

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
May 22, 2006**

A meeting of the Planning Commission was held on May 22, 2006 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Susie O'Hara, Mark Rogen, and Jim Zweep.

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

The meeting was chaired by Susie O'Hara.

APPROVAL OF THE CONSENT AGENDA

There being no objections from the Planning Commission or audience and a motion was made by Cypher and seconded by Zweep to approve the consent agenda. The motion passed unanimously.

ITEM 1. MINUTES – April 24, 2006.

A motion was made by Cypher and seconded by Zweep to approve the minutes. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #06-34 to transfer one residential building eligibility.

From – NW1/4 SW1/4 of Section 20-T103N-R50W
To - SW1/4 SW1/4 of Section 20-T103N-R50W
Location - 1.25 miles south of Lyons
Petitioner / Owner- Vernell Johnson

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Agriculture
Parcel Size - 40 Acres

Report by: Scott Anderson

Staff Analysis

The petitioner is requesting to transfer one residential building eligibility. The subject property is currently zoned A-1 Agricultural. On May 9, 2006, staff conducted a site visit. The area is an agricultural area with rolling fields. The closest agricultural operation is located approximately ½ of a mile to the southwest. The site is located near the intersection of two (2) county highways. Staff also observed that the approach with a culvert has already been installed on 467th Avenue.

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

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

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

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

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

Rural water is available in the area and a waste water system will be utilized.

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

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

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

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

Staff found this conditional use permit request to be consistent with density zoning and recommended approval of Conditional Use Permit #06-34 with the following conditions:

- 1) The lots shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.
- 2) Lyons Township shall approve the driveway approach.

Based on the staff report a motion was made by Cypher and seconded by Zweep to approve conditional use permit #06-34 with conditions as stated. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #06-36 to transfer two residential building eligibilities.

From – NW1/4 NW1/4 & NE1/4 NW1/4 of Section 10-T102N-R51W
To - NE1/4 NE1/4 of Section 10-T102N-R51W
Location - 1.5 miles north of Hartford
Petitioner / Owner- Greg Boggs

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Agriculture
Parcel Size - 40 Acres

Report by: Pat Herman

Staff Analysis

The property is located in an agricultural area 1.5 miles north of Harford. The petitioner is requesting to transfer two residential building eligibilities to a quarter-quarter which has one available eligibility. If the transfer is approved there will be three eligibilities in the NE1/4 NE1/4.

In April 2006 the petitioner, Greg Boggs, and Mike Grace jointly purchased the N1/2 of the NW1/4. Mike Grace's farmstead is a half mile to the south and he will use this land as pasture for his cattle. The petitioner lives at and owns the N1/2 of the NE1/4. The eligibilities will be transferred to the east side of this quarter. Staff believes that the transfer is in the best interest of the public as this will move the eligibilities away from the existing farmstead and to a site that has access to a hard surfaced road.

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

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

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

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

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

Rural water is available in the area and a waste water system will be utilized.

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

There is ample space on the property for the amount of parking required for a single-family residence. No parking should be allowed on the road. There is one existing access onto County Highway 149 and no additional approaches will be allowed by the Highway Department. A shared driveway will be used to access the lots.

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

There should be little problem with the odor, fumes, dust, noise, vibration, or lighting from a single-family residence.

Staff found the proposed transfer to be consistent with density zoning and recommended approval of

conditional use permit #06-36 with the following condition:

The lots shall be platted and a right-to-farm notice covenant shall be filed on the deeds prior to the issuance of a building permit.

Based on the staff report a motion was made by Cypher and seconded by Zweep to approve conditional use permit #06-36 with condition as stated. The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT #06-37 to transfer one residential building eligibility.

From - NW1/4 SW1/4 in Section 22-T102N-R48W
To - S 60 Acres (ex. Rovang's Adn.) NE1/4 in Section 21-T02N-R48W
Location - 1 mile northeast of Corson
Petitioner / Owner- Ordell Rovang

General Information

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

Report by: Pat Herman

Staff Analysis

The site is located one mile northeast of Corson. There are approximately 20 rural homes clustered a ¼ mile north of this site and another smaller subdivision a ½ mile to the south. The remaining land is in agricultural production. The petitioner is requesting a transfer of one residential building eligibility from a land locked quarter-quarter to a parcel in which the available eligibility has been used.

