

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
February 27, 2006**

A meeting of the Planning Commission was held on February 27, 2006 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Deb Bunde, Mike Cypher, Susie O'Hara, Mark Rogen, Don South, Wayne Steinhauer and Jim Zweep.

STAFF PRESENT: Scott Anderson, Phil Kappen, Pat Herman, and Gordy Swanson with the Office of the State's Attorney.

The meeting was chaired by Don South.

APPROVAL OF THE CONSENT AGENDA

An audience member requested that Item 5 be placed on the regular agenda. There being no other objections from the Planning Commission or audience, a motion was made by Zweep and seconded by O'Hara to approve the consent agenda (Item 5 removed). The motion passed unanimously.

ITEM 1. MINUTES – January 23, 2006.

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

ITEM 2. CONDITIONAL USE PERMIT #06-07 to allow a gun club/sportsman's club.

Legal Description – 14 acres in the NE corner of the NE1/4 of Section 33-T103N-R47W to be platted as Tract 1A.

Location - 48606 255th St. – 1 mile south of Garretson

Petitioner / Owner- Garretson Sportsman Club

General Information

Present zoning - A-1 Agricultural

Existing Land Use - Gun Club

Parcel Size - 14 ± Acres

Report by: Pat Herman

Staff Analysis

The site is located approximately one mile south of Garretson at the intersection of 486th Ave. and 255th St. The surrounding land use is agricultural. The Garretson Sportsman's Club is a grandfathered use at this site. The club wishes to expand their site by adding 8 to 10 acres.

The expansion will allow the club to improve their safety measures. A new rifle range would be constructed on the east side of the property with enough room to construct new berms. One additional trap house (3 existing) would be added to the current shooting range.

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 club's existence predates formal zoning controls. There are certain impacts on the enjoyment of the properties in the immediate vicinity such as noise and traffic. The applicant is now requesting an expansion to the existing grandfathered use on the property. The use of guns will always generate noise. To date staff has not received any complaints from neighbors regarding noise at this site. The firearms noise can be limited to certain times of the day. Staff is recommending that any shooting occur between 7 am and 11pm.

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

The predominate land use in the area is agricultural. The building eligibilities in this quarter were transferred to the east side of the section this year. The expansion of the gun club will not negatively impact the agricultural uses in the area.

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

Access to the site is from 255th St., which is a gravel road in front of the gun club. There are no close dwellings that would be affected by dust created by traffic on this road.

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

Article 15 of the Minnehaha County Zoning Ordinance requires one parking space for each 300 feet of floor area. The site meets those specifications with 10 parking spaces. One handicapped space is required.

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

The use by its very nature will generate noise. Most of the shooting is conducted during daylight hours, but there are lights which allow nighttime use. The gun club has been in operation on this site for many years without significant issue.

The applicant is bringing an existing use into compliance while requesting an expansion. The facility is well suited and has a long history within the community. Staff recommended approval of conditional use permit #06-07 with the following conditions:

- 1) The site will be platted.
- 2) That a minimum of 10 parking spaces (1 handicapped) be maintained for the gun club.
- 3) That any outdoor shooting take place between the hours of 7 a.m. and 11 p.m.
- 4) That the approved uses for this conditional use permit are a shooting range and events associated with the gun club.

Based on the staff report a motion was made by Zweep and seconded by O'Hara to approve conditional use permit #06-07 with the conditions as stated. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #06-09 to transfer two residential building eligibilities.

From - NE1/4 SW1/4 & SE1/4 NW1/4 in Section 31-T103N-R47W

To - NW1/4 NE1/4 (ex. P-2 & ex. Boward's 1st Addn. & NE1/4 NW1/4 ex. P-1 & ex. Tr. 1 & RY & E. Pt. N of RY) all in Section 31-T103N-R47W

Location - Southeast of Palisades State park

Petitioner / Owner- Jeffery G. Schneekloth

General Information

Present zoning - A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size - 17.51 Acres

Report by: Pat Herman

Staff Analysis

The subject property is located south of Palisades State Park. The surrounding property is zoned A-1 Agricultural except for one lot just to the north which was zoned RR Rural Residential in 1994. The petitioner is requesting a transfer of two residential building eligibilities onto a legally described parcel of 17.51 acres.

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.

Approval of the transfer will move the eligibilities adjacent to residential uses and will result in the clustering of houses while preserving crop ground.

