

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
February 25, 2008**

A meeting of the Planning Commission was held on February 25, 2008 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

CONSENT AGENDA

At the request of the Planning Commission, Item 4 was moved to the regular agenda. A motion was made by O'Hara and seconded by Rogen to approve the consent agenda with the changes. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #08-10 to transfer one residential building eligibility.

From – SE1/4 NW1/4 of Section 28-T103N-R47W

To – SW1/4 NW1/4 (Ex. N170 W620.52) of Section 28-T103N-R47W

Location – ½ mile south of Garretson

Petitioner / Owner- Kenneth Pierret

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size - 30 Acres

Report by Phil Kappen

Staff Analysis

The subject property is located on the east side of County Highway 105 and just southeast of Garretson. The petitioner wishes to transfer a residential building eligibility from a land locked quarter-quarter to an area along the county highway.

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 surrounding area is predominantly agricultural land, however, there are a number of existing residential acreages in the area. There is an existing residential acreage in the northwest portion of the quarter-quarter to which the eligibility would be transferred. The addition of an additional residence at this site should have little impact on the other single-family residences in the area. Allowing to eligibility to move from the 'back' forty parcel will keep that land in agricultural production. A right-to-farm notice covenant will be required prior to the issuance of any building permit.

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

The area is not planned for urban-type development until such time as Garretson may expand to the area. At this time the area is planned for continued agricultural uses. As was noted under section 1 the transfer would allow a larger, non-divided area to be retained in production.

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

Access to the property is via 486th Avenue (Co. Hwy 105). There had been an acreage already broken out of the subject quarter-quarter. That site was split off by legal description rather than by platting. This did not allow the county the opportunity to review the split with a view towards reducing the number of driveways accessing the county highway. There are existing

driveways accessing the highway both from the acreage and from the subject property. Both of these existing driveways have good sight distance to the north and fair sight distance to the south. No additional driveways should be allowed onto the highway due to traffic safety considerations. The petitioner should be required to ensure that the existing driveway can be used for access to both the potential home, and to the agricultural land.

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

There is ample space on the property for any parking required for the allowed single-family land use.

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

Any outdoor lighting should be required to be of a shoe-box style that prevents light spillage beyond the property boundary.

Recommendation

Staff found that the proposed transfer can be accomplished in a manner that will minimize any potential impact on surrounding land uses and recommended approval of conditional use permit #08-10 with the following conditions:

1. The residential lot shall be platted and a right-to-farm notice covenant filed on the property prior to the issuance of any building permit.
2. No additional driveways shall be allowed to access the county highway. A shared access easement shall be shown on the plat which allows the use of the driveway for both the proposed residence and the agricultural land.
3. Any outside lighting shall be of a shoe-box style that aims light downward and prevents the spillage of light beyond the property boundaries.

Based on the staff report a motion was made by O'Hara and seconded by Rogen to approve Conditional Use Permit #08-10 with the conditions as stated. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #08-11 for an events center, bar and lounge

Legal Description - Tract 1 Oyens Addition W1/2 NE1/4 Section 1-T103N-R50W
Location - southeast quadrant of the Baltic exit on I-29
Petitioner / Owner- Michael Raderschadt/Daniel Konz, Gemida LLC

General Information

Present Zoning - C Commercial
Existing Land Use - Commercial
Parcel Size - 4.6 Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located at the southeast quadrant of the Baltic exit on I-29. There are commercial uses to the east and to the west across I-29. To the southwest (also across the interstate) is a manufactured home park. To the south and north is agricultural land. The major portion of the building on the property has been used for a flea market. The smaller, north portion of the building has a small casino and bar. The petitioner wishes to convert the building to an events center with a bar and lounge. The facility could be used to host wedding receptions, reunions and other entertainment events.

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

There should be little impact on neighboring properties. The most potential for conflict may be with the manufactured homes to the southwest. The closest home is approximately 600 feet from the

subject property. Late night noise or music, or bright lights could potentially impact these homes. The petitioner, however, is not proposing any outdoor activities. Noise can be controlled by prohibiting outdoor music or outdoor loudspeakers at the site. Lighting impacts can be prevented by restricting outdoor lighting to shoe-box style lights.

The petitioner already has landscaping trees along the interstate right-of-way. These must be maintained in a healthy condition and immediately replaced if they die.