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

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

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

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

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

Rural water is available in the area and a waste water system will be utilized. Access is from a township road and Brandon Township does require driveway permits.

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

There is ample space on the property for the amount of parking required for a single-family residence. No parking should be allowed on the road.

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

There should be little problem with the odor, fumes, dust, noise, vibration, or lighting from a single-family residence.

Staff found the proposed transfer to be consistent with density zoning and recommends approval of conditional use permit #06-37 with the following conditions:

- 1) The property shall be platted and a right-to-farm notice covenant filed on the deed prior to the issuance of a building permit.
- 2) A driveway permit from Brandon Township is required prior to the issuance of a building permit.

Based on the staff report a motion was made by Cypher and seconded by Zweep to approve conditional use permit #06-37 with conditions as stated. The motion passed unanimously.

ITEM 5. CONDITIONAL USE PERMIT #06-38 to transfer one residential building eligibility.

From - SW1/4 NW1/4 of Section 4-T103N-R49W
To - NE1/4 NE1/4 of Section 4-T103N-R49W
Location - ½ mile east of Baltic
Petitioner / Owner- Jason Aberson / Ronald Bruns

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size – 1.28 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting to transfer one (1) eligibility from the NW ¼ of Section 4 to the NE ¼ of Section 4. The receiving parcel is located along County Highway 114 east of the applicant's cattle operation. The parcel from which the eligibility is leaving is located adjacent to the Baltic corporate limits on the north and west. The subject property is located along a well traveled corridor between S.D. Highway 115 and Baltic on a paved county road. The subject property currently is pasture. The closest agricultural operation is that of the applicant, Brun's Show Cattle. Staff observed 60-80 head of Black Angus cattle at the applicant's farm, approximately 1/8 of a mile to the west. A right to farm notice will be vital, as there is a potential for odor and animal noises to impact the parcel to which the eligibility is being transferred.

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

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

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

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

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

Rural water is available in the area and a waste water system will be utilized.

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

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

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

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance. There is a potential for conflict, however, with the agricultural operation to the west.

Staff found the request to be consistent with density zoning and recommended approval of Conditional Use Permit #06-38 with the following conditions:

- 1) The lots shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.
- 2) Sverdrup Township shall approve the driveway approach.

Based on the staff report a motion was made by Cypher and seconded by Zweep to approve conditional use permit #06-38 with conditions as stated. The motion passed unanimously.

APPROVAL OF THE REGULAR AGENDA

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

Item 6 was deferred from the April 24, 2006 meeting.

ITEM 6. CONDITIONAL USE PERMIT #06-30 to amend CUP #98-72 garbage hauling service.

Legal Description - N450' E333' NW1/4 SW1/4 (Ex. H-3) in Section 26-T102N-R51W

Location - 26056 464th Ave. ¼ mile southeast of Hartford

Petitioner / Owner- Rick Blomberg / Doris Berscheid

General Information

Present zoning - I-1 Light Industrial

Existing Land Use - Industrial

Parcel Size -

Report by: Phil Kappen

Staff Analysis

The subject property is located immediately south of I-90, 1 mile east of the Hartford exit. The property to the north and west is agricultural and the area to the east and south of the subject property was previously used as a salvage yard and is zoned I-2. The subject property had also been used as a part of the salvage yard. That use changed in July of 1998 when Mr. Blomberg began to use the subject property for a garbage hauling business.

When Mr. Blomberg began operating the garbage service out of this property it was without first obtaining the required conditional use permit. He had previously operated the business from his residential acreage ½ mile to the south which was not zoned for commercial purposes. He applied for the CU permit on the subject property which was approved by the Planning Commission on October 26, 1998 with four conditions:

1. The petitioner shall screen the east, north and west sides of the subject property with a solid row of large shrubs such as Amur Maple. The plants shall be planted by June 1, 1999.
2. The petitioner shall maintain the planting according to the specifications of the Minnehaha Conservation District. Any plants that die shall be replaced.
3. All garbage or waste shall be contained in the trucks and shall be transported each day for disposal at a licensed solid waste facility.
4. No vehicle parts or unlicensed, inoperable or dismantled vehicles shall be allowed to accumulate on the site.

