

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION  
April 28, 2008**

A meeting of the Planning Commission was held on April 28, 2008 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Susie O'Hara, Becky Randall, Don South, Wayne Steinhauer and Carol Twedt.

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

**CONSENT AGENDA**

At the request of the Commission and audience, Items 3, 5, 10, & 13 were moved to the regular agenda. A motion was made by Steinhauer and seconded by O'Hara to approve the consent agenda with the changes. The motion passed unanimously.

**ITEM 1. MINUTES – March 24, 2008**

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

**ITEM 2. CONDITIONAL USE PERMIT #08-23 to transfer one residential building eligibility from the SW1/4 NE1/4 to the NW1/4 NE1/4 in Section 15-T103N-R51W. (#080068)**

Location – 4 miles south of Colton  
Petitioner / Owner- Debby Ollerich

**General Information**

Present Zoning - A1 Agricultural  
Existing Land Use - Agriculture  
Parcel Size - 40 Acres

**Report by:** Phil Kappen

**Staff Analysis**

The subject property is located on the south side of 252<sup>nd</sup> Street (a township road) and approximately 3/8 mile west of County Highway 149 (464<sup>th</sup> Avenue). The surrounding properties are in agricultural uses with a couple of acreages. The Tri-Valley School is located about 3/4 mile to the east. The petitioner wishes to transfer an eligibility from a land-locked 1/4-1/4 to a site along the north road. The eligibility would be used to construct a new home for the property owners and would be located about 1/4 mile west of their existing beef feedlot.

**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 home would be for the petitioner's own residence and should have little impact on the continued ag uses in the area, particularly the cattle feedlot. Although this would be a farm residence, a right-to-farm notice covenant will still be required prior to any building permit being issued.

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

The area is planned for continued ag use in the future and the home, being a farm residence, should have little effect on that use.

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

Access would be from the township road (252<sup>nd</sup> Street).

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

There is adequate space on the property for necessary parking.

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

There should be little impact from a single-family residence.

**Recommendation**

Staff finds that the proposed use is consistent with density zoning and that, particularly as a farm residence, there should be little impact on surrounding properties. Staff, therefore, recommended approval of conditional use permit #08-23 with the following conditions:

1. Should a parcel of land be separated for the home, the parcel shall be platted.
2. A right-to-farm notice covenant shall be filed on the property prior to the issuance of a building permit.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to approve Conditional Use Permit #08-23 with the conditions as stated. The motion passed unanimously.

**ITEM 3. CONDITIONAL USE PERMIT #08-24 to transfer one residential building eligibility from the NW1/4 SE1/4 to the SE1/4 SE1/4 in Section 24 – T103N-R51W. (#090380)**

Location – 4 miles southwest of Baltic  
Petitioner / Owner- Robert Tidemann

Item 3 was placed on the regular agenda.

**ITEM 4. CONDITIONAL USE PERMIT #08-25 to transfer one residential building eligibility from the SW1/4 NE1/4 to the SE1/4 NE1/4 in Section 2–T101N-R52W. (#190123)**

Location – 3 miles southeast of Humboldt  
Petitioner / Owner- Rodney Hohn / Orrin Geide

**General Information**

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

**Report by:** Pat Herman

**Staff Analysis**

The property is located 4 miles southeast of Humboldt, just to the south of Grass Lake. The dominate land use is agriculture, with a few scattered residential acreages. The petitioner is requesting a transfer of one building eligibility from a land locked quarter-quarter. The eligibility will be used north of the existing farmstead.

**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.**

Rural acreages always have some negative impact on farming operations. There are no existing CAFO's in close proximity to the building site.

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

The request is in conformance with density zoning and does not increase the number of dwelling units allowed in this section.

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

Access is from County Highway 159. There is an existing driveway which will be used.

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

The minimum one acre lot is sufficient to accommodate any uses association with 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.**

A single family dwelling should not generate a nuisance.

**Recommendation**

Staff finds the request to be in conformance with density zoning and recommended approval of Conditional Use Permit #08-25 with the following conditions:

- 1) The property shall be platted and a right to farm notice covenant filed on the deed of the lot prior to the issuance of a building permit.
- 2) Access to Hwy 159 is restricted to the existing driveway.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to approve Conditional Use Permit #08-25 with the conditions as stated. The motion passed unanimously.