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

The land to the south of the subject property is planned for continued agricultural production. There should be little impact from the proposed use on the continued farming of that ground. It is also unlikely that the proposed use would impact the existing commercial uses in the area, a body shop to the east and a manufacturing business to the west. The area to the north of the subject property, being located at an interstate exchange, is considered a rural service area and could potentially be rezoned for commercial purposes.

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

Access to the property is from 250th Street (County Highway 114). The county zoning ordinance requires that any commercial business that accesses a hard-surface road must also have hard-surface parking and driving areas on the property.

The building is currently served by a septic system that was rebuilt in 2006. The system was designed for a maximum wastewater flow of 360 gallons per day. The size of the proposed eating/drinking facility would allow an occupant load of up to 419 people. State regulations require that a septic system for a "dining hall" be designed for a wastewater usage of 4 gallons or water per patron per day. With a capacity of 419 people this would total 1676 gallons per day design capacity.

Or, state regulations require a design flow of 2 gallons of wastewater per patron per day for a bar or lounge. This would equal 838 gallons per day. Either number is well above the flow for which the current system is designed. The system will have to be upgraded and the state will have to approve the new system design. Either design number would also require that the size of the septic tank be increased. It would be possible, however, for an additional tank or tanks to be installed in series so that the existing tank can still be used. Because of the potential for an increase in the food preparation/serving with the proposed use the state may also require that a grease interceptor be installed before the first septic tank. This is something that the state will review when they examine the system design.

In addition to the septic system upgrades it is possible that the change in use would require some added safety features. A two-hour rated firewall would have to be in place between the smaller north end of the building and the larger southern portion. A one-hour fire wall would be required between the event area and the cold storage area, and there may be additional exit points required in the building.

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

The petitioner's site plan shows that the property currently has 29 hard-surfaced parking spots. The change in use will require additional parking spaces. The zoning ordinance requires that restaurants, bars, cafes or recreation or amusement establishments must have 1 parking space for each 100 square feet of building. Approximately 7600 square feet of building would be used for these purposes resulting in 76 parking spaces. In addition, the back portion of the building, which is to be used as cold storage, must have 1 parking space provided for each 300 square feet of building. This comes to an additional 10 spaces for a total of 86 required parking spaces. All of these spaces must be hard surfaced.

The site plan shows that the hard-surfaced (asphalt) extends almost to the interstate fence. The hard-surfaced area does not currently extend to that point, so the additional hard surfacing that will be added would likely provide adequate space for the necessary parking. The petitioner will have to prepare a revised site plan showing the 86 required, hard-surfaced parking spaces. The site plan must also show that the required 15-foot setback is maintained between any parking and the interstate fence.

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 outside lights should be shoe-box style lights that direct light downward. No outside music or speakers should be allowed to ensure that noise does not become a problem with the local residences.

Recommendation

Staff finds that the proposed use is consistent with the types of uses found in commercially-zoned areas and that the use can be conducted in a manner that will result in little impact to neighboring land uses. Staff, therefore, recommended approval of conditional use permit #08-11 with the following conditions:

1. The petitioner shall provide a minimum of 86 hard-surfaced parking spaces. A revised site plan shall be prepared by the petitioner for planning staff approval that shows the additional areas that will be hard-surfaced and the layout of all parking spaces.
2. The petitioner shall ensure that all state wastewater treatment standards and all building code requirements for this type of use are met prior to commencing the proposed operations.
3. No outdoor music or outdoor loud speakers shall be allowed at the site.
4. All outside lighting shall be of a shoe box style that directs light downward and prevents the spillage of light beyond the boundaries of the property.
5. Landscape trees shall be maintained at a maximum spacing of 50 feet along both the interstate and county highway rights-of-way. Any deciduous trees shall be a minimum caliper of 1.25 inches. Coniferous trees shall be a minimum five feet in height. Any dead trees shall be immediately replaced.

Based on the staff report a motion was made by O'Hara and seconded by Rogen to approve Conditional Use Permit #08-11 with the conditions as stated. The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT #08-13 to transfer two residential building eligibilities

From – Lot 5 & Outlot A of Relicted Lot 3 (Ex. H-1) Section 5-T103N-R51W
To – Lot 4 of Relicted Lot 3 Section 5-T103N-R51W
Location – 4 miles southwest of Colton
Petitioner / Owner- Jeffery Oyen, Tetonka LLP

Item 4 was placed on the regular agenda.