Since that time staff has contacted Mr. Blomberg on many occasions. He repeatedly promised that the screening trees would be planted, but the work was not completed and the property was not in conformance with the conditional use permit.

The property continued in violation of the terms of the conditional use permit two years after the permit was approved, and, on November 27, 2000 staff brought the matter back to the Planning Commission with a recommendation to revoke of the conditional use permit.

At the November 27, 2000 meeting the petitioner, Rick Blomberg, admitted he had procrastinated in getting the trees planted. He stated that he would plant the trees by June 1, 2001.

Members of the Planning Commission pointed out to Mr. Blomberg had been repeatedly notified for the past year and half that he was not in conformance with this permit. Mr. Blomberg stated he had made an arrangement to purchase trees but the person he was working with had passed away. The sale of the trees could not take place until the estate was settled. He plans to plant the trees in the spring.

Members of the Planning Commission asked staff if a temporary screen could be erected until the trees were planted in the spring. Staff stated that a temporary screen should not be necessary if the trees were planted next spring. Mr. Blomberg stated he would have the trees planted by June 1, 2001. The Planning Commission extended the deadline date for planting the trees to June 1, 2001.

In spite of the staff repeatedly encouraging Mr. Blomberg to plant the trees, the trees had not been planted by June 1, 2001. At the June 25, 2001 Planning Commission meeting the staff again brought the matter before the Planning Commission. Mr. Blomberg requested that he be allowed to plant 5' spruce trees instead of the required large shrubs. He stated that he would be moving the spruce trees in from a farmer's property. Staff had initially planned to again ask for revocation of the permit, but instead asked that the petitioner be allowed to use the 5' spruce as they would provide good screening and, due to the size, would provide that screening in a quicker manner. The Planning Commission approved the amendment to the permit with a requirement that the screening trees be planted by October, 2001.

That summer Mr. Blomberg planted a single row of one-foot tall Scotch Pine trees in the areas where screening was required. These were planted instead of the 5-foot spruce which Mr. Blomberg had indicated would be planted at the site. There were also unlicensed vehicles in the area in violation of permit condition number 4. Mr. Blomberg also had placed roll-off garbage dumpsters in the old road right-of-way to the south of the interstate. When staff contacted Mr. Blomberg, he agreed to move the dumpsters out of the right-of-way, and move the dump trucks into the area of the property that was still used as a salvage yard and was screened from the interstate by fencing, berms and a building. Mr. Blomberg also agreed to provide better care for the trees and maintain a complete row of screening trees.

Staff checked the property in October, 2001 and found that the property was in compliance within the exception of the size of trees that had been planted. Since the trucks had been moved from the site and the appearance of the property had been improved, staff allowed Mr. Blomberg to continue operations without taking the matter back before the Planning Commission.

Staff spot checked the site in May of 2003 and found that vehicles had been placed outside of the row of trees and that a number of the trees had died. Staff contacted Mr. Blomberg and was assured that the problems would be corrected.

Staff again checked the site on August 1, 2003 and found that, although the trees had not experienced much growth, there was a complete row of trees around the site and it was obvious that trees which had died had been replaced.

In spot checking compliance on some conditional use permits on February 27, 2006 staff found that there were only 17 small, stunted trees in the area around the CUP site, that the trees were surrounded by weeds which signified that the plants had experienced poor care. It was also noted that dumpsters were again parked on the stub road right-of-way to the south of the interstate. Staff contacted Mr. Blomberg and he subsequently brought in another application to amend his conditional use permit. He now proposes to replace the evergreen trees with one row of Common Lilac shrubs and one row of Green Ash trees.

Because of the petitioner's continuing past failures to establish the vegetative screening, staff cannot support this request. It has been almost eight years since the initial conditional use permit was approved and we are no nearer to establishing screening than we were when the use was illegally begun. Staff believes that the petitioner should be directed to immediately erect a fence around the area which meets the county standards for a screening fence, or the CUP should be revoked. If the fence is allowed, the petitioner should be required to erect a fence with a minimum height of 8-feet and a minimum 90% opacity maintained over the entire height of the fence. The petitioner should be required to ensure that the fence is of an earth-tone color and that the fence is constructed along the east, north and west sides of the conditional use area and meets the minimum 15-foot setback along the north and west boundaries of the property. The petitioner should also be required to have the fence completed, at the latest, by June 1, 2006.

