

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
February 26, 2007**

A meeting of the Planning Commission was held on February 26, 2007 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 Carol Twedt.

STAFF PRESENT: Scott Anderson, Phil Kappen, and Pat Herman - County Planning

The meeting was chaired by Don South.

APPROVAL OF THE CONSENT AGENDA

The Planning Staff requested that Item 6 be placed on the regular agenda. A motion was made by Cypher and seconded by Rogen to approve the consent agenda (Item 6 removed). The motion passed unanimously.

ITEM 1. MINUTES – January 22, 2006

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

ITEM 2. CONDITIONAL USE PERMIT # 07-02 to allow a storage unit.

Legal Description - Lot 4 Block 4 Brower Addition in Section 27-T102N-R51W
Location - 26062 Ashley St. Unit 1 south edge of Hartford
Petitioner / Owner- Doug Chase / Allan Stockwell

General Information

Present zoning - I-1 Light Industrial
Existing Land Use - Industrial
Parcel Size - N/A

Report by: Phil Kappen

Staff Analysis

The subject property is located in the northeast portion of the Brower Addition, a commercial/industrial subdivision located in the southeast quadrant of the Hartford exit on I-90. All surrounding properties are vacant commercial/industrial lots. Two buildings have been constructed on the property with sections for various businesses. This application, for unit 1 in the buildings (north unit in the east building), is to allow indoor storage of the petitioner's commercial vehicles. He may also perform some maintenance on the vehicle(s).

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 primary impact on surrounding properties from contractor shops or commercial vehicle storage is often the outside storage of parts, scrap, or damaged vehicles. The petitioner has not filed a site plan, which is a requirement when outside storage is planned, so there is no designated area where outside storage could be allowed in the future.

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

There should be little impact on the development of surrounding properties from the proposed use. All activities and storage must be maintained within the building. No outside storage can be allowed.

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

The Environmental Protection Agency rules prohibit the drainage of a floor drain in an area where automobiles are stored or repaired from entering into a septic system with a drain field. The building is served by a holding tank, which must be pumped for proper disposal at a treatment plant. This is allowable under the EPA requirements and under Minnehaha County Septic regulations.

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

Unit 1 has 1800 sq.ft. of area. The zoning ordinance requires 1 parking space for every 300 sq.ft. of floor

area. The petitioner will, therefore, have to provide a minimum of 6 parking spaces for the business.

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

Any repair activities and storage must remain inside the building. This will aid in preventing impacts from the use. All signage must comply with the zoning ordinance requirements. All outside lighting should be of a shoebox style that directs light downward.

Recommendation

Staff finds that the proposed use is consistent with the types of uses found in a commercially or industrially-zoned site and that the use can be made to conform with the uses on surrounding properties through the use of appropriate conditions. Staff recommended approval of conditional use permit # 07-02 with the following conditions:

1. The use shall be limited to automotive storage and repair with no outside storage of parts, materials, equipment, scrap, or damaged or inoperable vehicles.
2. All outside lighting shall be of a shoebox style that directs light downward and prevents light spillage beyond the boundaries of the property.
3. All wastewater shall be contained in a holding tank to be pumped for proper disposal at a public wastewater treatment plant.

Based on the staff report, a motion was made by Cypher and seconded by Rogen to approve Conditional Use Permit #07-02 with the conditions as stated. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT # 07-05 to allow mini storage units.

Legal Description - McBeth Tract 1A NE1/4 & SE1/4 in Section 27-T101N-R48W
Location - 48183 Hwy 42 1/4 mile west of Rowena
Petitioner / Owner- Dennis Tilden

General Information

Present zoning - C Commercial
Existing Land Use - Commercial
Parcel Size - 2.0 Acres

Report by: Pat Herman

Recommendation

Staff met with the petitioner's representative and discussed the setbacks, buildable area and the required site plan. Unfortunately, a site plan had not been submitted to the office at the time the staff review needed to be completed and the staff reports printed and mailed out.

The deadline to apply for the March 26th meeting is March 2nd. The petitioner must submit the required site plan by that date.

Staff recommended that conditional use permit #07-05 be deferred until the March 26th meeting.

Based on the staff report, a motion was made by Cypher and seconded by Rogen to defer Conditional Use Permit #07-05 to the March 26th meeting. The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT # 07-10 to allow a trucking business.

Legal Description - Lot 4 Block 4 Brower Addition in Section 27-T102N-R51W
Location - 26062 Ashley St. Unit 16 south edge of Hartford
Petitioner / Owner- Gary Eichstadt / Allan Stockwell

General Information

Present zoning - I-1 Light Industrial

Existing Land Use - Commercial
Parcel Size - N/A

Report by: Phil Kappen

Staff Analysis

The subject property is located in the northeast portion of the Brower Addition, a commercial/industrial subdivision located in the southeast quadrant of the Hartford exit on I-90. All surrounding properties are vacant commercial/industrial lots. Two buildings have been constructed on the property with sections for various businesses. This application, for unit 16 in the buildings (south unit in the west building), is to allow indoor storage for the petitioner's trucking business. He may also perform some routine maintenance on the vehicle(s).

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 primary impact on surrounding properties from trucking firms is often the outside storage of parts, scrap, or damaged vehicles. The petitioner has not filed a site plan, which is a requirement when outside storage is planned, so there is no designated area where outside storage could be allowed in the future.

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

There should be little impact on the development of surrounding properties from the proposed use. All activities and storage must be maintained within the building. No outside storage of any kind can be allowed.

