noted that other counties in South Dakota, such as Pennington and Lawrence Counties, charge significantly more for identical requests within their jurisdictions. A list of fees charged by Pennington County is included for comparison.

The proposed fee increase will not cover the cost of operating the Planning Department. In 2003, Minnehaha County expended \$344,514.00 for the operation of the Planning Department. During 2003, however all revenue combined for the Planning Department was only \$136,455.48 or 39.6%. Similarly, in 2004 expended \$364,458.00 and collected only \$139,642.50 in revenues or 38.3%. The fees collected through August 31, 2005 equal \$82,936.00, the budget for 2005 is \$391,164.00. Based on the number of building permits issued to date, it is unlikely that over \$125,000.00 in revenue will be generated by year end of 2005. I have included a chart for 2003, 2004 and 2005 indicating the revenue stream collected by the Planning Department. In addition, another chart showing the current county fees, fees charged by Sioux Falls, and proposed fees is included for review. The estimated additional revenue is then projected using the figure that Sioux Falls charges for services and what the proposed increase in fees would raise.

Staff recommended approval of the following amendment to the Joint Minnehaha County and City of Dell Rapids Zoning Ordinance.

ORDINANCE MC28-

AN ORDINANCE AMENDING THE 2001 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY AND THE CITY OF DELL RAPIDS BY REVISING TEMPORARY USE PERMITS AND FILING FEES APPLICABLE TO APPLICATIONS.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC28-01, the 2001 Revised Zoning Ordinance for Minnehaha County and the City of Dell Rapids is hereby amended as follows:

**Section 1: That Article 12.00 is hereby amended to read:**

12.11 TEMPORARY USES (H) Fees. A fee of ~~\$50.00~~ 250.00 shall accompany the application for a temporary use permit.

**Section 2: That Article 24.00 is hereby amended to read:**

24.02 CHANGE OF ZONE. A fee of ~~\$175.00~~ 350.00 shall be charged for filing an application to change the zoning classification of property, except to the Planned Development District. If any use, for which a rezoning is required, is commenced prior to the application for a rezoning, the application fee shall be double the regular fee.

24.05 CONDITIONAL USE. A fee of ~~\$100.00~~ 250.00 shall be charged for filing an application for a conditional use permit in any district. If any use, for which a conditional use permit is required, is commenced prior to the application for a conditional use permit, the application fee shall be double the regular fee.

24.06 BOARD OF ADJUSTMENT. A fee of ~~\$50.00~~ 250.00 shall be charged for filing ~~an~~ a Variance application ~~for~~ or an appeal to the Zoning Board of Adjustment.

24.07 ZONING PERMIT. A fee of ~~\$20.00~~ 50.00 shall be charged for all zoning permits not requiring a building permit fee.

24.08 PLANNED DEVELOPMENT DISTRICT. A fee of ~~\$175.00~~ 350.00 plus ~~\$25.00~~ 50.00 for each subarea shall be charged for the filing of an application to change to the Planned Development District. If any use, for which a rezoning is required, is commenced prior to the application for a rezoning, the application fee shall be double the regular fee.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2005

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
County Auditor

**Public Testimony**

Commissioner Dearduff expressed his dislike of the suggested increase in fees. He wanted to know what increases other offices such as the Sheriff were doing. Commissioner Hajek explained that the fees being charged do not come close to cover the costs associated with each application. She said that all the County Departments had been asked by the County Commission to examine their fee scale. Minnehaha County is well behind most counties in South Dakota. Commissioner Dearduff stated that he did feel the proposed fees were justified. Commissioner Hajek stated that Mr. Anderson had suggested what he feels is reasonable.

Commissioner Mullaney agreed that the fees needed to eventually be in line with other entities, but the increase proposed is too drastic. People making application would not be in support of the fee raises. Commissioner Hajek stated that the taxpayers don't want to be the ones covering the costs for each individual request. Less than 1% of the taxpayers submit applications but the rest of the tax payers are having to fit the bill.

Commissioner Lamberty was under the impression that this item was deferred so staff could suggest alternative charges, however nothing had been changed. Mr. Anderson replied that the Commissions had asked for information on the budget and the revenue raised by these fees. He noted that the fees were last raised two years ago.

Commissioner Mullaney asked where the fee money went. Commissioner Hajek explained that the money goes into the general fund and helps cover the cost of operating the county government. This also helps to alleviate the amount of money the County has to borrow from its reserves. The County needs more money to operate. Mr. Anderson stressed that the money collected from fees does not cover the cost of processing each application. He also noted that this was not a reoccurring fee which someone need to pay over and over. Most people only have to pay this fee once. Both Commissioners Mullaney and Lamberty again expressed concern over the higher fees.

The County Planning Commission had earlier discussed these same fee changes when meeting jointly with the City of Sioux Falls and felt the issues raised at that time applied to this proposed amendment. The following is the Commission's comments on the fee changes:

Commissioner Hajek explained that the County Commission had requested Mr. Anderson submit rate increases. The County needs to generate more revenue to cover operating expenses. Minnehaha County has had low fees in comparison to what other Countys charge throughout the state. For example, the Lifelight concert would have had to pay between \$600-\$1600 in Pennington County but the fee here was just \$50. That doesn't come close to meeting the expenses. Commission Hajek stressed that the taxpayers having to make up the expense gap, but that the money should be coming from the person or parties paying the fees. She asked the Commissions to support the changes.

Commission Steinbauer stated that he had wanted further information before he could vote on this issue. He views planning as a service to the community, much like the sheriff, and is willing to support that service as a taxpayer. He did not feel the Planning Department's budget should be met by the fees collected, but the numbers provided show only 52% of the budget would be covered. He is comfortable with that number. He is concerned with the fee for the Board of Adjustment which handles variances and administrative appeals. Many of those issues are small adjustments, and he feels \$100 would be a more appropriate fee. Commissioner Steinbauer does not want to see the fees become an inhibitor for people to apply.

Mr. Anderson noted that fees can hinder some people from approaching things in the correct manner. However, the fees need to help cover the costs of an application - items such as research, postage, and legal ads. He noted that the Planning Department is now facing added costs from other businesses such as fuel surcharges on deliveries of office supplies. The Department has to be able to absorb the growing costs of development within the community.

Commissioner Steinhauer and South both inquired on the method used by Pennington County for temporary use permits. Mr. Anderson explained that that section of the ordinance was entitled temporary campgrounds and assemblies of people. If an event was small and operating for less than 36 hours no permit would be needed. Larger events would require an assembly permit which, based on the number in attendance, could range from \$75 to \$1500. Applicants also have to pay the application fee of \$300 for a conditional use permit. Mr. Anderson noted that adopting such a method would require a major amendment to the zoning ordinance.

Commissioner Rogen questioned the construction permit listed on one of the attachments. Mr. Anderson explained that that was something he was looking at implementing in the future. It would help to monitor how property was constructed, taking into account such items such as drainage patterns, floodplain issues and erosion. There is currently no provision in the ordinance to address these matters.

Commission Hajek stated that she would like to see these amendments move ahead and suggested that those fees which were in question be pulled out. Commissioner South felt no changes should be made to temporary use permits until the matter could be further studied. Mr. Anderson suggested that a subcommittee be formed to address temporary use permits as there is such a diverse possibility of applications that fall under that category.