The Planning Commission heard this item at their April 24, 2006 meeting. At that time they instructed the petitioner to submit a revised site plan showing a smaller area to be screened with a screening fence and to provide a proposal for what types of items would be stored outside the screened area. As of the date of this report the petitioner has not yet provided the requested information.

Public Testimony

Mr. Kappen explained that he had met with the petitioner after the staff report had been completed and

that a new site plan had been submitted. He and the petitioner had agreed on 4 conditions and the placement of a screening fence.

The petitioner, Rick Blomberg, stated that he accepts the conditions and plan and was ok with this.

No one else 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 Cypher and seconded by Rogen to approve conditional use permit #06-30 with the following conditions:

1. The petitioner shall conduct all operations according to the revised site plan dated May 19, 2006. All dumpsters shall be stored in the designated screened area.
2. The screening fence shall be a minimum of 8 feet in height. The fence shall be maintained with a minimum 90% opacity over the height of the fence. The fence shall be of earth-tone colors. The screening fence shall be erected by August 1, 2006.
3. All garbage or waste shall be completely contained in the trucks and shall be transported each day for disposal at a licensed solid waste facility.
4. No vehicle parts or unlicensed, inoperable or dismantled vehicles shall be allowed to accumulate outside of a permanent building on the conditional use permit site.

The motion was approved unanimously.

ITEM 7. CONDITIONAL USE PERMIT #06-32 to amend CUP #03-59 antique shop to allow a storage building.

Legal Description - Lot 6 Block 1 Brower Addition in Section 27-T102N-R51W

Location - 46312 Kelsey Dr. I-90 Hartford exit

Petitioner / Owner- Robert Dean

General Information

Present zoning - I-1 Light Industrial

Existing Land Use - Commercial

Parcel Size - 1 Acre

Report by: Phil Kappen

Staff Analysis

The subject property is located in the southeast quadrant of the Hartford Exit on I-90. Used to the east, south and west are in commercial industrial uses and to the north is located I-90. The petitioner wishes to amend his conditional use permit to allow him to place a metal storage container on the property as a permanent building. The petitioner indicates that he needs the added storage because of a recent estate sale that greatly increased his inventory.

The petitioner originally obtained a conditional use permit in 2003 to operate an antiques shop on the property. That permit was approved with the following conditions:

1. The property shall conform to the submitted site plan.
2. The open-area storage shall be screened by a six-foot high fence with a minimum opacity of 90%.

Since there are changes proposed in the site plan, an amendment to the CUP is required. The revised site plan submitted by the petitioner shows a smaller screened outdoor storage area that was indicated on the original site plan. The wording of the condition regarding the screening fence should be revised to match the currently accepted standard.

The petitioner has also indicated that he would like to erect a free-standing, on-premise sign above the container. A free-standing sign of up to 200 square feet in size is allowed with a building permit on this property.

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

This area is at the entrance to Hartford and, as such, uses should be controlled which would cause a visual impact on visitors to the city. The City of Hartford has expressed concerns over the permanent placement of a storage container on the property. The city also had to recently have Mr. Dean remove a similar container from his property in Hartford.

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

The petitioner is interested in using what would be considered a temporary structure as a permanent structure. Staff understands the need for quick, temporary storage, but has concerns about the potential of setting a precedent in such a situation. If the petitioner wishes to amend his CUP to include a revised site plan showing that an additional building will be constructed on the property, staff would not have a concern over that matter as long as the building was constructed similar in appearance to the existing building. Also, if a temporary building were proposed for the property on a strictly temporary basis staff would agree provided that a definitive time limitation were placed on the permit. In the unincorporated portions of Minnehaha County single-wide manufactured homes are allowed for a period of up to one year while a permanent residence is being constructed. The storage container might be allowed for a similar period of time. Staff, however, does have concerns over the use of a temporary structure and a permanent building on the property.

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

Access to the property is via Kelsey Drive.

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

There is adequate parking area on the subject property and no on-street parking is allowed.