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

The Environmental Protection Agency rules prohibit the drainage of a floor drain in an area where automobiles are stored or repaired from entering into a septic system with a drain field. The building is served by a holding tank, which must be pumped for proper disposal at a treatment plant. This is allowable under the EPA requirements and under Minnehaha County Septic regulations.

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

Unit 1 has 1800 sq.ft. of area. The zoning ordinance requires 1 parking space for every 300 sq.ft. of floor area. The petitioner will, therefore, have to provide a minimum of 6 parking spaces for the business.

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

Any vehicle storage or repair activities must remain inside the building. This will aid in preventing impacts from the use. All signage must comply with the zoning ordinance requirements. All outside lighting should be of a shoebox style that directs light downward.

Recommendation

Staff finds that the proposed use is consistent with the types of uses found in a commercially or industrially-zoned site and that the use can be made to conform with the uses on surrounding properties through the use of appropriate conditions. Staff recommended approval of conditional use permit # 07-10 with the following conditions:

1. The use shall be limited to indoor truck storage with routine repair and with no outside storage of parts, materials, equipment, scrap, or damaged or inoperable vehicles.
2. All outside lighting shall be of a shoebox style that directs light downward and prevents light spillage beyond the boundaries of the property.
3. All wastewater shall be contained in a holding tank to be pumped for proper disposal at a public wastewater treatment plant.

Based on the staff report, a motion was made by Cypher and seconded by Rogen to approve Conditional Use Permit #07-10 with the conditions as stated. The motion passed unanimously.

ITEM 5. CONDITIONAL USE PERMIT #07-12 to allow two single family dwellings.

Legal Description - SW1/4 & SW1/4 SE1/4 of Section 18-T103N-R47W
Location - ½ mile west of Garretson
Petitioner / Owner- Eugene Engebretson

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 ½ mile west of Garretson. The surrounding properties are zoned A-1 Agricultural and there are some existing rural acreages. There is some commercial zoning in the southeast corner of this Section and there are no CAFO's in the immediate vicinity. The petitioner has three residential building eligibilities in the SW1/4 of Section 18. Two of those eligibilities require conditional use permit approval before they can be used. The petitioner also owns the SW1/4 SE1/4 of Section 18. The building eligibility for this quarter-quarter has been sold off and the petitioner would like the option of using an eligibility in this quarter-quarter. Approval of this conditional use permit would allow the two single family dwellings to be placed in either the SW1/4 of the SW1/4 SE1/4 of Section 18.

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 request should not negatively impact property values in the immediate vicinity. The placement and size of the lots will be determined once there are potential buyers.

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

This request does not increase the number of dwelling units allowed under density zoning. The applicant has no other building eligibilities in this Section. A right-to-farm notice covenant is required on the deed of each lot.

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

Access will be from 253rd Street. Palisade Township does not require driveway permits.

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

The lots will be of sufficient size to meet the parking requirements for single family dwellings.

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.

Single family dwellings should not create any of the above listed nuisances.

Recommendation

Staff finds the request to be in conformance with density zoning and recommended approval of conditional use permit #07-12 with the following condition:

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

Based on the staff report, a motion was made by Cypher and seconded by Rogen to approve Conditional Use Permit #07-012 with the condition as stated. The motion passed unanimously.

APPROVAL OF THE REGULAR AGENDA

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

ITEM 6. CONDITIONAL USE PERMIT #07-13 to allow a single family dwelling

Legal Description - E1/2 NW1/4 (ex H-1 & Ex Moan's Addn) in Section 12-T103N-R50W.
and to transfer one residential building eligibility.

From - NE1/4 SW1/4 of Section 12-T103N-R50W
To - NW1/4 SW1/4 of Section 12-T103N-R50W
Location - 2 miles southwest of Baltic
Petitioner / Owner- Roger Moan

General Information

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

Report by: Pat Herman

Staff Analysis

The property is located approximately two miles southwest of Baltic. Land use in the surrounding area is agriculture with some scattered acreages. This conditional use permit is a request for two separate actions.

The first request is to allow a single family dwelling on the E1/2 of the NW1/4. A conditional use permit is required as part of the E1/2 was platted prior to density zoning. There is a small dairy operation on the north side of the road. The second request is to transfer one residential building eligibility from an interior quarter-quarter to a parcel with roadway access. There is an existing farmstead to the south of this site which has a limited number of cattle (approx. 100 head).

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 request should not negatively impact property values in the immediate vicinity. A right-to-farm notice covenant is required on all new dwellings being constructed within Minnehaha County.

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

Approval of the conditional use permit will not increase the number of houses allowed under density zoning. The petitioner has two remaining eligibilities in the S1/2 of the SW1/4 and each will be used in its assigned quarter-quarter.

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

Access to both lots will be from township roads. Lyons Township does not require driveway permits.

There is floodplain on the parcel located in the northwest quarter of the section and the house cannot be constructed within the floodplain. While there is dedicated right-of-way, 251st Street has only been constructed to the western property line of this site. The petitioner will need to work with Lyons Township on the issue of extending the roadway.

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

The required minimum lot size of 1 acre is sufficient to accommodate all off-street parking needs for a single family dwelling.

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.

Single family dwellings should not create any of the above listed nuisances.

Recommendation

Staff found the request to be in conformance with density zoning and recommended approval of Conditional Use Permit #07-13 with the following condition:

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

Ms. Herman explained that the petitioner was unable to attend meeting due to illness and asked that the item be deferred until the March 26, 2007 meeting. A motion was made by Cypher and seconded by Rogan to defer Conditional Use Permit #07-13. The motion passed unanimously.