ITEM 5. CONDITIONAL USE PERMIT #08-14 contractor's storage yard

Legal Description - Lot 1 Block 1 Brower's 2nd Addition SW1/4 Section 27-T102N-R51W

Location – southeast quadrant of the Hartford exit on I-90
Petitioner / Owner- Tom McKnelly

General Information

Present Zoning - I-1 Light Industrial
Existing Land Use - Vacant
Parcel Size - 1.22 Acres

Report by Scott Anderson

Staff Analysis

The applicant is requesting a conditional use permit to allow for a contractor's storage yard. The site plan indicates that a single structure measuring 48 feet by 96 feet will be constructed in the southwest corner of the property. The applicant is also proposing some outdoor storage. The applicant indicated in a narrative that the building will be used to house the trucks and equipment, while the outdoor storage will be used for roll off containers and rear load dumpsters. The applicant is proposing to construct a fence out of the same material as the building. The site plan, however only shows a fence along the west, north and south property lines. Along the east side, the applicant is proposing a tree grove. The proposed fencing does not meet the requirements of the Zoning Ordinance, which requires all outdoor storage to be completely fenced. Staff will include this requirement in the recommended conditions of approval.

The Brower Addition consists of mostly commercial and industrial buildings and uses. There are several contractor's equipment yards located within the development to the west of the subject property. Other industrial and commercial uses are located in the development to the west. The applicant's proposed use is similar to the existing uses in the area.

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 is an industrial area, so the proposed use blends in quite well and should not impact the use and enjoyment of the property in the area. This type of business will not impact property values, provided a proper fence meeting the County's requirements is installed and maintained.

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

This expanded use is located in an existing commercial/industrial area. The proposed use should not impede future or existing industrial development in the area.

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

Jesse and Jeffrey Streets provides access to the site. Both streets are under construction. This portion of the development will have hard surface roads. Drainage and other needed facilities all appear to have been provided.

The Zoning Ordinance requires the parking area to be paved if the road or street providing access to the subject property is paved. The applicant will be required to pave his parking lot. The applicant did not provide an approximate building schedule, however staff is willing to give the applicant ample time to pave the parking area, allowing the building to be constructed and then the parking area paved. This being the case, staff recommends that the parking area be paved by August 1, 2008 or within 2 weeks of the completion of the first storage unit. The parking area is the area needed for the access into and out of the storage area and access onto Jesse Street.

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

The applicant is required to provide two (2) spaces for each three (3) employees. The applicant indicated that there are four (4) employees associated with this business. The applicant shall be required to provide 3 paved off street parking spaces. Two for the employees and one for any public that may visit 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.

The applicant is conducting a business that may periodically produce some noise. The area is located within an industrial area and should not be out of line with noises typically found in an industrial area.

Staff finds that the proposed use is appropriate for this commercial area, provided adequate parking can be provided. The recommended conditions of approval will ensure that harmonious development will occur.

Recommendation

Staff recommended approval of Conditional Use Permit #08-14 to allow for a contractor's storage facility with outdoor storage with the following conditions.

- 1) That all outdoor storage shall be completely enclosed with a 6 foot high screening fence that shall provide at least 90% opacity over the full height of the fence.
- 2) That the business operator obtains and maintains a South Dakota sales tax license.
- 3) Any new exterior lighting shall be shoe box style that directs the lighting downward.
- 4) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance and a building permit shall be obtained prior to the erection of any sign.
- 5) That a minimum of three (3) off-street parking spaces shall be provided. The applicant shall continually meet the parking requirements outlined in Article 15 of the Zoning Ordinance. The 3 off-

street parking spaces shall be hard surfaced, however the screened outdoor storage is not required to be hard surfaced. The parking area shall be paved by August 1, 2008 or within 2 weeks of the completion of the first storage unit, whichever occurs later.

Based on the staff report a motion was made by O'Hara and seconded by Rogen to approve Conditional Use Permit #08-14 with the conditions as stated. The motion passed unanimously.