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

The use of the property for the approved use of an antiques shop should not result in offensive odor, fumes, dust, noise, or vibration. Any outdoor lighting should consist of shoe box style lighting that directs the light downward and does not allow light spillage beyond the property boundaries of the property.

The Hartford Planning Commission reviewed this request at their May 9, 2006 meeting and voted to recommend that the temporary storage unit remain for no longer than one year.

Staff finds that the proposed use can be accomplished in a manner which protects the longer-term appearance of the property if adequate conditions are applied to the permit. Staff therefore recommended approval of the amendment of the conditional use permit with the following revised conditions:

- 1) The operation shall conform to the revised site plan dated April 4, 2006.
- 2) The open-area storage shall be completely screened from public view by a screening fence a minimum of six-feet in height with a minimum opacity of 90% maintained over the full height of the fence. The fence shall be of an earth-tone color.
- 3) A storage container may be used as a temporary storage building until a permanent building similar in appearance to the existing building is constructed or until a one year period has passed, whichever is shorter.
- 4) Any outdoor lighting shall be of a shoebox style that directs light downward and prevents the spillage of light beyond the boundaries of the property.

Public Testimony

Mr. Kappen stated that a revised site plan dated May 18, 2006 had been submitted for this site. In response to questions from the Commission, Mr. Kappen explained that this building would have to be removed in one year if this was approved with the conditions. He noted that the Hartford Planning Commission had discussed this item at their last meeting and would only like to see the building there for

one year. The 1 year would start from today's meeting.

The petitioner, Robert Dean, stated that this was part of his 5 year financial plan. He would like to construct an addition to his building. In the meantime he needs a place to store his merchandise which comes in from auctions or from attics. Many times the items have a smell and need a place to air out without stinking up his whole store. Mr. Dean asserted that there are these types of storage units being used all over the county. He noted that Sioux Falls allows this use in commercial areas as Wall Mart has 30 of these containers which never leave the site. Mr. Dean needs the 5 years till he can afford the addition to his building.

Commissioner Cypher stated that he rents a storage unit in that development which would be the same size as the storage trailer. The storage trailer will cost twice what he is paying to rent the storage unit.

Mr. Dean stated that he needs to have the items right at this store in case someone wants something he has just purchased. He submitted pictures of another place in this subdivision which has storage trailers. Mr. Kappen explained that the site in the pictures has a conditional use permit as a trucking firm. He will check the site to make sure everything is in compliance. Commissioner Cypher agreed with Mr. Dean that there are some issues in that development which need to be looked at. Commissioner Zweep noted that those issues were an enforcement matter.

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

Based on the staff report, public testimony, and the Hartford Planning Commission's recommendation, a motion was made by Cypher and seconded by Zweep to approve conditional use permit #06-32 with the following conditions:

- 1) The operation shall conform to the revised site plan dated May 18, 2006.
- 2) The open-area storage shall be completely screened from public view by a screening fence a minimum of six-feet in height with a minimum opacity of 90% maintained over the full height of the fence. The fence shall be of an earth-tone color.
- 3) A storage container may be used as a temporary storage building until a permanent building similar in appearance to the existing building is constructed or until a one year period has passed, whichever is shorter.
- 4) Any outdoor lighting shall be of a shoebox style that directs light downward and prevents the spillage of light beyond the boundaries of the property.

The motion passed unanimously.

ITEM 8. CONDITIONAL USE PERMIT #06-33 to allow a restaurant, bar and video lottery.

Legal Description - N100' of County Auditor's Tract 2 SE1/4 SE1/4 of Section 9-T102N-R49W

Location - 25795 475th Ave. Renner

Petitioner / Owner- Sorum Holdings LLC.

General Information

Present zoning - Commercial

Existing Land Use - Commercial

Parcel Size - 0.4 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting a conditional use permit to convert an empty building into a restaurant and bar with video lottery. The building is located at the Renner corner, north of the existing gas station/convenience store. The proposed location is a newer building that also has offices and the Renner post office.

The site plan provided by the applicant indicates seating for 196 restaurant and bar customers and ten (10)

video lottery machines. During the site visit conducted on May 9, 2006, staff counted nineteen (19) parking spaces located between the Renner Corner gas station and the proposed restaurant. Furthermore, five (5) additional parking spaces were located along the west end of the building for use by the post office.