ITEM 7. REVOCAION OF CONDITIONAL USE PERMIT # 97-49 – Go-Kart sales and automotive repair.

Legal Description – Lots 3 & 4, Blk 2 Rowena Original Addition in Section 26-T101N-R48W
Location - 48256 Hwy 42 Rowena
Petitioner / Owner- Lou Krohn

General Information

Present zoning - C Commercial
Existing Land Use - Commercial
Parcel Size - ± ¼ acres

Report by: Phil Kappen

Staff Analysis

The subject property is located in the village of Rowena. The petitioner obtained a conditional use permit in 1997 to allow go-kart sales and automotive repair. To the north are vacant commercial properties. To the east and southeast are single-family residences. To the south and west are vacant residential properties.

The petitioner's conditional use permit was approved with four conditions required of the petitioner. These conditions included:

1. Outside storage shall be screened from public view by a six-foot high solid wood fence.
2. The driveway and parking areas shall be hard surfaced.
3. All operations shall conform with the site plan submitted as a part of the conditional use application.
4. Wastewater shall be contained in a holding tank. No wastewater drain field shall be allowed on the property.

In 1999 our office was forced to begin enforcement action against Mr. Krohn because of unlicensed or inoperable vehicles stored on the property, vehicles parked on unpaved parking areas, unscreened outside storage on the property, signs erected without obtaining the required building permits, and a failure to maintain the required 15-foot setback between any parking and the front property line. At the time, Mr. Krohn was "extremely rude" but we were able to work with him to bring the property into close compliance with the required conditions.

Then, in September of 2006, after receiving a complaint about the property, staff checked the site and found unlicensed or inoperable vehicles stored on the property, vehicles, including trailers, parked on unpaved parking areas and unscreened outside storage on the property. We sent a letter to Mr. Krohn informing him of the violations and later called him to discuss how the violations could be corrected. Mr. Krohn was very rude on the phone, stated that he didn't have to do anything else, and hung up the phone. Staff watched the property for a couple months to see whether the property would be brought into compliance.

The property continues to be in violation of both the Minnehaha County Zoning Ordinance and the conditions required by Conditional Use Permit # 97-49.

Recommendation

Due to the continued lack of compliance with both the zoning ordinance and the conditional use permit requirements and the property owner's refusal to work at bring the property into compliance, staff has no other option but to recommend **revocation** of Conditional Use Permit # 97-49.

Public Testimony

Mr. Kappen displayed pictures of the property which had been taken on 9/20/2006, 10/17/2006, 10/30/2006, 01/12/2007 and 02/09/2007.

Commissioner Twedt asked if Mr. Krohn would be put out of business if the conditional use permit was revoked. Mr. Kappen said that he would and, due to the zoning regulations, he could not reapply for a new conditional use permit for six months. He went on to explain that all efforts had been made to work with Mr. Krohn and to give him time to bring the property into compliance. The decision to request a

revocation was not made lightly. Commissioner Steinhauer stated that the quickest way to bring the property into compliance would be to erect the screening fence. Mr. Kappen agreed, but noted that during their last conversation Mr. Krohn stated that he (Krohn) didn't have to do anything.

Mr. Krohn presented the Planning Commission with two letters, from Elsie Overgaard 48258 Hwy 42 and Dan Wentworth 48259 Hwy 42, which expressed support for his business. Mr. Krohn stated that the materials shown in the pictures are typical of an automotive business. Sometimes people bring cars to be fixed and abandon them, or they let their license lapse. It is not his responsibility to license the vehicles. Using the slides of the property, Mr. Krohn explained why things were on this site. He stated that the stove, which sits outside the building, is used to heat up motor parts for assembly. He stated that most of the vehicles shown on the slides were licensed and the others were there to be repaired. Many of the vehicles have been removed. The tires were put onto a grain truck and some are used as weights in the back of his pickup during snow season. In describing the materials under the semi-trailer, one was his dog kennel the other a tow dolly used for vehicles. Mr. Krohn stated that in his business you have things sitting around.

Commission Cypher asked why a fence had not been put up. Mr. Krohn stated that he didn't think it was necessary. Commissioner Twedt said that Mr. Krohn had agreed to the conditions when he obtained the conditional use permit. She wondered why he hadn't complied with the conditions and put up a screening fence. Mr. Krohn stated that he did not consider this stuff be storage; it is used to run the business.

Mark Rollinger, 26675 Douglas Ave., stated that Mr. Krohn was always coming to the aid of Split Rock Township when they need repairs for their graders or plows. He feels he is a good neighbor and that a small family run operation should not be put out of business.

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

Commissioner Steinhauer stated that the things shown in the slides were outside storage and that they needed to be screened as required by the approved conditional use permit. He suggested that the petitioner be given 90 days to bring the property into compliance. If Mr. Krohn fails to do so the item will be brought back to the Planning Commission for revocation. Commissioner Twedt stated that she had empathy for the staff in working so long to bring this property into compliance and that Mr. Krohn stated at the podium that he didn't think that screening was needed.

Based on the staff report and public testimony, a motion was made by Steinhauer and seconded by O'Hara to require Mr. Krohn to erect the six-foot high solid wood fence, as required by Conditional Use Permit #97-49, not later than May 27, 2007. The motion passed unanimously.

ITEM 8. TEMPORARY USE PERMIT #07-01 – to allow a music festival and temporary campground.