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

The Bly Brothers swine operation is just within one mile of this site but the transfer does not move the eligibilities any closer to this CAFO. A right-to-farm notice covenant should be required.

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

There is a platted 45' access easement which adjoins 255th St., the road into the park. This access will be

used by both dwellings. A waste water system is required for each dwelling.

Staff found the request to be in conformance with density zoning and recommended approval of conditional use permit #06-09 with the following conditions:

- 1) The lots shall be platted and a right-to-farm notice filed on the deed of the lot prior to the issuance of a building permit.
- 2) Access shall be restricted to the 45' easement and said easement shall be shown on the new plat.

Based on the staff report a motion was made by Zweep and seconded by O'Hara to approve conditional use permit #06-09 with the conditions as stated. The motion passed (Rogen abstained).

ITEM 4. CONDITIONAL USE PERMIT #06-10 to allow a 250' telecommunications tower and equipment building.

Legal Description – S1/2 SE1/4 of Section 15-T04N-R51W

Location - 46396 247th St. ¾ mile north of Colton

Petitioner / Owner- Buell Consulting for Verizon / Hazel Grinde

General Information

Present zoning - A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size - 80 Acres

Report by: Pat Herman

Staff Analysis

This is a request to construct a 250' cellular tower and a 12' x 30' equipment shelter. The property is located 3/4 miles north of Colton. The surrounding property is agricultural. There are existing farmsteads in the area but the site meets the separation criteria of 1300' from all residential dwellings, residential subdivisions, and residentially zoned property.

The petitioner meets all but one of the requirements for a telecommunication tower as required by Section 12.12 of the County Zoning Ordinance. Section B - Equipment Design requires that the tower be a single monopole or a guyed lattice tower. A height of 250' prevents the use of a monopole but that height also does not justify the need for guyed wires. The petitioner would like to use a self support tower. This type of tower would restrict the area needed to a 75' x 75 leased area where as the anchors required by a guyed tower would affect many more acres of farmland.

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

There are few close residences in the area of the facility site. There should be no impact on the use and enjoyment of those properties in the immediate vicinity.

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

The facility should not negatively impact the development of permitted uses in the area.

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

Access to the site will be from 247th St., a township gravel road as indicated on the submitted site plan. Taopi Township does require driveway permits and staff has provided the petitioner with the appropriate contact information. A building permit cannot be issued without submittal of the driveway permit. For security purposes, the tower will be enclosed by a six foot high chain link fence topped with barbed wire.

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

The leased site will be 75' x 75 which will provide enough parking space for related vehicles.

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 most abundant complaint raised about cellular towers deals with the lighting. Per FAA regulations, this tower will have white lights during daylight hours and red lights at night. Any security or property lights should be of a shoe box type design and not allow light spillage off of the site.

Prior to the issuance of a building permit, a letter accepting responsibility for the removal of the tower as required in Section 12.12. (I) and a site plan of the leased area will need to be submitted for planning staff approval.

Staff found that the proposed wireless facility is in conformance with all of the requirements for a permitted special use for a telecommunications tower as detailed in Article 12.12 of the Minnehaha County Zoning Ordinance, except for the equipment design (B) #1. Staff recommended approval of conditional use permit #06-10 with the following conditions:

- 1) The facility shall meet the requirements of Article 12.12 of the 1990 Revised Minnehaha County Zoning Ordinance with the exception of sections (B) #1.
- 2) A site plan and letter of removal responsibility shall be submitted to the Planning Department prior to the issuance of a building permit.

Based on the staff report a motion was made by Zweep and seconded by O'Hara to approve conditional use permit #06-10 with the conditions as stated. The motion passed unanimously.

ITEM 5. CONDITIONAL USE PERMIT #06-11 to transfer one residential building eligibility.

From – Tract 1 France Tracts S1/2 SW1/4 in Section 7-T102N-R49W
To - E347.8' S772..8' (ex. N250') SE1/4 SW1/4 in Section 7-T102N-R49W
Location - 25797 Kiwanis Ave 2 miles north of Sioux Falls
Petitioner / Owner- Brian K. Hardy

Item 5 was placed on the regular agenda.

Item 6 was deferred from the December 12 Meeting.