ITEM 6. CONDITIONAL USE PERMIT #08-15 contractor's storage yard

Legal Description - Lot 2 Block 3 Brower's 2nd Addition SW1/4 Section 27-T102N-R51W

Location - southeast quadrant of the Hartford exit on I-90

Petitioner / Owner- Andy Maras

General Information

Present Zoning - I-1 Industrial

Existing Land Use - vacant commercial

Parcel Size - 1.2 Acres

Report by Scott Anderson

Staff Analysis

The applicant is requesting a conditional use permit to allow for storage units. The site plan indicates two (2) structures. Both are 50 feet wide and 150 feet long. The applicant is proposing to construct one building now and the other building at a future date. The applicant is not proposing any outdoor storage. Staff will state in the conditions of approval that no outdoor storage will be allowed.

The Brower Addition consists of mostly commercial and industrial buildings and uses. There are contractor's equipment yards and storage facilities located to the west of the subject property. Several buildings of mini-storage units are located directly to the west. The applicant's proposed use is similar to the existing uses in the area.

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 is an industrial area, so the proposed use blends in quite well and should not impact the use and enjoyment of the property in the area. This type of business will not impact property values, provided a proper fence meeting the County's requirements is installed and maintained.

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

This expanded use is located in an existing commercial/industrial area. The proposed use should not impede future or existing industrial development in the area.

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

Jesse Street provides access to the site. Jesse Street is under construction and will be hard surfaced. The Planning Commission has encouraged this development to hard surface the interior roads. Property owners within the development have been pursuing this. Drainage and other needed facilities all appear to have been provided.

The Zoning Ordinance requires the parking area to be paved if the road or street providing access to the subject property is paved. The applicant will be required to pave his parking lot. The applicant did not provide an approximate building schedule, however staff is willing to give the applicant ample time to pave the parking area, allowing the buildings to be constructed and then the parking area paved. This being the case, staff recommends that the parking area be paved by July 1, 2008 or within 2 weeks of the completion of the first storage unit. The parking area is the area needed for the access into and out of the storage units and access onto Jesse Street.

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

The applicant is required to provide two (2) spaces for each three (3) employees. There are no permanent employees associated with this type of use. Furthermore there is ample parking between the buildings. No additional off-street parking will be required.

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

The applicant is conducting a business that may periodically produce some noise. The area is located within an industrial area and should not be out of line with noises typically found in an industrial area.

Staff finds that the proposed use is appropriate for this commercial area, provided adequate parking can be provided. The recommended conditions of approval will ensure that harmonious development will occur.

Recommendation

Staff recommended approval of Conditional Use Permit #08-15 to allow for storage units with the following conditions.

- 1) There shall be no outdoor storage of any kind allowed on the property. No more than two (2) storage units measuring 50 feet by 150 feet shall be allowed.
- 2) That the business operator obtains and maintains a South Dakota sales tax license.
- 3) Any new exterior lighting shall be shoe box style that directs the lighting downward.
- 4) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance and a building permit shall be obtained prior to the erection of any sign.
- 5) That the approach and parking area be paved by August 1, 2008 or within 2 weeks of the completion of the first storage unit.

Based on the staff report a motion was made by O'Hara and seconded by Rogen to approve Conditional Use Permit #08-15 with the conditions as stated. The motion passed unanimously.

ITEM 7. CONDITIONAL USE PERMIT #08-12 to allow 3425 sq.ft. of Accessory Buildings (625 sq.ft. existing, additional 2800 sq.ft. requested)

Legal Description – S306' W373.8' Schultz Tract A and Tracts 3 & 4 all in the SW1/4 SW1/4 Section 9-T101N-R48W

Location – 1 mile east of Sioux Falls

Petitioner / Owner Samir Abu-Ghazaleh

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Residential

Parcel Size - 14.27 Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located in a large-lot subdivision on the east edge of the Hidden Valley development between Sioux Falls and Brandon. The petitioner currently has two garden sheds (approx. 10x10 each) and a 25x25' detached garage. He proposed to construct a 50x56' accessory building for his own personal storage. He has indicated that he needs storage space for a boat, tractor, recreational vehicles, etc. There is no type of business being operated on the property or planned for the proposed building. The two small garden sheds would no longer be necessary and would be removed if this conditional use permit were approved.