Legal Description - E1/2 NW1/4 SE1/4 & NE1/4 SE1/4 (Ex. H-1 & Ex. Tr. 1 Alvine's Addn.) in Section 36-T101N-R51W
Location - 26767 466th Ave. 1.5 miles west of Sioux Falls
Petitioner / Owner- Marilyn Alvine / LifeLight Communications

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Recreation
Parcel Size - 20 + Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting a Temporary Use Permit to allow for a music festival with associated camping and vending from August 30 to September 2, 2007. Festival attendance is expected to be between 200,000 and 275,000 over the three day event. The event is proposed to be held at the Wild Water West Water Park grounds, approximately three (3) miles west of Sioux Falls. This year would be the third year the event will be held on the proposed site. The 2006 event was complicated by heavy rains. While staff did not receive a single complaint about the 2006 event, there were parking issues.

The applicant has prepared a narrative of the proposed event. There will be two (2) primary stage areas and four (4) smaller performance areas for a total of six entertainment areas where performers will sing. Camping will also be offered on the festival grounds. The applicant has indicated that 2,000 camping sites will be provided for festival attendees. Electrical hook-ups will be provided to 500 sites. Portable showers will be provided by the applicant free of charge to those camping on the property.

The narrative addresses several issues such as rodent and insect management, crowd hydration and cooling and temporary vending requirements. The narrative indicates that should the long-range weather forecast predict extreme heat, the placement of two misting stations might be provided. This is somewhat vague and staff prefers requiring misting stations once the temperature exceeds 90 degrees.

The applicant has provided a detailed medical care plan for emergency needs. They have obtained one mobile clinic from Sanford Health. The plan shows that two first aid stations will be provided. This appears to meet potential needs of the festival. Staff recommends that the location of each first aid station be clearly identified in the programs provided to festival attendees.

A command center will be located on the site. The narrative indicates that staff from the Sheriff's office will be used for an undetermined amount of protection. The Sheriff's department has been included in discussions with LifeLight and is aware that their manpower will be utilized for the event. In addition, the Metro Communications Center has indicated that they will be providing personnel time for the event. The applicant has offered to reimburse the County for personnel costs associated with event security and administration. Staff will include this in the recommended conditions of approval.

State approval is being sought by the applicant for a temporary campground. Shower facilities will be provided to campers. Information shall be provided to each camp site listing the location of the first aid station and information center. Furthermore, the temporary camping area shall only be allowed with the approval from the State.

Vendors will be located around the stage area of the festival grounds. The number and types of vendors has not been indicated within the narrative. Staff concludes that vendors are compatible with the proposed use, but will require that each vendor has obtained the necessary state sales tax license and state food license for the sale of food.

Provisions have been made for a mobile weather station to be located on the festival grounds during the event. The mobile weather station will be used to tract any severe weather that may arise. A weather emergency plan has been developed. Any severe weather will be assessed by festival management and public safety individuals. Any festival goers requiring shelter would be shuttled to the First Assembly of God Church located on 41st Street, six miles to the east. The narrative does not indicate the number of people this facility can shelter, nor an approximate time needed to move people to the shelter. This portion of the submitted plan is not adequate. Staff will need to have written confirmation from the First Assembly of God Church that they are willing to provide their facility as a storm shelter. The applicants will also need to provide an estimate on the duration needed to evacuate the facility and parking lots. The traffic capacity of the roads is approximately 1500 vehicles per hour. Should a severe weather arise during peak hours, any evacuation would require several hours. Campers would be at most risk. The applicant shall provide shelter information to each camper as part of the registration.

The plan does not address any temporary signage that may be used by LifeLight. The Zoning Ordinance does not specifically allow the placement of any banners or temporary signs for Temporary Uses, however, allows them in conjunction with roadside stands and firework stands when a Conditional Use Permit is obtained. Based on general intent of the Zoning Ordinance a limited number of temporary signs should be allowed. No temporary signs or banners however, shall be allowed to be displayed within any public right-of-ways. The applicant shall provide a Signage Plan to the staff for review and approval prior to the Planning Commission meeting. The plans shall identify the type, number, size, message, and location of each sign or banner and shall guarantee that no signs are placed in any road right-of-way. The applicant shall be required to obtain the property owners permission to place signs on private property. All temporary signs or banners shall be removed by September 10, 2007. Directional traffic signs are not considered advertising signs such as banners or other temporary advertising signs.

Vehicular Traffic

Both S.D. Highway 17 and County Highway 148 (267th Street) have a maximum carrying capacity of 1900 vehicles per hour. The applicant has provided a plan that attempts to limit the amount of traffic that will be seen at this intersection. Traffic from the west will be directed from Interstate 90 down County Highway 151 (463rd Avenue). Traffic from Sioux Falls will be directed to S.D. Highway 42 and then south on S.D. Highway 17 to the north parking lots. Traffic arriving from the south on Interstate 29 will be routed to Exit 84 and then north. Traffic from the south appears to be parking in the east and west parking area. A temporary road will be constructed from the west parking area to 465th Avenue. The applicant has attempted to eliminate as much traffic volume at the intersection of 41st Street and S.D. Highway 17 as possible. Temporary signage will be used to direct festival goers to the closest and most suitable parking areas. The single largest event day is projected to be Sunday with up to 60,000 attendees. Based on this figure, staff projects that 24,000 spaces are needed to meet the parking demand. The narrative provided by the applicant indicates that in total over 35,000 parking spaces are available.

The applicant has indicated that the Temporary Use Permit application will be supplemented with approval of the traffic plan by the S.D. Department of Transportation, Minnehaha County Highway Department, Lincoln County Highway Department, Minnehaha County Sheriff, and the S.D. Highway Patrol. Each of these agencies has been provided with the plan and their comments solicited for improvements. The traffic plan is rather detailed, indicating traffic routes, signage, and parking. Staff recommends as a condition of approval that prior to Planning Commission approval, the applicant supply the written approvals from the above identified agencies for traffic, signage and parking plans.