ITEM 6. CONDITIONAL USE PERMIT #06-06 to allow an animal shelter.
Legal Description – Lot A Tract 1 Matzen Addition NE1/4 of Section 36-T101N-R51W
Location - 26707 466th Ave., 2.5 miles west of Sioux Falls
Petitioner / Owner- 2nd Chance Rescue / F.G.G.A. Partners LLP

General Information

Present zoning - C Commercial
Existing Land Use - Commercial
Parcel Size - 2.31 Acres

Report by: Pat Herman

Staff Analysis

The property is located just south of the gas station at the intersection of Highways 17 and 148. The site is zoned for commercial use and there is an existing 10,000 sq. ft. building and a 3250 sq. ft. detached garage. The closest residential dwellings are located on the north side of Co. Hwy 148 and approximately a ¼ mile to the west. The surrounding land use is predominately farm ground. Wild Water West is a ½ mile south of this location.

The building was constructed in 1997 to the standards of the adopted building code. The submitted interior plan is consistent with the original structural layout of the building and the restrooms are designed to meet accessibility standards. The petitioner does indicate the northwest corner of the building will be used for a garage. Approval from the building inspector must be obtained prior to its use to ensure that this portion of the building meets the required standards for use as a garage.

The petitioner has indicated that there will initially be 41 dog kennels and 34 cat kennels. The kennels shall be constructed to the standards of the Animal Welfare Act – Part 3, Sub-part A, Sections 3.1-3.12. There shall be no more than 50 dogs and 50 cats on the premise at any given time. This number should

only be exceeded in an emergency situation, such as the removal of animals from a puppy mill, and the Planning Department must be notified within 24 hours of the animal's arrival. The Planning Department shall issue a written statement as to the length of time the excessive animal count shall be allowed.

The animal shelter will also have a small animal room which will house rabbits, hamsters, rats, ferrets and guinea pigs. A wild life room will be equipped to handle and rehab birds or small animals such as squirrels and reptiles. Other than these small animals, no exotic animals as defined by Ordinance MC29-02 2002 Animal Control Ordinance for Minnehaha County shall be allowed. 2nd Chance Rescue must obtain all the required state permits for working with wild animals.

The facility will be run by 5 volunteer employees, one who will be a humane officer (resume attached). There will also be numerous volunteers.

The office will be open from 8 a.m. to 5p.m. Monday through Saturday with the kennel area opening to the public at 10 a.m. During the summer months the shelter would also be open on Sundays. Given the shelter's location and the commercial zoning on the property, staff is not opposed to extending the operating hours to seven days a week year round.

The South Dakota Codified Law does not define nor regulate animal shelters so the responsibility for the general welfare of the animals in such facilities falls upon the County. The County Planning Department reserves the right, with 24 hours verbal notice, to enter and inspect the animal shelter. Members of the department may be accompanied by persons with training in the field of animal care.

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

There are no eligibilities for the quarter-quarter the shelter is located in. The property is located at the intersection of two well traveled highways and zoned for commercial use. The gas station to the immediate north generates more traffic, is open longer hours, and has brighter lightening than the proposed animal shelter. Approval should not impact property values in the immediate vicinity nor impede development. It is probable that additional land will be zoned for further commercial development at this intersection.

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

Access is from Highway 17 using a driveway which is shared with the gas station. The lot is hard surfaced.

There is an existing septic system with a 1700 gallon tank on the east side of the building. This is sufficient to handle the waste from the restrooms and grooming areas. The dog adoption room was originally constructed with a floor drain which empties into a 2000 gallon holding tank. Pumping of this tank will be handled by A-1 Septic. Waste from the cats and other animals will be collected and disposed of with other garbage in accordance with the Solid Waste Ordinance.

There is a ground mounted sign on the east side of the property which will be utilized by the petitioner.

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

There are 27 parking spaces available for customer parking on the north side of the lot. Employee and volunteer parking would be on the west end of the lot where there is space available for at least 10 vehicles. This exceeds the 30 spaces which are required by the Zoning Ordinance. Two handicapped spaces are required.

4) 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 existing lighting is of a shoe box design. Any additional lighting should meet the same design standard.

There will be no outside animal runs so noise should not be a problem with this use. The petitioner has

stated that there is an air exchange system in the building which will help to alleviate odor and to minimize the change of control air borne diseases within the structure.