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 property lies in a subdivision of larger lots. There are other lots in the area with large buildings. The nearest acreage to the east has over 10,000 square feet of accessory buildings. The site on which the proposed building would be located is not visible from any other property.

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

The neighboring properties will likely continue as large lot, estate-type acreages. The location of the building will not impact this continued use on neighboring properties.

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

Access to the property is via Hidden Valley Rd.

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

There is ample space on the property for any approved residential uses.

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

The location of the site on the property results in no view of the site from any other property.

Recommendation

Staff found that the use is consistent with other properties in the area and recommended approval of conditional use permit #08-12 with the following conditions:

1. The size of all accessory buildings on the property shall not exceed 3425 square feet.
2. The building shall be used only for the petitioner's personal storage. No commercial use, commercial storage, or the storage of any commercial vehicle or equipment is allowed.

Based on the staff report a motion was made by O'Hara and seconded by Rogen to approve Conditional Use Permit #08-12 with the conditions as stated. The motion passed unanimously.

REGULAR AGENDA

A motion was made by O'Hara and seconded by Rogen to approve the regular agenda (Item 4 added). The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT #08-13 to transfer two residential building eligibilities

Legal From – Lot 5 & Outlot A of Relicted Lot 3 (Ex. H-1) Section 5-T103N-R51W

To – Lot 4 of Relicted Lot 3 Section 5-T103N-R51W

Location – 4 miles southwest of Colton

Petitioner / Owner- Jeffery Oyen, Tetonka LLP

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Agriculture
Parcel Size - 32 Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located approximately 4 miles southwest of Colton and 1 mile east of

Clear Lake. Surrounding properties are in agricultural uses with a few non-ag residences. The petitioner proposes to transfer two eligibilities from an area lower in the landscape to a higher site.

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.

One of the eligibilities that is proposed to be moved lies directly across the road from a farmstead. Currently a residence could be constructed in the site by right. The farmstead does not currently have livestock, but the moving of the eligibility from across the road should reduce the potential for conflict with the farming operation. Right to farm notice covenants will also have to be filed on each property prior to the issuance of any building permits.

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

The odd-shaped lots in the subject property are the result of lots that were platted many years ago in a large wetland area. The wetland had been drained and the area divided for transfer to surrounding property owners. The old lots have resulted in the number of building eligibilities which currently exist. The petitioner plans to restore the wetland area for use as a wetland bank. The two eligibilities are to be transferred from the wetland area and from a site directly across the road from an existing farmstead. The proposed locations of the eligibilities should result in an improved situation for continued farming in the area should homes be built using those eligibilities.

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

Access to the proposed site for the eligibilities could be from either 250th Street (a township road) or from 461st Avenue (Co. Hwy 155). It is unknown where the potential residences could be located at this time and the placement of multiple driveways, particularly along the county highway could result in a traffic hazard. Therefore, the use of shared driveways should be considered, if at all possible and the location of those shared driveways should be indicated on the final plats for any lots. The requirement of a preliminary subdivision plan prior to the preparation of the final plat(s) would ensure that the county has the opportunity to review the use of shared driveways and the overall layout of the proposed lots.

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

There is adequate space on the property for any parking required by an approved residential use.

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

Any outdoor lighting should be of a shoe box style that directs light downward.

Recommendation

Staff finds that the proposed use is consistent with density zoning and that the use can be accomplished in a manner that reduces any potential for conflict with neighboring land uses. Staff, therefore, recommended approval of conditional use permit #08-13 with the following conditions:

1. All lots shall be platted and a right-to-farm notice covenant shall be filed on all properties prior to the issuance of any building permits.
2. The petitioner shall have a preliminary subdivision plan developed for county review which shows all potential lots and how access would be made to those lots. A preference shall be given to the use of shared driveways where possible.
3. Written permission from either the Minnehaha County Highway Department or the township for the final location of any driveway prior to the issuance of any building permit.
4. Any outside lights shall be of a shoe box style that directs light downward and prevents the spillage of light beyond the property boundary.