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

Based on the staff report and public testimony a motion was made by Steinhauer and seconded by Bunde to recommend approval of the amendments to the fees with the following two changes:

Temporary Uses to remain at \$50.00 and a further study of various options.

Board of Adjustment: \$100.00

The motion passed unanimously.

Same motion for the City by Skatvold and seconded by Davis. The motion passed (Dearduff, Donelan, & Mullaney nay).

**Attachment A**

**Planning Department Proposed Fee Increase**  
June 15, 2005

<b>County Action</b>	<b>Current County Fee</b>	<b>Proposed Fee</b>	<b>Additional Revenue Raised</b>	<b>Sioux Falls Fee (current)</b>	<b>Add. Rev. Raised</b>	<b>Approx. Yearly Average</b>
Plat	\$20 plus \$5 per lot	\$250 plus \$25 per lot	\$35,000	\$80 + \$10 per lot over 2 for new plats \$110 + \$10 per lot over 2 for re-plats	\$6,000	100
CUP	\$100	\$250	\$15,000	\$200	\$10,000	100
Rezoning	\$175	\$350	\$750	\$350	\$1,750	10
Variance & Appeal	\$50	\$250	\$800	\$75.00 V \$65.00 A	\$250	10
Subdivision Regulations Variance	\$0	\$250	\$250	\$75.00	\$250	1
Construction Permit	New proposed	\$100	?	\$45.00		New
Drainage Permit	\$50 if downstream owners agree \$100 if CB action is needed	\$100 if downstream owners agree \$200 if CB action is needed	\$3,750	\$45.00 (Grading Permit)	0	75
Planned Unit Development	\$175 plus \$25 per subarea	\$350 plus \$25 per subarea	0	\$350 Prelim Plan - \$225 Final Plan - \$150	\$175	0-1
Septic Systems	\$75	\$150	\$9,375	N/A	0	125
Building Permits	\$15 minimum	\$50 minimum	\$1,750	\$20	\$250	50
			<b>Total: \$66,675</b>		<b>Total \$18,675</b>	

Attachement B

Pennington County Planning Fees  
As of 9/1/05

Plat - \$350.00 plus \$25.00 per lot application fee  
Subdivision Regulations Variance - \$250.00  
CUP - \$300.00  
Rezoning - \$300.00  
Variance & Appeal - \$250.00  
Construction Permit - \$75  
Planned Unit Development - \$300.00  
Septic Systems \$150 per hour (1 hour minimum charge)  
Building Permits - \$50.00 minimum.  
Temporary Use Permit (Gatherings of People) \$600.00 to \$1,600.00 depending on size

County Planning Commission Minutes

September 26, 2005

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**MONTHLY RECEIPTS - 2005**

Month	13140 Bldg Permit	13142 Rezoning s	13143 Cond. Use	13144 Drainage	13145 Variance	13146 Septic	1314 7 Sol. Waste	13612 Plats	13613 Bluelines	13615 GIS	13616 Extraction	13716 Misc.	TOTALS
January	783.00		300.00		50.00				4.00	5.00			1142.00
	631.00		100.00			75.00				5.00	705.00		1516.00
February	662.00		600.00	50.00		100.00		225.00		5.00	549.00	5.00	2196.00
	2675.00		200.00			50.00		25.00		5.00	170.00		3125.00
March	4134.50	175.00	500.00	50.00		150.00		75.00		36.00		18.00	5138.50
	5009.00		600.00	50.00	50.00	400.00		215.00		21.00	125.00	20.00	6490.00
April	6039.50		500.00	100.00		1225.0 0		100.00		27.00		36.00	8027.50
	5934.00		600.00	100.00		750.00		25.00		20.00			7429.00
May	4089.00	175.00	500.00	50.00	150.00	450.00		135.00		39.00		0.75	5588.75
	4825.00	350.00	800.00	625.00		300.00		25.00	4.00	70.00			6999.00
June	5525.00	175.00	200.00		50.00	1000.0 0		150.00	8.00	235.0 0		23.00	7366.00
	3206.00		250.00	50.00		500.00		75.00		95.00			4176.00
July	6564.00		400.00			375.00		105.00		40.00		2.00	7486.00
	7835.00		700.00	50.00		525.00		260.00		11.00			9381.00
August	5657.00		500.00			600.00		80.00		20.00		18.28	6875.28
	5324.00	175.00	200.00	275.00	50.00	525.00		230.00				1020.7 5	7799.75
September	6175.00		400.00		50.00	375.00		180.00	4.00				7184.00
													0.00
October													0.00
													0.00
November													0.00
													0.00
December													0.00
													0.00
TOTALS	75068.0 0	1050.00	7350.0 0	1400.00	400.00	7400.0 0	0.00	1905.0 0	20.00	634.0 0	1549.00	1143.7 8	97919.78

**Attachment D**

**MONTHLY RECEIPTS - 2004**

Month	13140 Bldg Permit	13142 Rezoning s	13143 Cond. Use	13144 Drainage	13145 Variance	13146 Septic	1314 7 Sol. Waste	13612 Plats	13613 Bluelines	13615 GIS	13616 Extraction	13716 Misc.	TOTALS
January	1493.00		350.00	600.00	30.00				7.00	10.00			2490.00
	870.00	100.00	300.00	1200.00		75.00		135.00					2680.00
February	1324.00		50.00					90.00	4.00		485.00	18.00	1971.00
	4788.00		350.00					50.00		5.00	150.00		5343.00
March	4042.00	50.00	300.00			150.00		75.00		30.00	70.00		4717.00
	4041.00	200.00	200.00	50.00		650.00		125.00	12.00		470.00	28.00	5776.00
April	7340.00	150.00	600.00	150.00		1150.00		80.00				10.00	9480.00
	8975.00		350.00	950.00	30.00	1425.00		50.00		25.00			11805.00
May	4400.00		300.00	700.00		675.00		165.00	8.00	405.00			6653.00
	5841.00		400.00	50.00		650.00		130.00				5.00	7076.00
June	5935.00	350.00	750.00	600.00		775.00		125.00		110.00			8645.00
	5468.00		200.00			900.00		80.00	4.00	58.00		5.00	6715.00
July	3077.00		700.00			750.00		25.00		20.00			4572.00
	4189.00		500.00	100.00		875.00		100.00	3.00			5.00	5772.00
August	6502.00		700.00			275.00		185.00		24.00			7686.00
	5063.50		100.00			525.00		25.00	15.00	18.00		5.00	5751.50
September	6552.00	175.00	900.00	150.00		225.00		55.00	4.00			10.00	8071.00
	3148.00		100.00		100.00	350.00		50.00		41.00		6.00	3795.00
October	4918.00		300.00	50.00		600.00		155.00				20.00	6043.00
	5626.00			200.00		1200.00		125.00	4.00	30.00			7185.00
November	3846.00		300.00	200.00		675.00		160.00	4.00	10.00			5195.00
	5203.00			275.00		525.00			8.00	5.00		5.00	6021.00
December	4303.00	175.00	700.00	350.00		525.00		105.00		37.00		5.00	6200.00
	1576.00	175.00		375.00		75.00		120.00	8.00	50.00			2379.00
TOTALS	108520.50	1200.00	8450.00	6000.00	160.00	13050.00	0.00	2210.00	81.00	878.00	1175.00	122.00	139642.50