Staff finds that the request for an animal shelter is an appropriate use for this location and that the use will not have a negative impact on the surrounding development. Staff recommended approval of conditional use permit #06-06 with the following conditions:

- 1) Conditional Use Permit #06-06 shall be valid only for the petitioner, Second Chance Rescue. The permit will become null and void upon Second Chance Rescue's withdrawal from the operation.
- 2) With 24 hrs. verbal notification the Planning Department shall be allowed to access and inspect the facility and to include animal care specialists as part of the inspection.
- 3) Hours in which the animal shelter shall be open to the public shall be restricted to 8:00 a. m. to 5:00 p. m. daily.
- 4) There shall be no more than 50 dogs and 50 cats on the premise at any given time. This number shall only be exceeded in an emergency situation and the Planning Department must be notified within 24 hours of the animal's arrival. The Planning Department shall issue a written statement as to the length of time the excessive animal count shall be allowed.
- 5) The kennels shall be constructed to the standards of the Animal Welfare Act Part 3, Sub-part A, Sections 3.1-3.12.
- 6) All animals shall be kept inside the animal shelter. No outside runs are allowed.
- 7) No exotic animals as defined by Ordinance MC29-02 2002 Animal Control Ordinance for Minnehaha County shall be allowed.
- 8) No hoof stock is allowed except for those animals which may be considered house pets such as pot bellied pigs.
- 9) All lighting shall be a shoe box style design and not allow light spillage off of the property.
- 10) All waste shall be disposed of in conformance with the Solid Waste Ordinance.
- 11) That the applicant shall obtain a state sales tax license.

Based on the staff report a motion was made by Zweep and seconded by O'Hara to approve conditional use permit #06-06 with the conditions as stated. The motion passed unanimously.

REGULAR AGENDA

A motion was made by Zweep and seconded by O'Hara to approve the regular agenda (Item 5 added). The motion passed unanimously.

ITEM 5. CONDITIONAL USE PERMIT #06-11 to transfer one residential building eligibility.

From – Tract 1 France Tracts S1/2 SW1/4 in Section 7-T102N-R49W
To - E347.8' S772..8' (ex. N250') SE1/4 SW1/4 in Section 7-T102N-R49W
Location - 25797 Kiwanis Ave 2 miles north of Sioux Falls
Petitioner / Owner- Brian K. Hardy

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Residential
Parcel Size – 3.68 Acres

Report by: Pat Herman

Staff Analysis

The property is located at the intersection of Kiwanis Ave. and 258th St. (Hwy 130). Properties to the north east, and west are zoned A-1 Agricultural. The property immediately south of the site is zoned RR Rural Residential. There are existing residences to the north and south of this property and Renberg School is to the east.

There is a house on this property and in 2005 the Planning Commission approved a conditional use permit for a home occupation for a lawn care and snow removal service. The petitioners have submitted a

purchase agreement for a portion of the property from which the eligibility is being transferred. The new house would be constructed on the south end of the receiving 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.

This area is one of the more densely populated parts of the county and another residence should not impact the surrounding properties. The transfer of the eligibility does not increase the number of residences allowed under the county ordinance.

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

Transfer of the eligibility should not effect the development of the vacant property. While there is a great deal of residential development in the area, there is sufficient farm ground to require the right-to-farm notice covenant be filed on the deed of the property.

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

All needed utilities are available in this area. Access to the site will be from Kiwanis Avenue. Mapleton Township approved a driveway at the time the petitioner applied for the home occupation and the dwelling will be restricted to the same access point. Transfer of the eligibility does eliminate the need for an additional access onto the county highway.

The application is consistent with density zoning and staff recommended approval of conditional use permit #06-11 with the following conditions:

- 1) The lot shall be platted and a right-to-farm notice covenant filed on the deed prior to the issuance of a building permit.
- 2) Road access is restricted to the driveway onto Kiwanis Ave. as approved by Mapleton Township.

Public Testimony

Stephen Johnson, 25758 Kiwanis Ave., objected to the transfer. He has lived north of this site forever. He feels that the petitioner has not been a good neighbor. While Mr. Johnson was on the Township Board he approved the location of the petitioner's first driveway, an action he now regrets. Mr. Johnson feels that this is a bad location for a new house and that the second driveway (approved the Township) is not in a good location. He feels that there should be larger set backs required on this corner lot as this is a major county intersection. He also pointed out that this area had a low spot but that was usually wet. When pressed by Commissioner Steinhauer, Mr. Johnson admitted that he didn't think the property the eligibility was being transferred from was an appropriate place for a house either.