Public Testimony

Commissioner Bunde raised several questions and concerns about the transfer. In response Mr. Kappen explained that both lots currently had access to Hwy 155. A preliminary plan was being required do to the fact that the petitioner had not given any indication as to where the houses would be placed. A requirement could have been made for shared driveways but that will be taken care of with the preliminary plan. Clustering the houses is a good practice but it is not something required by the ordinance when transfers are requested. Commissioner Bunde noted that the petitioner had indicated that there were no CAFO's within a mile of this site; however, she stated there is one just to the south.

The petitioner, Paul Heiberger, stated that one lot would probably be put in the northwest corner, using the existing driveway onto Hwy 155. There is another existing driveway at the hillcrest along 250th Street and that would be a shared driveway with the other two houses. He noted that he had not filled out the question concerning the CAFO and that he had spoken with the owner of that operation. The ground the eligibilities are moving from is going to turned back into wetlands as it is low, hard to farm, and loves to grow grass.

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

Based on the staff report and public testimony, a motion was made by Rogen and seconded by Cypher to approve Conditional Use Permit #08-13 with the conditions as stated. The motion passed unanimously.

ITEM 8. REZONING #08-01 from A-1 Agriculture to I-1 Industrial

Legal Description – Brown's Lot 3 in Tract 2 Foster-Buckwalter Addition N1/2
Section 22-T102N-R48W

Location – North edge of Corson
Petitioner / Owner- Tom Brown

General Information

Present Zoning - A-1 Agricultural
Proposed Zoning - I-1 Industrial
Existing Land Use - Agriculture
Parcel Size - Approximately 2.5 Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located on the north edge of the Village of Corson. To the north and the west of the subject property is floodplain and to the east (Brandon Ready-Mix) and south (Midwest Railcar) are industrial zoning and uses. The petitioner wishes to rezone a parcel of property along 482nd Avenue (S.D. Hwy 11) to industrial to allow the location of a contractor yard and shop on the site. That use will also require a conditional use permit should the rezoning be approved.

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 there are existing industrial uses on two sides of the subject property, and since most uses in the industrial district also require a conditional use permit, the proposed zoning should present little impact on neighboring properties.

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

Corson is designated as one of our rural service areas in the county's comprehensive plan. Typically we allow commercial or industrial zoning approximately ¼ to ½ mile from the center of the designated rural service area. In Corson that distance has been expanded somewhat due to the availability of both the railroad and the state highway which provides the necessary transportation infrastructure for a commercial or industrial use.. As there are existing industrially-zoned properties adjacent to the subject

property on the east and south, and as the potential for more expansion to the north and west is limited because of the physical boundary of the floodplain, the site is appropriate for the proposed industrial zoning.

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

Access to the site is from S.D. Hwy 11. There is an existing driveway from the highway onto the property. Since access is via a hard-surfaced highway, all driving and parking areas on the site will need to be hard-surfaced. The site would be served by a septic system which will work well with the low-water-use business that is proposed.

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

There is ample space on the property for any required parking. The petitioner will have to address specifics of all required parking on the site during the conditional use permit approval process. As was noted above, all parking and driving surfaces will have to be hard-surfaced. This will include the driveway from the highway and the parking area for all employee or customer cars. The storage yard for the petitioner's equipment, however, is not required to be hard surfaced.

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

These are items that will also be explored in further detail during the conditional use permit phase of the approval process.

Recommendation

Staff finds that the proposed rezoning is located in a rural service area as defined in the comprehensive plan and is therefore an appropriate location for commercial or industrial uses. Staff recommends approval of Rezoning #08-01.

Public Testimony

Commissioner Steinhauer raised environmental concerns over the location of the flood plain in proximity to this site. Mr. Kappen noted that would be reviewed with the Conditional Use Permit application and that the petitioner would have to obtain an NPEDS permit from the State.

The petitioner, Tom Brown, stated that he would be running his excavating business at this site. The County had taken enforcement action on his current location, saying it was an illegal operation, despite his having been at the site since 1987. He will not have hazardous materials at this site.

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 and seconded by to recommend approval of Rezoning #08-01. The motion passed unanimously.

New Business

In response to the County's request for applications for a new planning commission member, a number of those seeking the position were in attendance to briefly address the Commission. Bonnie Duffy, Dan Sterner, Bobby Bender, Sarah Vanervliet, Roger Megard, John Gridley, and John Roers each spoke. Two applicants were unable to attend and the Planning Commission decided to allow them an opportunity to address the Commission at the March meeting.