Pedestrian Traffic

In 2005, the applicant had parking lots which required attendees to cross Highway 17 and 267th Street. These parking areas were not available in 2006. During the 2006 event, the applicant obtained additional parking which did not require attendees to cross either road. Staff believes this parking layout worked much better, as it did not require law enforcement to monitor foot traffic and promoted a safer environment for the attendees. The applicant has indicated that for 2007, none of the additional parking areas which required street crossing will be 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.

As this is a temporary use, extending only over a three (3) day period, no long lasting impacts on use or property values should occur. All existing residences will face temporary impacts on level of traffic services. The significant amount of traffic generated by this event will negatively impact the existing uses in the area for the duration of the event.

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

The proposed use, due to its temporary nature, should not impede the orderly development of the area.

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

The applicant is proposing the creation of two (2) new access points into the west parking lot of the festival area. The new approaches will come off of 465th Avenue. Staff has concerns with the use of these roads to access the west parking area. The roads will be constructed primarily over existing cropland. Any rain will result in mud being tracked out onto the county maintained road, unless adequate measures are taken. This was evident in 2006 when rains caused the new roads to become impassable and several cars became stuck in the mud. The road must be at least twenty-four (24) feet wide, constructed to allow for adequate drainage off of the road bed, not impede any natural drainage way, and constructed with at least a three (3) inch gravel surface.

The applicant has made provisions for a minimum of 160 porta potties to be serviced twice per day. Hand washing stations will be provided near each pod of portable toilets. This number of portable toilets appears to be sufficient.

The application/narrative addresses solid waste/trash management by indicating that it will be coordinated

by festival volunteers. Trash receptacles will be placed throughout the venue and collected on a regular basis. The LifeLight group touts its history of leaving each venue in better condition than when they arrived. Staff recommends that a \$250.00 surety be held by the County to make sure that all trash and debris is cleaned not only from the festival area, but also from the parking areas and corridors leading to and from the event. Upon inspection and approval by the Planning Department, the surety shall be released minus a \$35.00 inspection fee.

The festival grounds are located within the Hartford Fire and Rescue service area. The Hartford Fire and Rescue is a volunteer organization. Staff wants to determine that an event of this size will not overwhelm the volunteer group. Staff recommends that prior to Planning Commission approval of the Temporary Use Permit, the applicant shall obtain a written statement from the Hartford Fire and Rescue that they have reviewed the plans and will be able to provide fire and rescue services during the event.

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

The applicant has indicated that over 15,000 parking spaces will be provided. Some parking will be provided on-site. Some ADA parking is being provided by the applicant on the site. Additional parking will be located ½ to 1 mile to the north and east of the festival site. This parking configuration will require attendees to walk or use a shuttle service. The applicant has indicated that a tram system may be utilized to shuttle festival goers from the parking areas to the festival site. The plan indicates that attendees can also walk to the festival site. Last year pedestrian traffic was prohibited from walking in the road right-of-way. In 2005, a shuttle system was required to reduce the number of pedestrians walking in the highway right-of-way. This seemed to work well and has included this requirement as a recommended condition of approval for this year.

Rain would reduce the amount of parking. The utilization of a grassy field is certainly not the best case scenario. The west parking area will be tilled and planted into a crop that provides the optimum ground cover. Should a major rain event take place during the gathering, low areas could become muddy or inundated with water. Other issues faced with field parking are dust and maintaining an orderly parking configuration. The numbers provided by the applicant represent an optimum use of the grass parking lots. Irregular parking will reduce the number of parking spaces. In no case shall any vehicles park within the public right-of-ways. Any vehicles parking within the right-of-ways shall be ticketed by the Sheriff and towed at the owner's expense.

The applicant is proposing that the west parking lot will be accessed from 465th Avenue. The County Highway Superintendent has indicated that a temporary easement is needed from the property owner for the access road leading from 465th Avenue to the west parking lot and dust controls measures on both 465th Avenue and 268th Street. Staff will include these items as recommended conditions of approval. The applicant has not indicated the width, or construction method of the driveway approach into the west parking lot. Staff recommends that all driveway approaches into temporary parking areas have a minimum width of twenty-four (24) feet and be constructed with a minimum of three (3) inches of gravel. Furthermore, no natural drainage way shall be obstructed.

The parking lots will have temporary lighting. No lighting has been provided along the routes proposed to be utilized by foot traffic from the festival site to the north and northeast. As the concerts will be ending after dark, pedestrians will be walking along a state highway in the dark, which will result in reduced safety for the pedestrians. Staff recommends that temporary lighting also be included in the pedestrian paths between the parking areas and festival site.

The narrative indicates that the water park will remain open during the music festival. Water park goers were able to find parking during the 2005 and 2006 events. All water park patrons will be able to park in any available spaces found in the temporary parking 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.

This event will generate noise, dust and additional lighting not typically found in a residential/urban fringe area. The vehicle traffic and pedestrians will generate noise and dust. Staff has serious concerns about dust resulting from the use of grassy fields and pastures for parking, as this was an issue in 2005. In order to mitigate dust, staff recommends that all parking areas be monitored and driving lanes watered

down if needed as determined by the Planning Director or Sheriff. The applicant has indicated that 268th Street bordering the south side of Country Acres, one mile of 465th Avenue and 268th Street will be treated with magnesium chloride, a dust retardant, prior to the start of the festival. The narrative indicates that an unspecified number of water trucks will be donated to apply water on areas causing dust.