**Attachment E**

**MONTHLY RECEIPTS - 2003**

Month	13140 Bldg Permit	13142 Rezoning s	13143 Cond. Use	13144 Drainage	13145 Variance	13146 Septic	1314 7 Sol. Waste	13612 Plats	13613 Bluelines	13615 GIS	13616 Extraction	13716 Misc.	TOTALS
January	1124.00	100.00	400.00					55.00		40.00		5.00	1724.00
	907.00		50.00			150.00		65.00	4.00	12.00	375.00	5.00	1568.00
February	5602.00		100.00	50.00				50.00	18.00		610.00	9.00	6439.00
	1114.00		130.00	100.00				50.00	8.00	20.00		5.00	1427.00
March	1759.00		200.00			75.00		100.00	16.00	9.00			2159.00
	5508.00		200.00			150.00		25.00	4.00				5887.00
April	4473.00		200.00	325.00		500.00		190.00	6.00	41.00		23.00	5758.00
	6771.00		550.00	25.00		1250.00		30.00		46.00			8672.00
May	3885.50	100.00	150.00	225.00		1050.00		180.00	4.00				5594.50
	7749.50		250.00	175.00		950.00		200.00		1.00			9325.50
June	7197.00	100.00	250.00	100.00		675.00		80.00					8402.00
	5666.50	100.00	350.00			1050.00		50.00		5.00			7221.50
July	6457.00	100.00	150.00			600.00		180.00		55.00		22.98	7564.98
	7104.00		200.00	50.00		900.00		90.00		43.00		5.00	8392.00
August	7456.00		250.00	100.00		675.00		65.00	6.00	7.00			8559.00
	4274.50		300.00			850.00		25.00		25.00			5474.50
September	8024.00		100.00	150.00		1125.00		50.00				5.00	9454.00
	5701.00		450.00	50.00		975.00		175.00				10.00	7361.00
October	5995.50	300.00	250.00	225.00		675.00		225.00	8.00	54.00		30.00	7762.50
	4417.00		150.00	200.00		825.00			3.00				5595.00
November	3625.00		150.00	100.00		450.00		155.00	4.00	30.00			4514.00
	2643.00	100.00		150.00		150.00		125.00		5.00		18.00	3191.00
December	3255.00		50.00	450.00		525.00		125.00		5.00			4410.00
	1875.00		150.00	50.00		150.00		230.00					2455.00
TOTALS	112583.50	900.00	5030.00	2525.00	0.00	13750.00	0.00	2520.00	81.00	398.00	985.00	137.98	136455.48

**Item 9 was deferred from the June 27 and August 22, 2005 meetings.**

**ITEM 9. CONDITIONAL USE PERMIT #05-52 to allow an electrical substation.**

Legal Description - Lot U1 of Tract of Oak Ridge Tracts S1/2 SE1/4 and Lot U2 of Tract 2 of Lacey Tracts SW1/4; in Section 5-T101N-R48W

**General Information**

Location - 8502 E. Maple St., 1.5 miles east of Sioux Falls  
Petitioner / Owner - East River Electric Power Cooperative, Inc.  
Present zoning - A-1 Agricultural  
Existing Land Use - Agriculture  
Parcel Size - 2.24 Acres

**Report by:** Scott Anderson

**Staff Analysis**

The property is zoned A-1 Agricultural. Article 3.04(V) of the Zoning Ordinance allows a utility substation as a Conditional Use in this zoning district. The applicant is proposing to operate a 67 kV substation.

The surrounding land uses are a mixture of residential and agricultural uses. The property to the north, east and west appears to be used for agricultural purposes. The property to the south consists of residential development, Indian Hills subdivision.

This item was first heard before the Planning Commission on June 27, 2005. At that meeting three (3) residents spoke out in opposition to the request. Several other neighborhood residents were in the audience. The Planning Commission continued the conditional use permit request to the August 22, 2005 meeting and suggested that East River Electric and the neighborhood meet to discuss the issues and explore other options. The first neighborhood meeting was held on August 11, 2005. The neighbors listed their concerns after a presentation by East River Electric. Based on the concerns, East River Electric requested another continuation to the September 26, 2005 Planning Commission meeting. A second neighborhood meeting was held on September 12, 2005 where East River Electric proposed a new east/west configuration for the substation that would move the location somewhat further away from the residential subdivision to the south. This required the applicant to purchase additional land. The closest residence will not be approximately 445 feet away. In addition, East River Electric has secured the services of a professional horticulturalist to study the sight, test the soils and prepare a landscaping plan using vegetation that will thrive. During the meeting on September 12, 2005, East River Electric addressed each of the issues raised during the August 11, 2005 meeting. Soil borings were performed to determine the depth to bedrock. Soil boring were dug to a depth of 18 feet with no bedrock found. HUD regulation were researched to determine if this type of financing would be impacted with the location of the proposed substation. It would not be, as no residences would be located in the "fall zone". Noise evaluations were also provided to the crowd showing that noise would be less than 55 decibels at the location of the landscaping. There would be no discernable noise to the residents.

**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 existing sparse residential development and agricultural uses within the area, the proposed utility substation should not have a negative effect upon the normal and orderly development and

improvement of these properties for uses predominant in the area. The utility substation will insure adequate electric service to present and future development for the area.

The site plan submitted by the applicant indicates landscaping consisting of pine trees and bushes. It appears that pine trees will be planted along the east and west sides of the property and partially along the north side. Only bushes will be planted along the south side. Staff is satisfied with the landscaping plan submitted and recommends that East River Electric follow this plan and keep the landscape in a live state.

During the September 12, 2005 meeting, the residents requested staff to discuss the impact an electrical substation located approximately 445 feet away would have on property values. The closest residence is located 445 feet away, while the two other closest are well over 500 feet away. On September 13, 2005, staff obtained the following statement from the Director of Equalization. *“In my experience I have never been able to identify any noticeable reduction in value due to location of power station or water tower.”* This statement would indicate that there will be no impact on the assessed valuation of the surrounding properties.

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

Due to the existing agricultural use on properties within the area and the natural buffer provided by the terrain, the proposed utility substation should not have a negative effect upon the normal and orderly development and improvement of these properties for uses predominant in the area. The proposed landscaping and two acre lot should provide an adequate buffer for the area. The applicant has indicated that the proposed substation will insure adequate electric service to present and future development for the area.

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

Access to the proposed utility substation will be provided by Maple Street, which is a section line road. It appears that the site utilizes natural drainage. The proposed substation will not use any water or produce any wastewater.

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

The applicant has not indicated any off-street parking on the site plan submitted with the Condition Use application. Article 15 of the Zoning Ordinance does not specifically identify the parking requirements for a utility substation. Staff recommends that two (2) off-street parking spaces be provided. A utility substation typically does not generate any significant amounts of traffic. Each parking space should measure a minimum of nine feet by 18 feet and be continually maintained in such a manner that no dust will result from continuous 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 proposed Conditional Use Permit may generate limited fumes, dust and noise. The applicant has indicated that the proposed substation will have lights for monitoring and maintaining the facility; however, the substation will not be continually lighted. The property's terrain and the surrounding agricultural uses limit the impact the proposed substation may have on surrounding properties.