The petitioner, Brian Hardy, stated that he had never met Mr. Johnson. The new dwelling would be constructed on the northern end of this site. He has had two construction firms and his waste water installer inspect the site and all told him it was buildable site.

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 Zweep to approve conditional use permit #06-11 with the conditions as stated. 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 Skatvold.

Item 7 was heard jointly with the City of Dell Rapids.

ITEM 7. CONDITIONAL USE PERMIT #06-08 to allow a veterinarian clinic.

Legal Description – S400' Tract 1 Pliska's Addition in the W1/2 SE1/4 of Section 12-T104N-R50W

Location - 25495 Lindy Ave. 2.5 miles west of Dell Rapids

Petitioner / Owner- Dr. Corale Dorn

General Information

Present zoning - C Commercial

Existing Land Use - Vacant
Parcel Size - 5 + Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting a Conditional Use Permit to allow for the establishment and operation of a veterinarian clinic. The applicant is proposing to construct a 60 foot by 142 foot Morton building to be used for the business. The site plan and narrative indicates that there will be a cattle/horse unloading area consisting of three (3) 10 foot by 60 foot pens on the north side of the building. In addition, there will be one (1) 10 foot by 20 foot outdoor exercise pen for dogs. The applicant has indicated that no animals will be housed in these pens during the evenings and will be used from 7:30 am to 5:30 pm.

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

There should be little or no impact on the use and enjoyment of the surrounding properties. The property to the east and south is an existing commercial/industrial area. There is an existing farmstead located directly north of the proposed veterinarian clinic. Interstate 29 is located to the west of the proposed clinic.

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

The Comprehensive Plan indicates that the areas around interstate interchanges are appropriate for commercial or industrial development. The subject property is located at the Dell Rapids exit off of Interstate 29. The proposed use complies with the projected normal and orderly development and proposed land use for the area.

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

Lindy Avenue provides access to the site. Lindy is a hard-surfaced road. The applicant has not provided a drainage plan. Staff recommends that a drainage plan be provided with the building permit application, indicating how the site will be drained. The applicant will be utilizing Minnehaha County Water and an on-site wastewater disposal system. As this is a commercial use, the plans for the wastewater disposal system must be approved by the S.D. Department of Environment and Natural Resources.

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

The applicant is proposing to construct a 45 foot by 100 foot parking area to be located along the east side of the Morton building. The parking lot will take access from Lindy Avenue. The site plan shows the driveway access out of alignment with Industrial Street. In order to promote better traffic flow and safety, staff would like to see the driveway approach moved to the south to align with Industrial Street. Staff will recommend this as a condition of approval.

Article 15 of the Zoning Ordinance requires one (1) parking space for each 300 square feet of floor area. Based on the size of the proposed building, 8,520 square feet, the applicant shall provide 29 parking spaces and one (1) off-street loading space. The proposed parking area is adequately sized to provide the appropriate number of parking spaces and loading area. Staff will include the minimum required number of parking spaces and loading space in the recommended conditions of approval.

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 will create minimal noise associated with customer traffic. There could be additional noise with the animals visiting the clinic. The applicant has indicated that no animals will be kept outdoors past 5:30 p.m. Staff is satisfied that this will reduce animal noise and eliminate noise during the quiet hours of the evening. The parking lot must be hard-surfaced as Lindy Avenue is hard-surfaced. This will eliminate dust concerns. The applicant will be required to install shoe-box style lighting on any outdoor lighting to reduce ambient lighting. The applicant has not indicated how animal waste will be disposed of. All animal waste shall be disposed of in such a manner that no odor or flies are allowed to exist. With the implementation of these requirements, any nuisance should be eliminated.

Staff recommended approval of Conditional Use Permit #06-08 to allow a veterinarian clinic with the following conditions:

- 1) That no animals will be kept outdoors past 5:30 p.m. or prior to 7:30 a.m.
- 2) That the applicant provides a minimum of 29 off-street parking spaces and one (1) off-street loading space.
- 3) That the driveway approach shall be moved to the north to align with Industrial Street.
- 4) That the applicant submit plans for the on-site wastewater disposal system to the S.D. Department of Environment and Natural Resources for review and approval prior to applying for a building permit.
- 5) That the applicant submit a drainage plan for review and approval prior to applying for a building permit addressing run-off from the parking lot and all impervious surfaces.
- 6) That the applicant disposes of all animal waste in such a manner that no odor exists or attracts flies.
- 7) That the applicant maintain a South Dakota sales tax license and any other required state permits for the operation of a veterinarian clinic.
- 8) That any outdoor lighting be of a shoe box type and all light directed downward.