**ITEM 5. CONDITIONAL USE PERMIT #08-26 to transfer one residential building eligibility from the SW1/4 NE1/4 to the NE1/4 NE1/4 in Section 31-T102N-R51W. (#140436)**

Location – 2.5 miles southwest of Hartford  
Petitioner / Owner- Vern Landeen

Item 5 was placed on the regular agenda.

**ITEM 6. CONDITIONAL USE PERMIT #08-28 to allow a manufactured home.**

Legal Description – N1/2 NE1/4 of Section 22-T104N-R52W  
Location – 45797 247<sup>th</sup> St. 7 miles west of Colton  
Petitioner / Owner- Jonathan Stone

**General Information**

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

**Report by:** Pat Herman

**Staff Analysis**

The property is located in the northwest part of the County in Buffalo Township. This is an agricultural area, with a few acreages north of the proposed site. The petitioner is requesting approval for a manufactured home to be placed in the northeast corner of this property. The double wide was constructed in 2006.

**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 difference in any potential impact between a stick-built house and a manufactured home. The county's zoning ordinance includes standard requirements for manufactured homes to ensure that the appearance of the home is comparable to that of a stick-built home. A right-to-farm notice covenant will be required to be filed with the Register of Deeds office 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 majority of the surrounding property is agricultural and this is the use for which the property is planned in the future. There should be little difference on that use between the use of a stick-built house or a manufactured home.

**3) That utilities, access roads, drainage and/or other necessary facilities are provided.**  
Access would be from 247<sup>th</sup> Street. Buffalo Township does not require driveway permits.

**4) That the off-street parking and loading requirements are met.**  
There is ample space on the property for any parking required by a single-family residence.

**5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**  
There should be little odor, fumes, dust, noise or vibration from the uses associated with this use. Any outdoor lighting should be of a shoebox style which prevents light from spilling beyond the property line.

### **Recommendation**

Staff finds that the placement of a manufactured home on this property should have no appreciable impact on surrounding property uses. Staff recommended approval of conditional use permit #08-28 with the following conditions:

- 1) The structure shall have been constructed on or after July 15, 1976.
- 2) The exterior dimensions of the structure, measured by excluding overhangs, shall not be less than 22 feet.
- 3) The structure shall be supported by a foundation system consisting of walls along the perimeter and piers on the interior. All foundation walls and piers shall extend a minimum of 42 inches below final grade.
- 4) The roofing and siding material shall be consistent with the material used in site-built dwellings.
- 5) The roof pitch shall not be less than a 3 in 12 slope.
- 6) Any outside lighting shall be of a shoebox style that directs light downward and prevents spillage of light beyond the boundaries of the property.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to approve Conditional Use Permit #08-28 with the conditions as stated. The motion passed unanimously.

### **ITEM 7. CONDITIONAL USE PERMIT #08-29 to transfer two building eligibilities from the NW1/4 SE1/4 and the SW1/4 NE1/4 to the NW1/4 NE1/4 in Section 19-T102N-R51W. (#140237, #140241)**

Location – 2 miles west of Hartford  
Petitioner / Owner- Barbara Warne for O'Kane Family Trust

### **General Information**

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

**Report by:** Pat Herman

### **Staff Analysis**

The property is located 2miles west of Hartford. The dominate land use to the south and west is agriculture. To the east is a six-lot subdivision and there are other scattered residential acreages in this area. The petitioner is requesting a transfer of two building eligibilities from land locked quarter-quarters.

**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.**

Rural acreages always have some negative impact on farming operations. There are no existing CAFO's in close proximity to the building sites.

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

The request is in conformance with density zoning and does not increase the number of dwelling units allowed in this section.

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

Access is from 259<sup>th</sup> St. Hartford Township does not require driveway permits however the petitioner indicated that a shared driveway will be used. The driveway approach must be shown on the plat an access easement.

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

The minimum one acre lot is sufficient to accommodate any uses association with 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.**

A single family dwelling should not generate a nuisance.

**Recommendation**

Staff finds the request to be in conformance with density zoning and recommended approval of Conditional Use Permit #08-29 with the following conditions:

- 1) The properties shall be platted and a right to farm notice covenant filed on the deed of the lot prior to the issuance of a building permit.
- 2) Driveway access shall be limited to one shared driveway.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to approve Conditional Use Permit #08-29 with the conditions as stated. The motion passed unanimously.