The utility substation will be providing a benefit to the community. With appropriate conditions of approval, any concerns can be mitigated. Staff's review indicates that the proposed Conditional Use is a use which is appropriate for this site. Staff recommends approval of Conditional Use Permit #05-52 to be established and conducted in conformity with the Zoning Ordinance and the recommended conditions of approval.

Staff recommended approval of Conditional Use Permit #05-52 to allow a utility substation in the Agriculture District with the following conditions:

- 1) That the substation be entirely enclosed in a minimum eight (8) foot high fence, gated and

- locked.
- 2) That a minimum of two (2) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty two square feet, or nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use.
  - 3) That all existing drainage ways be maintained and that erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water.
  - 4) That the applicant follow the proposed landscaping shown on the vegetation plan and that the all landscaping be maintained in a live state. The applicant shall also control all noxious weeds on the site.
  - 5) That the applicant obtain a building permit prior to any construction commencing on the site.
  - 6) That the applicant obtain and keep current any required S.D. Public Utilities permits and meet all noise standards set by the Public Utilities Commission.
  - 7) All outdoor lighting shall be of a shoe-box type with the light directed toward the ground.

### **Public Testimony**

Commissioners Hajek left the meeting for this item due to a conflict of interest. Commissioner Rogen remained in the room but will abstain from voting due to a conflict of interest.

Mr. Anderson stated that East River Electric had held two public meetings since the June 27, 2005 meeting.

Jim Edwards with East River Electric presented a powerpoint presentation detailing their plans and the changes which had been made to try to accommodate the concerns of the neighborhood. A copy of the presentation is on file with the Planning Department. Mr. Edwards stressed that they had moved the electrical substation back as far as possible, given the terrain. The substation has been rotated so that it runs east and west instead of north and south. This change will place the substation 327' back from the center of Maple St. and approximately 420' from the nearest house. Mr. Edwards noted that the PUC does not have any requirements for noise but included a graphic which showed that there would be an average 54dB 160' from the substation. Another concern of the neighbors was the potential use of dynamite in the construction of the substation. Mr. Edwards stated that borings had been done and that there was no rock in the area of construction and that dynamite would not be needed. He estimated that construction of the substation would take six weeks.

There were numerous neighbors attending the meeting but they elected to have four residents address the Commission. Dave Huntimer, 8501 E. Maple St., Larry Gorsuch 2205 N. Indian Hills Trl., Allan Hall 2200 N. Indian Hills Trl., and Wayne Crosby 2204 N. Indian Hills Trl. had a power point presentation which is on file with the Planning Department. They feel East River Electric made only minimal changes and would like the site pushed further to the north. They are concerned with the unsightliness of the substation and how long it will take trees to grow to hide the site. Residents settled in the area for the scenic surroundings, the wildlife, and the safety of the area. EMF's (electro magnetic fields) are also a concern. They acknowledge buying houses under a powerline but feel the substation would double the EMF's in the area. Another concern is the 50' tower shown of the plan. Visually it will impact the neighborhood and they do not want to see it rented out to other users. The neighbors feel their property values will be affected with the mean house values reduced by at least 10%. The residents don't feel East Electric's changes have been fair and reasonable to the homeowners and they asked the Planning Commission to deny the application.

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

Commissioner South questioned the tower. Mr. Edwards stated that the tower was needed to monitor the substation. It was is only for their use and would be set on at the north end of the site. It could be a monopole type design. Mr. Anderson noted that a variance would be needed as the height restriction for this zoning district is 35 feet. Mr. Edwards also noted that there have been lots of studies concerning EMF's but nothing has been proved either way. The substation would not add to the EMF level in this area.

Commission Cypher stated that he was comfortable with the setbacks proposed by East Electric. They

have done what the Commission requested and this substation is needed to accommodate the growth in this part of the county. He stated that condition # 4 should require compliance with the landscape plan proposed by SDSU and that an eight condition be added to require a monopole tower.

Based on the staff report and public testimony a motion was made by Cypher and seconded by Steinhauer to approve conditional use permit #05-52 with the following conditions:

- 1) That the substation be entirely enclosed in a minimum eight (8) foot high fence, gated and locked.
- 2) That a minimum of two (2) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty two square feet, or nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use.
- 3) That all existing drainage ways be maintained and that erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water.
- 4) That the applicant comply with the proposed landscaping plan from SDSU as shown on the vegetative plan and that the all landscaping be maintained in a live state. The applicant shall also control all noxious weeds on the site.
- 5) That the applicant obtain a building permit prior to any construction commencing on the site.
- 6) That the applicant obtain and keep current any required S.D. Public Utilities permits and meet all noise standards set by the Public Utilities Commission.
- 7) All outdoor lighting shall be of a shoe-box type with the light directed toward the ground.
- 8) That the tower be of a monopole design.

The motion passed (Hajek absent, Rogen abstaining).

**Item 10 was deferred from the August 22, 2005 meeting.**

**ITEM 10. CONDITIONAL USE PERMIT #05-66 for a Class 2 major home occupation.**

Legal Description - W1/2 NE1/4 (ex W300' N450') & the W1/2 SE1/4 north of the RR in Section 6-T101N-R47W

**General Information**

Location - 48473 262<sup>nd</sup> St., 2 miles west of Valley Springs  
Petitioner / Owner - Mark Erickson  
Present zoning - A-1 Agricultural  
Existing Land Use - Agricultural  
Parcel Size - 76.91 Acres

**Report by:** Phil Kappen

**Staff Analysis:**

This item was first scheduled for the August Planning Commission meeting. Prior to that meeting, the petitioner requested that the item be deferred to the September meeting. The petitioner wishes to obtain a permit for a Class II Major Home Occupation to legitimize an existing use on the subject property. The petitioner currently operates a manufacturing facility in the farmstead area on this property for the purpose of manufacturing aircraft parts. The manufacturing use is operated out of two accessory buildings on the property. The two buildings are 4000 sq.ft. and 5040 sq.ft. in size. The amount of area utilized for the manufacturing uses in the buildings totals 6432 sq.ft. The zoning ordinance does not set a specific size criteria for Class II facilities, however, for comparison purposes the criteria for a Class I Major Home Occupation is 750 square feet.

Planning staff received a complaint about the use on the property and confirmed the violation through the Minnehaha County Equalization Office. Upon contacting the petitioner they immediately applied for the major home occupation permit.

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

The petitioner currently has 6 employees (all family members who live on site) employed as a part of the

manufacturing operation. Some of these employees are part-time. The ordinance sets a general limit of five employees for a Class II Major Home Occupation.

There are no on-site visits from customers, all orders are taken by phone and deliveries made off-site. There is also no outside storage of parts, materials or scrap on the property. The property is well cared for and, at this time, does not pose any concern as far as being an eyesore. The site sets well back off of the county highway.

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

The zoning ordinance requires that a Class II Major Home Occupation use remain secondary to the primary use of the property for agricultural production.