In the past, staff recommended that all concert activities cease by 11:00. The applicant appealed to the Planning Commission to change this proposed condition. The Planning Commission agreed with the applicant and indicated that the concert should end by 1:00 a.m. Staff will recommend a 1:00 a.m. finish time. It should also be noted that the Planning Department did not receive any complaints about noise from the 2005 or 2006 events.

Temporary lighting will be used in the temporary parking areas and corridors leading to and from the parking areas to the festival ground. While these lights are necessary, they will produce a significant amount of light not typically found in this residential/agricultural area. Staff recommends that the lighting be limited to minimize the impacts on the surrounding properties. All temporary lights should be directed towards the ground and must be shut off by 1 am.

Originally, staff had concerned with the event taking place at Wild Water West. Staff concerns were primarily focused on the projected number of attendees at LifeLight that could potentially overwhelm the existing traffic network. This concern proved to be accurate when rain at the 2006 event caused vehicles to be stuck in 8 to 12 inches of slimy mud and forced cars to park on both Highway 17 and 267th Street. The event organizers appeared to be unable or unwilling to handle this parking issue. It was reported by the Argus Leader that an ambulance had difficulties reaching a festival goer with an injury due to the vehicles parked along the shoulders of the road and patrons walking in the right-of-ways and roadway. Staff can not allow this type of traffic situation to occur. Either additional restrictive conditions should be implemented or the event should not be held at this location.

Recommendation

Staff recommended approval of Temporary Use Permit #07-01 to allow for a three (3) day music festival with associated camping and vendor sales with the following conditions:

- 1) That all parking areas shall be monitored and driving lanes watered down if needed as determined by the Planning Director or Sheriff.
- 2) That a shuttle service be provided for people parking in the northeast parking area.
- 3) That prior to the event a lighting plan be submitted for the parking areas and that temporary lighting also be included in the pedestrian paths between the parking areas and festival site.
- 4) That all concerts conclude by 1:00 a.m.
- 5) That a \$250.00 surety be held by the County to make sure that all trash and debris is cleaned not only from the festival area, but also the parking areas and corridors leading to and from the event. Upon inspection and approval by the Planning Department, the surety shall be released, minus a \$35.00 inspection fee.
- 6) That a minimum of 160 portable toilets be provided for each day of the event. Each portable toilet shall be serviced as needed with all waste to be properly disposed of.
- 7) The location of both first aid stations shall be clearly identified in the programs provided to festival attendees. The applicant shall have appropriately trained medical personnel manning each station while festival attendees are on the subject property.
- 8) That prior to the start of LifeLight, the applicant shall reimburse the County for law enforcement used at the site for security and/or traffic management, for Metro Communications cost; and for Emergency Management reserve law enforcement officer cost and be deposited with the County Treasurer prior to August 15, 2007.
- 9) That two (2) misting stations be provided for crowd cooling once the temperature exceeds 90 degrees.
- 10) That the number of temporary campsites shall not exceed 2000 sites and shall obtain approval from

- the State. Information shall be provided to each camp site listing the location of the first aid station and information center.
- 11) That prior to Planning Commission approval, the applicant supply the written approvals from the S.D. Department of Transportation, Minnehaha County Highway Department, Lincoln County Highway Department, Minnehaha County Sheriff, and S.D. Highway Patrol for traffic, signage and parking plans.
 - 12) That the applicant provides County Planning with a written confirmation from the First Assembly of God Church that they are willing to provide their facility as a storm shelter with the maximum occupancy indicated.
 - 13) That prior to August 15, 2007, the applicants shall provide an estimate on the duration needed to evacuate the facility and parking lots, and shelter capacity and location to the County Emergency Management Office for review and approval.
 - 14) That prior to August 15, 2007, the applicant shall obtain a written statement from the Hartford Fire and Rescue that they have reviewed the plans and will be able to provide fire and rescue services during the event.
 - 15) Each vendor shall obtain the necessary state sales tax license and food handling permits for the sale of food from the State of South Dakota.
 - 16) That the temporary lighting located in all parking areas and corridors to and from the festival grounds should be directed towards the ground and must be shut off by 1:45 a.m. unless extended by the Sheriff.
 - 17) The applicant shall provide a Signage Plan to the staff for review and approval prior to the Planning Commission meeting. The plans shall identify the type, number, size, message, and location of each sign or banner and state that no temporary signs shall be placed in any right-of-way without the consent of the agency governing that right-of-way. The applicant shall be required to obtain the property owners permission to place signs on private property. All temporary signs or banners shall be removed by September 10, 2007.
 - 18) That the applicant shall abide by SDCL 31-32-9 by preventing festival patrons from obstructing the highway or ditches by parking vehicles or placing other material there. Routine monitoring shall occur during the event and should non-authorized parking be observed on Highway 17 or 267th Street, the applicant shall pay a \$500.00 for each un-authorized parked vehicle as determined by the Planning Department.
 - 19) That prior to Planning Commission approval, that applicant has to obtain a temporary easement from the property owner(s) to the west of the west parking area for the access roads leading out of the west parking area.
 - 20) That prior to the start of the LifeLight festival, the one mile of 465th Avenue located between 267th and 268th Streets and the one (1) mile of 268th Street located between 465th Avenue and S.D. Highway 17 shall be treated with magnesium chloride or an equivalent dust suppressant.
 - 21) That all driveway approaches into the temporary parking areas have a minimum width of twenty-four (24) feet and be constructed with a minimum of three (3) inches of gravel and maintained during the event so that they always remain passable. Furthermore, no natural drainage way shall be obstructed. The applicant shall obtain Approach Permits from the appropriate agency for any new approaches to be constructed.
 - 22) That prior to the construction of any temporary or permanent approaches, the applicant shall obtain an approved approach permit from either the County Highway Department or the S.D. Department of Transportation, depending on jurisdiction.