Public Testimony

Commissioner Dearduff wondered how the number of required parking spaces was figured. Mr. Anderson explained that the zoning ordinance dictated the number of spaces. In this case, the number was based on the size of the building. This way, if the use of the building were to change in the future, the parking spaces would be in place.

The petitioner, Corale Dorn, stated that she was in agreement with the limits on animals being kept outdoors and the required parking spaces. She will move the driveway to the north to line up with Industrial St. but has some concerns that people might mistake her entrance as a continuation of Industrial St. She wondered if a stop or yield sign could be placed at the Lindy Ave./Industrial St. intersection. The building may be pushed a little farther to the north so that the warehouse portion of the building is not in line with the entrance. There will be 2 septic systems, one for human and one for animal waste. The animal waste will be pumped from the tank and spread on crop ground. Her installer will need to get State approval of these systems. She will prepare a drainage plan which shows where the water will go when it runs off the paved parking area and the roof gutters. Dr. Dorn noted that she will use a number of methods to control the types of flies that are prevalent in this area of the country. She does not plan to have lights on the parking lot, only on the doors and the sign. This lighting will be directed downward.

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

Based on the staff report and public testimony, a motion was made by Cypher and seconded by O'Hara to approve conditional use permit #06-08 with the conditions as stated. The motion passed unanimously. Same motion for the City by Lamberty and seconded by Mullaney. The motion passed unanimously.

Item 8 will be heard jointly with the City of Dell Rapids.

ITEM 8. JOINT ZONING ORDINANCE TEXT AMENDMENT #06-01 to add "animal shelter" to the conditional use permit portion of the C Commercial District and to the Definition Section.

Report by: Scott Anderson

Staff Analysis

A petitioner requested an amendment to the Minnehaha County Zoning Ordinance. Specifically, the petitioner is requesting that a definition for an animal shelter be created and that an animal shelter be a conditional use in Article 6, the C Commercial District. This amendment was approved by the County Commission on January 3, 2006. This amendment to the Joint Zoning Ordinance would make the same changes in order to make the Joint Ordinance consistent with the County's Zoning Ordinance.

Staff is recommending adoption of the following definition: "Any facility operated, owned, or maintained by

a duly incorporated Humane Society, animal welfare organization, non-profit organization, or person for the purpose of providing for and promoting the welfare, protection and the humane treatment of animals". Furthermore, staff is recommending that an animal shelter only be allowed as a conditional use in the C Commercial District.

Staff supports amending the Joint Zoning Ordinance. The addition of the definition and placing another conditional use within the commercial district may benefit the public. An animal shelter as a conditional use allows each site to be individually reviewed by the County and City of Dell Rapids to determine appropriateness.

Recommendation

Staff recommended approval of the Zoning Ordinance amendment to add animal shelters as a conditional use in the C Commercial District and to add the following definition to Article 26, Definitions: Animal Shelter - Any facility operated, owned, or maintained by a duly incorporated Humane Society, animal welfare organization, non-profit organization, or person for the purpose of providing for and promoting the welfare, protection and the humane treatment of animals.

Public Testimony

No one wished to address this item.

Based on the staff report and public testimony, a motion was made by Zweep and seconded by Rogen to recommend approval of the zoning text amendment #06-01. The motion passed unanimously. Same motion for the City by Doneland and seconded by Davis. The motion passed unanimously.

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 6.00 is hereby amended adding the following conditions use and shall read:

6.04 CONDITIONAL USES. (Y) Animal Shelter.

Section 2: That Article 26.00 is hereby amended adding the following definition and shall read:

26.02 DEFINITIONS. 19. ANIMAL SHELTER. Any facility operated, owned, or maintained by a duly incorporated Humane Society, animal welfare organization, non-profit organization, or person for the purpose of providing for and promoting the welfare, protection and the humane treatment of animals.