Staff has concerns about the potential precedent which may be set by approval of a manufacturing plant as a major home occupation. Manufacturing of this sort would typically require an I-1 Industrial zoning and a conditional use permit. The Minnehaha County Comprehensive plan delineates those areas adjacent to interstate exchanges or rural service areas such as Lyons and Crooks as proper locations for industrial development. The proposed site does not meet any of those location requirements and staff has concerns that approving this type of use could encourage the petitioner to commit to additional expenditures and improvements on the site that would result in uses or structures that would be inconsistent with the allowed long-term uses.

Staff also wishes to express concern over the potential precedent which could be set by approving a use that was first begun in violation of both the comprehensive plan and the zoning ordinance. This could lead to people starting other types of uses in violation of either the plan and ordinance because “the property owner was unaware of the law” and then, because of expenditures and improvements made to the property, asking the county to legitimize their use.

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

Access to the property is via 262nd Street (Co. Hwy 138).

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

There would be ample space for off-street parking.

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

Manufacturing uses can result in increased odor, fumes, dust, noise or vibration. The petitioner should be prepared to specifically address these factors at the planning commission meeting. Manufacturing buildings such as this are also required to meet specific requirements under the building code. Since these buildings were not approved for manufacturing use prior to construction, it is doubtful whether they meet the code requirements. The only building permits for accessory buildings which have been issued for this property are for a 50x80' pole shed farm building in 1982 and a 48x105' metal pole building for personal agricultural storage in 1998.

Staff has concerns about the potential precedent set by approving this type of use at this location. The comprehensive plan does not provide for manufacturing uses in this type of location and staff recommended denial of conditional use permit #05-66.

**Public Testimony**

Mr. Kappen stated that the petitioner had contacted the Planning Staff and requested that this item be deferred until the October 24<sup>th</sup> meeting.

A motion was made by Cypher and seconded by O'Hara to defer Item 10 until the October 24, 2005 meeting. The motion passed unanimously.

**ITEM 11. REZONING from A-1 Agricultural to I-1 Light Industrial.**

Legal Description – South 1220' of that portion of the NE1/4 lying west of the I-29 ROW in Section 12-T102N-R50W

**General Information**

Location -	1 mile east of Crooks
Petitioner / Owner-	Donald Dunham, Jr. with Green Valley Development
Present zoning -	A-1 Agricultural
Existing Land Use -	Agriculture
Parcel Size –	± 40 Acres

The subject property is located south of 257<sup>th</sup> Avenue, one mile east of Crooks. To the south are commercial properties, while to the east, north and west are agricultural properties with scattered residential acreages.

**Report by:** Phil Kappen

**Staff Analysis**

The petitioner proposes to rezone the subject property for industrial purposes. The Minnehaha County Comprehensive Plan allows for areas of commercial or industrial uses at the interstate interchanges, in rural service areas, or small areas at the intersection of two highly traveled hard-surface roads for the purposes of serving the traveling public. The proposed property meets none of these three location criteria. There are many acres of land in the county that meet the comprehensive plan criteria for commercial or industrial properties.

The area to the south is within an area that has direct access to the Renner-Crooks I-29 interchange. While there would be a connection between the two commercial developments, approval of this rezoning would result in an expansion of the total commercial area to more than three-quarters of a mile away from the interchange. Access to the proposed development would be via Cottonwood Avenue and would result in a three-quarter of a mile long single-access road to the proposed development. The Minnehaha County Subdivision Ordinance generally limits single-access roads to a length of 500 feet. That length could be increased if there were physical constraints on the property which necessitated the increase. In this case, however, not only are there no specific physical constraints on the property, but the proposed rezoning does not conform with the location criteria for industrial sites as set forth in the comprehensive plan.

The petitioner also owns the property immediately north of the subject property and their site plan shows a road connection to this property. It is unknown what uses the petitioner plans for the property to the north. Staff has learned through past applications that, other than for farming, access to the northern portion of the property cannot be made from 257<sup>th</sup> street because the property lies too close to the overpass across I-29 on that street. SD DOT regulations prohibit additional or increased access, such as a road, at that location. If the rezoning were approved, this would also leave a parcel of farm ground which, because of its reduced size, would be difficult to farm with modern farm equipment. This leaves the potential for future rezoning requests, that would be even farther from the interstate interchange, with a stated justification that the rezoning should be approved because the crop area is too small to farm economically.

The petitioner has also prepared a site plan as a part of the rezoning request that does not take into account the physical layout of the property, specifically, the location of wetland areas and how storm water drainage from the property would be addressed.

Staff found that the proposed rezoning does not conform with the location criteria for commercial or industrial properties as set forth in the county comprehensive plan and that approval of the proposed rezoning would set a non-conforming precedent and recommended denial of the rezoning.

**Public Testimony**

Jim Dunham with the Dunham Company explained that six months ago an application had been

submitted to rezone 70+ acres of this property to I-1 Industrial. At that time the County Commission said the parcel was too large and to come back with an application for 40 acres. Mr. Dunham feels this is a natural expansion of the existing industrial park and that there is a current need for industrially zoned land in and around Sioux Falls. The submitted site plan is just an example of how the area might be developed. It could be one lot or 15 lots, depending on the needs of the business. Mr. Dunham stated the road could be designed as a circle road. There would be less traffic flow than you would see from a retail or office park so traffic should not be an issue.

Commissioner Steinhauer questioned what their plans were for the remaining north thirty acres. Mr. Dunham stated they had not plans and would like to sell it off immediately. They are only interested in the part proposed for industrial development.

Donavan Derkrey, 47149 257<sup>th</sup> St., stated that he had spoken out in opposition to this rezoning the first time. He sited the number of single family dwellings be built in the area and the felt this would impact negatively on their property values. He drove through the existing industrial park and felt it was an eyesore with unkempt yards and buildings, junky cars and a mobile home storage yare that looked like a junk yard. Mr. Derkrey believes there is plenty of available industrial land in the Sioux Falls area. He noted that the property Mr. Dunham is trying to sell to the north is being advertised as future light industrial on the flyer. He is opposed to this rezoning.

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

Commissioner Steinhauer stated that this proposal was not in conformance with the Comprehensive Plan and that that Plan should be upheld.

A motion was made by Steinhauer and seconded by Rogen to recommend denial of the rezoning. The motion passed unanimously.

**The Planning Commission will convene as the Zoning Board of Adjustment for Item 12.**

**Zoning Board of Adjustment**

A motion was made by Bunde and seconded by O'Hara to adjourn as the Planning Commission and reconvene as the Zoning Board of Adjustment. The motion passed unanimously.

**ITEM 12. VARIANCE #05-08 to allow a zero side and rear yard set back.**

Legal Description – Lots 11, 12, & E1/2 Shorelot 13 Blk 1 Walter & Scharns in Section 21-T101N-R51W

**General Information**

Location -	46240 South Shore Place, Wall Lake
Petitioner / Owner-	Elery Lewis
Present zoning -	RR Rural Residential
Existing Land Use -	Residential
Parcel Size –	less than 1 acre

**Report by:** Pat Herman

**Staff Analysis**

The property is located on the south side of Wall Lake and is zoned Rural Residential. The petitioner is requested a variance to construct a boathouse adjacent to the lake. The required setbacks for an accessory building in this zoning district are 3 feet on both the side and rear yards. The petitioner would like to place the building on the side lot line, essentially a zero setback, and on the water's edge.