Public Testimony

Mr. Anderson stated that overall the festival has run fairly smoothly. With an event this size the transportation system in the area is severely taxed, but only for a period of three days. Mr. Anderson explained that parking for this event is the issue of most concern. Vehicles have been parking in the right-of-way and this cannot be allowed. These areas must be kept free to allow enough room for emergency vehicles to get through. To reinforce the serious of this issue condition #18 has modified to include a \$500.00 fine for every un-authorized parked vehicle as determined by the Planning Department. It will be LifeLight's responsibility to pay the fine. LifeLight has the option to develop a plan to better police the area or to hire tow trucks to remove the vehicles.

Commissioner Cypher stated that he had been trying to drive home last year and Hwy 17 had been shut down. Mr. Anderson stated that the SDDOT did have the authority to shut the road and to implement a reverse plan to give the exiting traffic priority.

Alan Green, 2204 W. 70th St. N. stated that this would be the 3rd year to hold the festival at Wild Water West. The first year it was hot, the second year wet. Mr. Green stated that people parked in the right-of-way should be ticketed and towed and that it was the car owner's responsibility to foot the bill, not LifeLight's. Mr. Green handed out a letter suggesting changes to be made to recommendations #1, 8, 9, 11, and 20. Mr. Green stated that instead of condition 8, which requires LifeLight to reimburse the County for law enforcement, metro communications and emergency management costs, that an Ad-Hoc committee would be formed to address the cost of security, traffic and parking management as well as dust control. No mention was made of re-imbursement. This Ad-Hoc Committee would consist on 2 city council members, 1-2 county commissioners, Sheriff Milstead, and the LifeLight consultants and staff. Commissioner O'Hara stated that Mr. Anderson needed to be part of the committee. Mr. Green replied that Mr. Anderson's involvement was understood and that it was just an oversight to leave him off the list.

Mr. Green requested that the Planning Commission approve the festival and let the Ad-Hoc committee make the decisions concerning the conditions he was in contention with. Commission South stated that he did not want to piecemeal the application and that all the conditions needed to be reviewed at one time. Commissioner O'Hara suggested a 60 day deferral with the option to defer longer if LifeLight wasn't prepared at that time.

Commission Twedt stated that this was an incredible event but that that County did not get any economic benefit from it. She stated that everything should be done to keep the festival here and that the number of conditions should be reduced.

Mr. Anderson stated that Sioux Falls sees a lot of benefits through sales taxes collected from participants who stay and shop in Sioux Falls while attending the festival. The County doesn't receive any of the money. Minnehaha County should not be held responsible for the costs of the festival. If LifeLight wants a monetary contribution to the festival they need to convince the elected officials. The festival should not put a financial burden on the County and its tax payers.

Commissioner South stated that he did not think the Planning Director should be removed from condition #1 in determining when the watering of parking and driving lanes needed to be done.

Sheriff Milstead stated that during the Sioux Empire Fair the County absorbs pays for ½ of his staff and the fairgrounds contribute the balance. He noted that Sioux Falls residents are also County residents who attend this festival. From a law enforcement stance, the festival attendees are a good group to manage. If his deputies are tied up with traffic control or an accident they cannot police parking on the right-of-way. If one car pulls over and parks it is guaranteed that others will follow. The rain last year just made the situation difficult. The first year LifeLight erected "no parking" signs within the right-of-way and that seemed to work. Mr. Milstead implied that it was Mr. Anderson's fault that those signs were not permitted last year and that caused people to park on the shoulder of the road. Sheriff Milstead stressed that this is a good event for the City and the County and that is doesn't need to be micro managed. He agrees the Mr. Anderson should be part of the Ad-Hoc committee.

Commissioner South suggested LifeLight work with the SDDOT to put out signs about parking. Commissioner Twedt stated that the kids who attend this festival are good kids and don't cost the County money. It is the kids in juvenile detention that take a lot of the County's money.

Sheriff Milstead stated that he didn't intend to get involved in the zoning issue and that Mr. Anderson should not get involved in parking issues.

Kim Liedtke, 4001 N. Longview Ave., stated that fining people for parking in the right-of-way would set a terrible precedent. People park in illegal spots all the time such as at farm auctions. He feels that is a ridiculous idea. This festival is good for the community and a huge economic benefit. It is our neighbors that are making money. If the County can't or won't spend money that's fine, but this festival is good for the County, City and State.

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

Commissioner Rogen stated that he had attended the festival and camped at Wild Water West. He stated that whether you agree with condition # 18 or not, parking along the highway is a valid concern. It is not the same as a farm auction where there are a lot fewer vehicles and usually they are parked on only one side of the road. Commissioner Rogen said that if he had owned a house out there and it was on fire there was no way the fire trucks could have gotten through. He said that people were parked on the highway the entire length of the festival.

Based on the staff report and public testimony, a motion was made by Twedt and seconded by O'Hara to defer Temporary Use Permit #07-01 until the April 24th meeting. The motion passed unanimously.

ITEM 9. REZONING #07-01 – from A-1 Agricultural to Buffalo Ridge Planned Development District for an ethanol production facility.