**ITEM 8. PRELIMINARY SUBDIVISION PLAN #08-01 Spirit Canyon Estates.**

Legal Description – Tracts 1-14 Spirit Canyon Estates W1/2 of Section 17-T103N-R47W  
Location – north edge of Garretson  
Petitioner / Owner- Dale Machmiller

**General Information**

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

**Report by:** Scott Anderson

**Staff Analysis**

The applicant has submitted a proposed revision to the Spirit Canyon Estates preliminary plan located north of Garretson. The previous subdivision plan allowed for ten (10) residential lots, one (1) tract designated as a private drive and one (1) tract designated as a park/picnic area. The applicant has acquired additional land to the west and has two (2) more building eligibilities and would like to add two more residential lots to the proposed subdivision. The final plat can not be approved unless these eligibilities have been transferred.

The original subdivision plan was approved with the following conditions:

1. That prior to County Board approval of the preliminary plan, an erosion control plan shall be

submitted to the Planning Director for review and approval.

2. That prior to County Board approval of the preliminary plan, a drainage and grading plan shall be submitted for review and approval.
3. That prior to County Board approval, the results of two soil borings showing the soil profile shall be submitted to the Planning Director to determine that adequate soils exist for a conventional on-site wastewater disposal system. The soil boring shall be conducted on any of the following tracts: Tracts 6-9.

The applicant met all of the required conditions before going to the County Commission for approval of the subdivision plan. The two new lots will be located along the west side of Spirit Canyon Trail and will not have direct access to Split Rock Creek.

The lot sizes of the tracts within the proposed subdivision range in size from between 1.83 acres to 15 acres. The smallest tract has been designated as a park parcel. Tract 11 is the private drive and contains 7.36 acres. The smallest residential lot is 3.12 acres. The two new lots are 4.53 and 4.94 acres in area. The entire subdivision will utilize on-site wastewater disposal systems and will connect to Minnehaha Community Water. Due to the location of the proposed subdivision, staff wanted to determine prior to final platting that there are suitable soils for a conventional on-site wastewater disposal system. The proposed site is located over a significant rock feature. The applicant provided documentation that adequate soils are to be found with the subdivision. The two new proposed lots are located away from where the rock outcrops are located.

Prior to a final plat being approved, the applicant shall either construct all of the roads to the County's road standards or post surety in an amount to cover the construction cost. Engineered road plans shall also be provided. The applicant will also be required to purchase a road sign for the intersection of 252<sup>nd</sup> Street and Spirit Canyon Trail. The sign shall be purchased upon final plat submittal.

Spirit Canyon Trail is proposed to be a private drive and is being platted as a separate lot. Staff indicated to the applicant that while a private drive is not preferred, it is not precluded by the Subdivision Ordinance. Staff expressed concerns about maintenance of the road, future use and payment of taxes. The applicant has indicated that a homeowner's association will address all of these concerns. Staff recommends that a copy of the covenants be submitted with the final plat to make sure maintenance is addressed. Likewise the ownership, use and maintenance of the park should also be addressed in the homeowner's covenants.

The length of Spirit Canyon Trail exceeds the overall length of a cul-de-sac allowed by the Subdivision Ordinance. On July 18, 2007, the County Commission approved Subdivision Regulation Variance #07-03 to exceed the maximum 500 foot length based on the topography of the area. The addition of 2 more lots has not extended the length of the cul-de-sac.

Staff supports the concept of adding two (2) more residential tracts to the proposed development. The applicant has the building eligibilities to support the increased density and the addition now before a final plat has been submitted and the sale of any lots will not impact any existing owners.

### **Recommendation**

Staff recommended approval of Preliminary Plan #08-01 revising the Spirit Canyon Estates to allow fourteen (14) tracts.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to recommend approval of Preliminary Plan #08-01. The motion passed unanimously.