The zoning regulations do not take into account the unique attributes of the properties abutting Wall Lake. Over the past 30 years, there have been over 25 variances approved for properties in this area due to the size and configuration of the lots and to accommodate lake access.

The boathouse would be constructed on the east side of the lot. There is an existing boathouse on the adjoining property which was constructed on the lot line. This zero set back was approved by a variance in 1976. This neighbor is not opposed to the reduced setback.

Approval of this variance would not be setting precedence for the area, but rather would allow this lot to conform with many of the other lakeside properties.

Staff recommended approval of variance #05-08 to allow a zero side and rear yard setback for the construction of a boathouse on the east side of the property.

**Public Testimony**

The petitioner, Elery Lewis, was in attendance.

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

Based on the staff report and public testimony a motion was made by Steinhauer and seconded by O'Hara to approve the variance. The motion passed unanimously.

A motion was made by Cypher and seconded by Bunde to reconvene as the Planning Commission.

**Item 13 was deferred from the August 22, 2005 meeting.**

**ITEM 13. ZONING ORDINANCE TEXT AMENDMENTS – to amend those portions of the Minnehaha County Ordinance pertaining to application and permit fees.**

**Report by:** Scott Anderson

**Staff Analysis**

Staff is proposing a fee increase for Temporary Use Permits, Rezonings, Conditional Use Permits, Variances and Appeals, Zoning Permits and Planned Developments. The proposed increase in fees is to better reflect the actual cost incurred by the County for the processing of applications. While it is impossible to give an exact amount each submittal costs to process, the County incurs the cost of processing the application, site visits and research, mailing notices, preparation of Planning Commission packets, staff overtime for meetings, and archiving the submittals. The amount currently collected for each submittal does not cover the actual cost incurred by the County.

The proposed fees were based on similar fees charged by the City of Sioux Falls. It should be noted that other counties in South Dakota, such as Pennington and Lawrence Counties, charge significantly more for identical requests within their jurisdictions. A list of fees charged by Pennington County is included for comparison.

The proposed fee increase will not cover the cost of operating the Planning Department. In 2003, Minnehaha County expended \$344,514.00 for the operation of the Planning Department. During 2003, however all revenue combined for the Planning Department was only \$136,455.48 or 39.6%. Similarly, in 2004 expended \$364,458.00 and collected only \$139,642.50 in revenues or 38.3%. The fees collected through August 31, 2005 equal \$82,936.00, the budget for 2005 is \$391,164.00. Based on the number of building permits issued to date, it is unlikely that over \$125,000.00 in revenue will be generated by year end of 2005. I have included a chart for 2003, 2004 and 2005 indicating the revenue stream collected by the Planning Department. In addition, another chart showing the current county fees, fees charged by Sioux Falls, and proposed fees is included for review. The estimated additional revenue is then projected using the figure that Sioux Falls charges for services and what the proposed increase in fees would raise.

Staff recommended approval of the attached Amendment to the Joint Minnehaha County Ordinance.

ORDINANCE MC16-

AN ORDINANCE AMENDING THE 1990 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY BY REVISING TEMPORARY USE PERMITS AND FILING FEES APPLICABLE TO APPLICATIONS.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

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

**Section 1: That Article 12.00 is hereby amended to read:**

12.11 TEMPORARY USES (H) Fees. A fee of ~~\$50.00~~ 250.00 shall accompany the application for a temporary use permit.

**Section 2: That Article 24.00 is hereby amended to read:**

24.02 CHANGE OF ZONE. A fee of ~~\$175.00~~ 350.00 shall be charged for filing an application to change the zoning classification of property, except to the Planned Development District. If any use, for which a rezoning is required, is commenced prior to the application for a rezoning, the application fee shall be double the regular fee.

24.05 CONDITIONAL USE. A fee of ~~\$100.00~~ 250.00 shall be charged for filing an application for a conditional use permit in any district. If any use, for which a conditional use permit is required, is commenced prior to the application for a conditional use permit, the application fee shall be double the regular fee.

24.06 BOARD OF ADJUSTMENT. A fee of ~~\$50.00~~ 250.00 shall be charged for filing ~~an~~ a Variance application ~~for~~ or an appeal to the Zoning Board of Adjustment.

24.07 ZONING PERMIT. A fee of ~~\$20.00~~ 50.00 shall be charged for all zoning permits not requiring a building permit fee.

24.08 PLANNED DEVELOPMENT DISTRICT. A fee of ~~\$175.00~~ 350.00 plus ~~\$25.00~~ 50.00 for each subarea shall be charged for the filing of an application to change to the Planned Development District. If any use, for which a rezoning is required, is commenced prior to the application for a rezoning, the application fee shall be double the regular fee.

Adopted this \_\_\_\_\_, 2005.

MINNEHAHA COUNTY

\_\_\_\_\_  
Chair, Board of County Commissioners

ATTEST:

\_\_\_\_\_  
County Auditor

**Public Testimony**

The Planning Commission discussed the recommended fee changes earlier during a joint meeting with the City of Sioux Falls and made the following comments:

Commissioner Hajek explained that the County Commission had requested Mr. Anderson submit rate increases. The County needs to generate more revenue to cover operating expenses. Minnehaha County has had low fees in comparison to what other Countys charge throughout the state. For example, the Lifelight concert would have had to pay between \$600-\$1600 in Pennington County but the fee here was just \$50. That doesn't come close to meeting the expenses. Commission Hajek stressed that the taxpayers having to make up the expense gap, but that the money should be coming from the person or parties paying the fees. She asked the Commissions to support the changes.

Commission Steinbauer stated that he had wanted further information before he could vote on this issue. He views planning as a service to the community, much like the sheriff, and is willing to support that service as a taxpayer. He did not feel the Planning Department's budget should be met by the fees collected, but the numbers provided show only 52% of the budget would be covered. He is comfortable with that number. He is concerned with the fee for the Board of Adjustment which handles variances and administrative appeals. Many of those issues are small adjustments, and he feels \$100 would be a more appropriate fee. Commissioner Steinbauer does not want to see the fees become an inhibitor for people to apply.

Mr. Anderson noted that fees can hinder some people from approaching things in the correct manner. However, the fees need to help cover the costs of an application - items such as research, postage, and legal ads. He noted that the Planning Department is now facing added costs from other businesses such as fuel surcharges on deliveries of office supplies. The Department has to be able to absorb the growing costs of development within the community.

Commissioner Steinbauer and South both inquired on the method used by Pennington County for temporary use permits. Mr. Anderson explained that that section of the ordinance was entitled temporary campgrounds and assemblies of people. If an event was small and operating for less than 36 hours no permit would be needed. Larger events would require an assembly permit which, based on the number in attendance, could range form \$75 to \$1500. Applicants also have to pay the application fee of \$300 for a conditional use permit. Mr. Anderson noted that adopting such a method would require a major amendment to the zoning ordinance.