The property is zoned commercial. There are residences located to the north, west and east across Highway 115. The property has been used for commercial uses in the past. However, the building did not contain uses that would operate until the early morning hours.

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 portions of the proposed use may enhance the enjoyment of other properties in the area by providing a service not currently offered in the area. The property values should not diminish as there have been other commercial uses located in the existing building.

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

The site is located at the intersection of two highways. The Comprehensive Plan indicates that these areas are suitable for commercial development. Furthermore, extensive residential development is occurring less than two miles to the south. This residential area will be able to enjoy the uses proposed by the applicant.

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

All necessary improvements have been made. The site has adequate utilities and direct access to S.D. Highway 115.

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

Article 15.02(P) of the Zoning Ordinance indicated the parking requirements for a restaurant/bar to be one (1) space for each 100 square feet of floor area or one (1) parking space per three fixed seats, whichever is greater. The proposed restaurant is approximately 66 feet by 70 feet for 4620 square feet. A 4620 square foot restaurant/bar would require 46 parking spaces. Staff counted seating for 204 patrons. This figure includes restaurant, bar and video lottery seating. The amount of seating would require 68 parking spaces. The Zoning Ordinance requires the greater number to be used. The applicant will have to provide 68 parking spaces. Currently there appears to be approximately 24 spaces, which will not meet the minimum parking requirements. Staff will recommend that 68 parking spaces be provided prior to operating the restaurant/bar.

Should the applicant construct any new parking, staff will need to review the parking plans and may require landscaping and screening. Should the applicant not agree to this, staff would recommend deferral of this conditional use permit to allow the applicant additional time to address parking requirements.

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 restaurant/bar will produce some noise and limited odors from cooking, but none that are likely to constitute a nuisance. The bar will be required to follow state laws on opening and closing times. The existing parking area is paved, as will any future parking area, so dust should not be an issue.

Staff believes that the proposed use is appropriate for this site. The existing building is located at the intersection of a state highway and county highway. The area to the south is developing as a residential area and the proposed use will offer a service that may appeal to residents in the area. There should be only minor limited impacts on any surrounding properties.

Staff recommended approval of Conditional Use Permit #06-33 to allow a restaurant and bar with video lottery with the following conditions:

- 1) That the applicant obtain and hold in good standing the appropriate liquor and/or beer/wine licenses with the state and county.
- 2) That the applicant obtain a South Dakota Sale Tax License.
- 3) That a minimum of sixty-eight (68) parking spaces be available for use by the restaurant/bar prior

- to opening. The construction of any new parking areas must be reviewed and approved by the Planning Director for landscaping and screening.
- 4) That the applicant follow all signage requirements as outlined in Article 16 of the Minnehaha County Zoning Ordinance, which includes obtaining any required sign permits prior to installation.
 - 5) That the bar use not exceed the square footage as shown on the site plan and that the restaurant seating not exceed 172 nor the bar seating exceed 32.

Public Testimony

The petitioner, Dean Sorum, stated that the building is for sale and they would like to know if the County will allow this use before purchasing the site. They have some options for additional parking and are willing to work with the Planning Department on that issue.

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

Based on the staff report and public testimony, a motion mad by Zweep and seconded by Cypher to approved conditional use permit #06-33 with the conditions as stated. The motion passed unanimously.

ITEM 9. REZONE #06-02 from A-1 Agricultural to C Commercial.

Legal Description - W544' SW1/4 of Section 30-T101N-R50W

Location - Hwy 17 / Hwy 148 intersection 3 miles west of Sioux Falls

Petitioner / Owner- R. Keith McGuire / Plooster Inv. Limited Partnership

General Information

Present zoning - A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size - 33 Acres

Report by: Pat Herman

Staff Analysis

The site is located three miles west of Sioux Falls in the northeast corner of the intersection of SD Hwy 17 and Co. Hwy 148. There is farm land and three residential acreages to the west, farmland and a five acre commercially zoned development (gas station and animal rescue) to the south, farmland and an established horse farm to the east, and the land use to the north is farmland and large lot residential acreages. The petitioner is requesting to rezone approximately 33 acres from A-1 Agricultural to C Commercial.