Approved this ____ day of _____, 2006

BOARD OF COUNTY COMMISSIONERS

Chairman

ATTEST:

County Auditor

ZONING BOARD OF APPEALS

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

ITEM 9. VARIANCE #06-01 to allow a front yard setback of 32 feet.

Legal Description – N50' S100' E50' W74.81' W1/2 SE1/4 SE1/4 SW1/4 SE1/4 SW1/4 in
Section 10-T102N-R51W
Location - 46334 258th St. ½ mile north of Humboldt
Petitioner / Owner- Northern Natural Gas / Melvin Byg

General Information

Present zoning - A-1 Agricultural
Existing Land Use - natural gas TBS station
Parcel Size - -0.5 Acres

Report by: Pat Herman

Staff Analysis

In October 2005 a conditional use permit was submitted for a natural gas TBS station one mile north of Hartford. At that time the Planning Department became aware that there was an existing TBS station on the adjacent parcel. The station had been built without first obtaining a conditional use permit and without obtaining the required building permits. The existing building was subsequently placed to close to the highway right-of-way.

The applicant has applied for a variance as the site does not conform to the county's requirements. The Minnehaha County Zoning Ordinance requires a minimum 50 foot set back from the front property line on a section line road. The existing building is set back only 32 feet from that property line.

- 1. That specific circumstances or conditions, such as exceptional narrowness, topography or siting exists, resulting in a particular hardship.**
No specific circumstances or conditions such as narrowness or topography exists that could be considered a physical hardship.
- 2. That the variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.**
The requested variance would not allow a use otherwise excluded from the district.
- 3. That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.**
No hardship exists. Had the applicant applied for the proper permits they would have been informed of the required set backs.
- 4. That the granting of the variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.**

Granting the variance is not contrary to public interest. The TBS station does provide a natural gas supply to the City of Hartford and other users in this area of the County.

The site does not pose a physical hardship for the applicant to meet the required front yard setback. Any hardship was self imposed by the petitioner. A denial of this variance will require the building to be moved. The Board of Adjustment must follow guidelines set forth in Article 21.04 of the Zoning Ordinance which states that a variance cannot be granted if the conditions of the ordinance can be satisfied.

Staff recommended denial of Variance #06-01 to allow a front yard setback of 32 feet.

Public Testimony

Dave Kimmel spoke for Northern Natural Gas. He stated that the valves at this site had been installed in 1996 and did meet the set back. The valves transfer the gas from the main line to the local carriers. These valves service Crooks and Humboldt, and they are the entities which erected the buildings. The valves themselves are sensitive and must be kept dry. Mr. Kimmel noted that if the road were to be widened his company would move the valves at that time.

Based on the staff report, public testimony, and that granting the variance is in the best interest of the public, a motion was made by Zweep and seconded by O'Hara to approve variance #06-01 to allow a front yard set back of 32 feet. The motion passed unanimously.

NEW BUSINESS

- A. Amendments to CAFO regulations. Mr. Kappen explained that staff is proposing amending the portion of the zoning ordinance which requires applicants to perform soil borings and complete a nutrient management plan (if a state permit is not required) as part of a CAFO application. While these steps are needed, it is more appropriate to require them as part of the conditions of the CUP instead of requiring them to be done before the public hearing. The applicant would not have to make an investment of time or money until knowing that the proposed CAFO is approved.
- B. Conditional Use Permit notification. Mr. Anderson explained a proposal to require a CUP applicant to notify all property owners within 500 feet of their pending application. Staff would supply the address and form letter. The Planning Commission, after much discussion, requested that staff return next month with additional text requiring that all CAFO's within a ½ mile of a transfer of residential building eligibility be notified.
- C. The Commission discussed options for requiring the right-to-farm notice covenant on all new dwellings. Staff was directed to work with the Office of the State's Attorney to amend the zoning ordinance to reflect this change.
- D. Review of Temporary Use Permits. The Commission had previously wanted to review these permits and look at amendments to the ordinance. Upon hearing that the County Commission had raised the fee for this permit to \$250 Chairman South suggested tabling this discussion until the fall. The remaining members of the Commission concurred.
- E. Gordy Swanson reported that the circuit court had found in favor of the County in a lawsuit filed by Tom Meyer when the County Commission had denied a conditional use permit for the expansion of Meyer's feed lot.
- F. Mr. Kappen updated the Commission on his research into offset criteria for CAFOs. They requested that he continue to work on this project.