Commissioner Rogen questioned the construction permit listed on one of the attachments. Mr. Anderson explained that that was something he was looking at implementing in the future. It would help to monitor how property was constructed, taking into account such items such as drainage patterns, floodplain issues and erosion. There is currently no provision in the ordinance to address these matters.

Commission Hajek stated that she would like to see these amendments move ahead and suggested that those fees which were in question be pulled out. Commissioner South felt no changes should be made to temporary use permits until the matter could be further studied. Mr. Anderson suggested that a subcommittee be formed to address temporary use permits as there is such a diverse possibility of applications that fall under that category.

No one in the audience wished to address this item.

The Planning Commission did not revisit this item but took the following vote.

Based on the staff report and public testimony a motion was made by Cypher and seconded by Bunde to recommend approval of the amendments to the fees with the following two changes:

Temporary Uses to remain at \$50.00 and a further study of various options.

Board of Adjustment: \$100.00

The motion passed unanimously.

**Attachment A**

**Planning Department Proposed Fee Increase**

June 15, 2005

<b>County Action</b>	<b>Current County Fee</b>	<b>Proposed Fee</b>	<b>Additional Revenue Raised</b>	<b>Sioux Falls Fee (current)</b>	<b>Add. Rev. Raised</b>	<b>Approx. Yearly Average</b>
Plat	\$20 plus \$5 per lot	\$250 plus \$25 per lot	\$35,000	\$80 + \$10 per lot over 2 for new plats \$110 + \$10 per lot over 2 for re-plats	\$6,000	100
CUP	\$100	\$250	\$15,000	\$200	\$10,000	100
Rezoning	\$175	\$350	\$750	\$350	\$1,750	10
Variance & Appeal	\$50	\$250	\$800	\$75.00 V \$65.00 A	\$250	10
Subdivision Regulations Variance	\$0	\$250	\$250	\$75.00	\$250	1
Construction Permit	New proposed	\$100	?	\$45.00		New
Drainage Permit	\$50 if downstream owners agree \$100 if CB action is needed	\$100 if downstream owners agree \$200 if CB action is needed	\$3,750	\$45.00 (Grading Permit)	0	75
Planned Unit Development	\$175 plus \$25 per subarea	\$350 plus \$25 per subarea	0	\$350 Prelim Plan - \$225 Final Plan - \$150	\$175	0-1
Septic Systems	\$75	\$150	\$9,375	N/A	0	125
Building Permits	\$15 minimum	\$50 minimum	\$1,750	\$20	\$250	50
			<b>Total: \$66,675</b>		<b>Total \$18,675</b>	

**Attachment B**

**Pennington County Planning Fees  
As of 9/1/05**

Plat - \$350.00 plus \$25.00 per lot application fee

Subdivision Regulations Variance - \$250.00

CUP - \$300.00

Rezoning - \$300.00

Variance & Appeal - \$250.00

Construction Permit - \$75

Planned Unit Development - \$300.00

Septic Systems \$150 per hour (1 hour minimum charge)

Building Permits - \$50.00 minimum.

Temporary Use Permit (Gatherings of People) \$600.00 to \$1,600.00 depending on size

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**Attachment C**

**MONTHLY RECEIPTS - 2005**

Month	13140 Bldg Permit	13142 Rezoning s	13143 Cond. Use	13144 Drainage	13145 Variance	13146 Septic	1314 7 Sol. Waste	13612 Plats	13613 Bluelines	13615 GIS	13616 Extraction	13716 Misc.	TOTALS
January	783.00		300.00		50.00				4.00	5.00			1142.00
	631.00		100.00			75.00				5.00	705.00		1516.00
February	662.00		600.00	50.00		100.00		225.00		5.00	549.00	5.00	2196.00
	2675.00		200.00			50.00		25.00		5.00	170.00		3125.00
March	4134.50	175.00	500.00	50.00		150.00		75.00		36.00		18.00	5138.50
	5009.00		600.00	50.00	50.00	400.00		215.00		21.00	125.00	20.00	6490.00
April	6039.50		500.00	100.00		1225.00		100.00		27.00		36.00	8027.50
	5934.00		600.00	100.00		750.00		25.00		20.00			7429.00
May	4089.00	175.00	500.00	50.00	150.00	450.00		135.00		39.00		0.75	5588.75
	4825.00	350.00	800.00	625.00		300.00		25.00	4.00	70.00			6999.00
June	5525.00	175.00	200.00		50.00	1000.00		150.00	8.00	235.00		23.00	7366.00
	3206.00		250.00	50.00		500.00		75.00		95.00			4176.00
July	6564.00		400.00			375.00		105.00		40.00		2.00	7486.00
	7835.00		700.00	50.00		525.00		260.00		11.00			9381.00
August	5657.00		500.00			600.00		80.00		20.00		18.28	6875.28
	5324.00	175.00	200.00	275.00	50.00	525.00		230.00				1020.75	7799.75
September	6175.00		400.00		50.00	375.00		180.00	4.00				7184.00
													0.00
October													0.00
													0.00
November													0.00
													0.00
December													0.00
													0.00
TOTALS	75068.00	1050.00	7350.00	1400.00	400.00	7400.00	0.00	1905.00	20.00	634.00	1549.00	1143.78	97919.78

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**Attachment D**

**MONTHLY RECEIPTS - 2004**

Month	13140 Bldg Permit	13142 Rezoning s	13143 Cond. Use	13144 Drainage	13145 Variance	13146 Septic	1314 7 Sol. Waste	13612 Plats	13613 Bluelines	13615 GIS	13616 Extraction	13716 Misc.	TOTALS
January	1493.00		350.00	600.00	30.00				7.00	10.00			2490.00
	870.00	100.00	300.00	1200.00		75.00		135.00					2680.00
February	1324.00		50.00					90.00	4.00		485.00	18.00	1971.00
	4788.00		350.00					50.00		5.00	150.00		5343.00
March	4042.00	50.00	300.00			150.00		75.00		30.00	70.00		4717.00
	4041.00	200.00	200.00	50.00		650.00		125.00	12.00		470.00	28.00	5776.00
April	7340.00	150.00	600.00	150.00		1150.00		80.00				10.00	9480.00
	8975.00		350.00	950.00	30.00	1425.00		50.00		25.00			11805.00
May	4400.00		300.00	700.00		675.00		165.00	8.00	405.00			6653.00
	5841.00		400.00	50.00		650.00		130.00				5.00	7076.00
June	5935.00	350.00	750.00	600.00		775.00		125.00		110.00			8645.00
	5468.00		200.00			900.00		80.00	4.00	58.00		5.00	6715.00
July	3077.00		700.00			750.00		25.00		20.00			4572.00
	4189.00		500.00	100.00		875.00		100.00	3.00			5.00	5772.00
August	6502.00		700.00			275.00		185.00		24.00			7686.00
	5063.50		100.00			525.00		25.00	15.00	18.00		5.00	5751.50
September	6552.00	175.00	900.00	150.00		225.00		55.00	4.00			10.00	8071.00
	3148.00		100.00		100.00	350.00		50.00		41.00		6.00	3795.00
October	4918.00		300.00	50.00		600.00		155.00				20.00	6043.00
	5626.00			200.00		1200.00		125.00	4.00	30.00			7185.00
November	3846.00		300.00	200.00		675.00		160.00	4.00	10.00			5195.00
	5203.00			275.00		525.00			8.00	5.00		5.00	6021.00
December	4303.00	175.00	700.00	350.00		525.00		105.00		37.00		5.00	6200.00
	1576.00	175.00		375.00		75.00		120.00	8.00	50.00			2379.00
<b>TOTALS</b>	108520.50	1200.00	8450.00	6000.00	160.00	13050.00	0.00	2210.00	81.00	878.00	1175.00	122.00	139642.50