Legal Description - Government Lots 1 and 2 in the northeast quarter (NE ¼); and Government Lots 1 and 2 in the southeast quarter (SE ¼), except the railroad right of way contained therein and except that portion of said Government Lots 1 and 2 lying south and east of the railroad right of way and except County Auditor's Lot H-1 contained therein, all in Section 34, Township 104 North, Range 47 West, of the 5th P.M., Minnehaha County, South Dakota, and the south half of the northwest quarter (S ½ NW ¼) and the southwest quarter (SW ¼) except Tract 1, Ramey Addition, and except Lot H-1 contained therein, of Section 34, Township 104 North, Range 47 West, of the 5th P.M., Minnehaha County, South Dakota.

Location - ½ mile northeast of Sherman

Petitioner / Owner- PlanScape Partners / Carol DeShepper and Dean & Cindy Olson

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 303 Acres

Report by: Scott Anderson

Staff Analysis

Minnehaha County utilizes several zoning techniques such as density zoning, the use of subdivision regulations and Planned Development Districts. The County's Comprehensive Plan states that occasionally conventional zoning districts can be a barrier to innovative design and development techniques. The Planned Development District was added to the zoning regulations to provide developers with greater flexibility while at the same time increasing the public review of development proposals. Planned Developments can exactly outline proposed uses within the specific district and how development will occur. Furthermore, a specific set of guidelines for each planned development can be agreed upon by the County and developer. Planned Developments fill an important niche within the overall zoning of Minnehaha County.

The applicant, PlanScape Partners, has submitted a rezoning request to rezone the above described 300+ acre parcel from the A-1 Agricultural District to a Planned Development District. This planned development would be for an ethanol production facility. The applicant has submitted a plan outlining how the site will be developed, as well as a narrative explaining the development.

The entire parcel will be considered as one (1) sub-area. The one sub-area will consist of one (1) 50 million gallon nameplate dry mill ethanol production facility and associated offices, employee parking, rail lines and grain storage.

Staff conducted a site visit and found that the site is currently vacant. The City of Sherman is located approximately ¼ of a mile to the west. There are four farm residences to the south and west. A major rail

line is located along the east boundary of the subject property.

Staff has prepared a recommended set of regulations for the proposed Buffalo Ridge Planned Development District. Staff finds that the Buffalo Ridge Planned Development District is in conformance with the Minnehaha County Comprehensive Plan. The proposed development is being established with due consideration to adequate highway and rail services. Furthermore, the ethanol plant will provide an improved and stronger market for agricultural products raised in the area, thus promoting the continued agricultural use of the surrounding property.

Recommendation

Staff recommends **approval** of Rezoning #07-01 to create the Buffalo Ridge Planned Development District as follows:

BUFFALO RIDGE PLANNED DEVELOPMENT DISTRICT. The regulations set forth herein or elsewhere in these regulations are the district regulations in the Buffalo Ridge Planned Development District:

- (1). **USES PERMITTED.** A building or premises shall be permitted to be used for the following purposes:

Ethanol production facility.
- (2). **ACCESSORY USES.** Accessory uses and buildings permitted in this district are those accessory buildings and uses customarily incidental to any permitted use in the district.
- (3). **PARKING REGULATIONS.** Parking shall be regulated in conformance with the provisions of the I-2 General Industrial District.
- (4). **SIGN REGULATIONS.** The size and location of all on-premise signs shall be shown on the final development plan and shall be regulated in conformance with the provisions of Article 16 On-Premise Signs for I-2 Industrial zoning. Off-Premise signs shall not be permitted.
- (5). **YARD AND HEIGHT REGULATIONS.** The minimum setbacks shall apply to all structures, but not service roads, driveways, utilities, or railroad tracks.

Required front yard ----- 75'
Required side yard ----- 50'
Required rear yard ----- 75'
Maximum Height ----- 70'
Maximum Height of ancillary structures such as cooling towers, storage bins, vent and exhaust stacks and grain elevators --- 225'
- (6). **OTHER REGULATIONS.** Other regulations for the entire Buffalo Ridge Planned Development shall be:
 - (a). That the ethanol facility continually meets or exceeds EPA standards for emissions. An annual air quality report shall be provided to the County Planning Department.
 - (b). A landscaped berm at least four (4) feet high shall be installed along the entire

south and west property boundaries, with the exception of any entrance into the site. Deciduous and/or evergreen trees shall be planted at minimum spacing of 40 feet and shall be a minimum of 1 inch caliper. A complete landscape plan showing the trees, shrubs and grass shall be reviewed and approved by the Planning Director prior to installation and must be installed no less than 6 months after operation of the ethanol facility begins.

- (c). All parking and driveway surfaces shall be hard surfaced.
- (d). 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;
- e). That reasonable steps shall be taken to reduce light emissions from the facility. All outdoor lights are to be of the shoe-box type that directs light downward. Any lighting required FAA shall not exceed the FAA minimum. Flashing white lights shall not be allowed for night time lighting.
- (f). That noise emissions be limited to 65 dbl at the property perimeter.
- (g). That all necessary wastewater processing permits be obtained from the County and State and continually held in good standing.
- (h). That prior to the commencement of any construction, a drainage plan be submitted for review and approval by the Planning Director showing how stormwater will be held and discharged at its current rate.
- (i). That a left turning lane be constructed on County Highway 114 to allow for truck traffic to safely enter the plant. The design and construction to be reviewed and approved by the County Highway Superintendent.

Public Testimony

Mr. Anderson stated the petitioner had submitted a written request to defer this item until next month meeting to allow the petitioner time to meet with the adjoining property owners.

A motion was made by Cypher and seconded by Rogen to defer Rezoning #07- 01 to the March 26, 2006 meeting. The motion passed unanimously.