If the commercial zoning is approved the petitioner is required to submit a preliminary plan and drainage plan for review by both the Planning and County Commissions. The plan should show how the petitioner plans to provide a buffer between the commercial development and the existing residences to the west. Both the State and County will have to approve any access approaches for this development. Because access is from hard surfaced roads, all driving and parking areas within the development must be hard surfaced.

The Minnehaha County Comprehensive Plan recognizes that some areas which provide convenience goods and services and are located along major transportation routes are appropriate in the rural area. The Plan states that such development should occur in nodal, compact patterns buffered from adjacent land uses. The intersection of SD Hwy 17 and Co. Hwy 148 is designated as a rural service area in the Comprehensive Plan.

A review of the designated rural service areas indicates that areas zoned for commercial and industrial development range in size from 1.2 acres to 140 acres. The largest developed areas are located at the intersections of Interstate 29 or 90 and a highway, such as the Crooks exit from I-29 and the Buffalo

Ridge area at I-90 and Highway 38. The majority of the zoned areas do not extend past a ½ mile in distance from the intersection. Only one rural service area, located at the I-29 Crooks exit, exceeds a half mile in length.

Those areas located at the intersection of two highways or in a small village such as Rowena or Lyons are considerably smaller than the developments which adjoin an interstate.

The petitioner's request would result in a ½ mile stretch of commercial development along Hwy 17. Other rural service areas at similar locations throughout the County are less than 15 acres in size and do not extend further than a ¼ mile from the intersection. The petitioner is restricted from enlarging the commercial area eastward because of the existing horse farm. However, staff feels a ½ mile strip of commercial development is not appropriate in this location and exceeds the Comprehensive Plan's description of a compact nodal pattern. While some commercial development is appropriate, the impact of that development on the surrounding land use should be minimal. The development will impact the neighborhood visually, in terms of the actual structures, the hard surfacing and light pollution, and will increase traffic congestion in the area. This is still a rural area and strip commercial development should not be encouraged.

Staff recommends that the commercially zoned area be reduced from a ½ mile in length to just under 1/3 of a mile. There is an existing access to Highway 17 approximately 1600' north of the intersection which should be included in the commercial area. Reducing the size would still result in just over 20 acres of commercially zoned property. Combined with the existing 5 acre development to the southwest, this intersection would have the largest commercial development of any of the rural service areas not located on an interstate.

The site is designated as a rural service area by the Comprehensive Plan and staff recommended approval of Rezoning #06-02 for the property legally described as the W544' S1650' SW1/4 of Section 30-T101N-R50W.

Public Testimony

The petitioner, Keith McGuire, stated that he was in agreement with the staff's recommendation that the area to be rezoned be limited to a length of 1650 feet. The first business he plans to have is storage units, preferably for RV units. They own the horse farm property to the east and have always been good neighbors and they will not develop an eyesore.

Pat Doyle, 46625 266th St., lives approximately 1/2 mile north of this site. He is opposed to extending the commercial zoning for a ½ mile. He has a nice house and has concerns about the impact of the commercial property on its value. He has seen many commercial areas in the county which look like an eyesore. He is not opposed to a couple of acres being rezoned to commercial, more than that and it should be in Sioux Falls.

Larry Christensen, 46601 266th St. lives a ½ mile north of the site but owns a building site which is within 350' of the north end of the proposed commercial zoning. He paid a lot for the land and has a nice house and does not want to be next to an eyesore. He wondered what would be done on the site. He noted that there is land for sale in the area and it could be impacted by this land use. His biggest concern is how this is going to look.

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

Commissioner Cypher stated that other commercial developments at the intersection of two highways are much smaller. He cited the Wall Lake corner which only stretches for an 1/8 of a mile and midway corner at a ¼ mile. He feels that 1320' is an appropriate size and that a ¼ mile should not be exceeded. If the petitioner needs more land they should extend the area along Hwy 148, closer to their house.

County Planning Commission Minutes

May 22, 2006

Page 13

Commissioner Zweep stated that a ¼ mile is an appropriate size. He doesn't believe that this will be a junky development. He complimented the Planning Department on their efforts in enforcement.

Based on his earlier comments, public testimony and the staff report, a motion was made by Cypher and seconded by Rogen to recommend approval of rezoning the W544' S1320' SW1/4 of Section 30-T101N-R50W. The motion passed unanimously.