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**Attachment E**

**MONTHLY RECEIPTS - 2003**

Month	13140 Bldg Permit	13142 Rezoning s	13143 Cond. Use	13144 Drainage	13145 Variance	13146 Septic	1314 7 Sol. Waste	13612 Plats	13613 Bluelines	13615 GIS	13616 Extraction	13716 Misc.	TOTALS
January	1124.00	100.00	400.00					55.00		40.00		5.00	1724.00
	907.00		50.00			150.00		65.00	4.00	12.00	375.00	5.00	1568.00
February	5602.00		100.00	50.00				50.00	18.00		610.00	9.00	6439.00
	1114.00		130.00	100.00				50.00	8.00	20.00		5.00	1427.00
March	1759.00		200.00			75.00		100.00	16.00	9.00			2159.00
	5508.00		200.00			150.00		25.00	4.00				5887.00
April	4473.00		200.00	325.00		500.00		190.00	6.00	41.00		23.00	5758.00
	6771.00		550.00	25.00		1250.00		30.00		46.00			8672.00
May	3885.50	100.00	150.00	225.00		1050.00		180.00	4.00				5594.50
	7749.50		250.00	175.00		950.00		200.00		1.00			9325.50
June	7197.00	100.00	250.00	100.00		675.00		80.00					8402.00
	5666.50	100.00	350.00			1050.00		50.00		5.00			7221.50
July	6457.00	100.00	150.00			600.00		180.00		55.00		22.98	7564.98
	7104.00		200.00	50.00		900.00		90.00		43.00		5.00	8392.00
August	7456.00		250.00	100.00		675.00		65.00	6.00	7.00			8559.00
	4274.50		300.00			850.00		25.00		25.00			5474.50
September	8024.00		100.00	150.00		1125.00		50.00				5.00	9454.00
	5701.00		450.00	50.00		975.00		175.00				10.00	7361.00
October	5995.50	300.00	250.00	225.00		675.00		225.00	8.00	54.00		30.00	7762.50
	4417.00		150.00	200.00		825.00			3.00				5595.00
November	3625.00		150.00	100.00		450.00		155.00	4.00	30.00			4514.00
	2643.00	100.00		150.00		150.00		125.00		5.00		18.00	3191.00
December	3255.00		50.00	450.00		525.00		125.00		5.00			4410.00
	1875.00		150.00	50.00		150.00		230.00					2455.00
<b>TOTALS</b>	112583.50	900.00	5030.00	2525.00	0.00	13750.00	0.00	2520.00	81.00	398.00	985.00	137.98	136455.48

**Item 14 was deferred from the August 22, 2005 meeting.**

**ITEM 14. SUBDIVISION ORDINANCE TEXT AMENDMENTS – to amend those portions of the Minnehaha County Subdivision Ordinance pertaining to platting fees.**

**Report by:** Scott Anderson

**Staff Analysis**

Staff is proposing an increase in the application fee for plats. The proposed increase in fees is to better reflect the actual costs incurred by the County for the processing of applications. Each plat has to be processed by a Planner, then reviewed and signed by the Planning Director. The current fee of \$20.00 plus \$5.00 per lot does not cover the actual costs involved in the processing and review. In addition, typically each plat approved requires additional county services such as highway maintenance and law enforcement.

The proposed fees were based on similar fees charged by the City of Sioux Falls. It should be noted that other counties in South Dakota, such as Pennington and Lawrence Counties, charge significantly more for identical requests within their jurisdictions.

Staff recommended approval of the following Amendment to the Minnehaha County Subdivision Regulations.

ORDINANCE MC23-

AN ORDINANCE AMENDING THE 1993 REVISED SUBDIVISION ORDINANCE FOR MINNEHAHA COUNTY BY REVISING PLAT FILING FEES.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC23-93, the 1993 Revised Subdivision Ordinance for Minnehaha County is hereby amended as follows:

**Section 1: That Section 3.00 is hereby amended to read as follows:**

3.03 C) Filing Fee

The developer shall pay to the Planning Department a fee in the amount of ~~\$20.00~~ 250.00 for the plat plus ~~\$5.00~~ 25.00 for each lot shown on the plat or replat. Prior to release of the plat, the developer shall also pay for the cost of all road signs as specified in Section 8.01(C).

Adopted this \_\_\_\_\_, 2005.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
County Auditor

**Public Testimony**

No one in the audience wished to address this item.

Commissioner Steinhauer expressed his concern that this fee was too high. Someone applying to transfer an eligibility would have to pay \$250 for a conditional use permit and then another \$250 for platting that lot. Commissioner Bunde didn't feel that would be an imposition and thought maybe the higher fees would help slow down the rate of transfers.

Commissioner Steinhauer noted that the City of Sioux Falls only charged \$80 per plat and suggested the County fee should be \$100 plus \$25 per lot.

Based on the staff report and public testimony a motion was made by Cypher and seconded by Bunde to amend the plat fee to \$100 plus \$25.00 for each lot. The motion passed unanimously.

**Attachment A**

**Planning Department Proposed Fee Increase**

June 15, 2005

<b>County Action</b>	<b>Current County Fee</b>	<b>Proposed Fee</b>	<b>Additional Revenue Raised</b>	<b>Sioux Falls Fee (current)</b>	<b>Add. Rev. Raised</b>	<b>Approx. Yearly Average</b>
Plat	\$20 plus \$5 per lot	\$250 plus \$25 per lot	\$35,000	\$80 + \$10 per lot over 2 for new plats \$110 + \$10 per lot over 2 for re-plats	\$6,000	100
CUP	\$100	\$250	\$15,000	\$200	\$10,000	100
Rezoning	\$175	\$350	\$750	\$350	\$1,750	10
Variance & Appeal	\$50	\$250	\$800	\$75.00 V \$65.00 A	\$250	10
Subdivision Regulations Variance	\$0	\$250	\$250	\$75.00	\$250	1
Construction Permit	New proposed	\$100	?	\$45.00		New
Drainage Permit	\$50 if downstream owners agree \$100 if CB action is needed	\$100 if downstream owners agree \$200 if CB action is needed	\$3,750	\$45.00 (Grading Permit)	0	75
Planned Unit Development	\$175 plus \$25 per subarea	\$350 plus \$25 per subarea	0	\$350 Prelim Plan - \$225 Final Plan - \$150	\$175	0-1
Septic Systems	\$75	\$150	\$9,375	N/A	0	125
Building Permits	\$15 minimum	\$50 minimum	\$1,750	\$20	\$250	50
			<b>Total: \$66,675</b>		<b>Total \$18,675</b>	