### **ITEM 9. CONDITIONAL USE PERMIT #08-30 to exceed 1200 sq. ft. of accessory building area (3,040 square feet requested).**

Legal Description – Tract 8 Indian Hills Estates N1/2 of Section 8-T101N-R48W  
Location – 2205 N. Indian Hills Tr. 1.5 miles east of Sioux Falls

Petitioner / Owner- Larry Gorsuch

**General Information**

Present Zoning - A-1 Agricultural  
Existing Land Use - Residential  
Parcel Size - 5 acres

**Report by:** Pat Herman

**Staff Analysis**

The subject property is located in Indian Hills, a residential subdivision between Sioux Falls and Brandon. The petitioner proposes to construct a three sided lean-to to provide shelter for his horses. There is a 1440 square foot barn on the property. The petitioner has no plans to add to that building at this time but may in the future. He would also like to construct a chicken coop. This request is more square footage than will be needed for the lean-to as staff requested the petitioner to think ahead to avoid having to return for another conditional use permit.

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

All surrounding properties are in residential uses. Indian Hills is zoned A-1 Agricultural and Hidden Valley Estates to the south is zoned RR Rural Residential. A number of the other lots in Indian Hills have horses and most of the larger buildings in the subdivision are used to house livestock. No commercial use or the storage of any commercial equipment may be allowed on the property and the site is not zoned for commercial uses.

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

The total size of existing accessory buildings on lots in the subdivision range from 576 sq.ft. to 3328 sq.feet. The Planning Commission last approved accessory building area for 3300 sq. ft. in June 2005. The petitioner's requested size is consistent with the neighborhood and the larger lot sizes.

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

Access to the property will be made via Indian Hills Trail, a gravel road maintained by Split Rock Township. The existing driveway will be used for accessing the proposed building. The petitioner will have to meet the setback requirements from all right-of-ways, property lines and other structures.

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

No on-street parking is allowed. The petitioner has adequate land for any parking needs.

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

The proposed use should constitute any of the above listed nuisances.

**Recommendation**

Staff finds the request to be consistent with the neighborhood development and recommended approval of conditional use permit #08-30with the following stipulations:

- 1) A total of 3040 sq.ft. of accessory building(s) shall be allowed on the property. Building sizes shall be measured on the exterior of the building.
- 2) The building shall be limited to one story in height.
- 3) No commercial uses or the storage of commercial equipment shall be allowed on the property. The building shall be used strictly for the petitioner's personal, non-commercial storage.
- 4) The petitioner must call for an inspection of the building.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to approve Conditional Use Permit #08-30 with the conditions as stated. The motion passed unanimously.

**ITEM 10. CONDITIONAL USE PERMIT #08-31 to allow vehicle & equipment sales.**

Legal Description – Lot 10 Blk 1 Brower Addn. & Lots 16 & 17 Blk 2 Brower's 2<sup>nd</sup> Addn.  
SW1/4 of Section 27-T102N-R51W  
Location – 46334 Kelsey Dr. south edge of Hartford  
Petitioner / Owner- Haensel Distributing (Clint & John Haensel)

Item 10 was placed on the consent agenda.

**ITEM 11. PUBLIC HEARING FOR REZONING #08-05 from R-1 Residential to C Commercial.**

Legal Description – Lots 5 & 6 & vacated alley adjacent Block 14 Rowena Original in Section  
26-T101N-R48W  
Location – Rowena  
Petitioner / Owner- R & K Landholdings / I-90 Fuel Services Inc.

**General Information**

Present Zoning - R-1 Residential  
Existing Land Use - Commercial  
Parcel Size - 0.3 Acres

**Report by:** Pat Herman

**Staff Analysis**

The applicant is requesting approval to rezone property in Rowena. Historically, Rowena developed along the railroad and provided basic convenience services to the agricultural community. Today the village of Rowena is a mix of residential and commercial uses. Rowena is designated in the Comprehensive Plan as a rural service area.

This request is to rezone two lots from R-1 Residential to C Commercial. Property to the east, south and west of the site is zoned R-1 Rural Residential. The land to the north is zoned C Commercial. The lots to be rezoned are the site of the former gas station. The gas station had been in operation in Rowena for over 30 years. Due to the residential zoning of the property, the gas station was considered a non-conforming use. This designation allowed the gas station use to continue, as long as the business was not discontinued for over a year. In this case, the gas station use has been discontinued for over a year so the property must conform to the residential zoning district.

The applicant wishes to reopen the gas station as a convenience store, which requires commercial zoning. The past history of the site demonstrates that a commercial use at this location is compatible with the surrounding land use. The convenience store will be selling alcohol so a conditional use permit is also required.

**Recommendation**

Staff finds the request is in conformance with the comprehensive plan as the site is located in a designated service area and that this request is consistent with the historical use of the property. Staff recommended approval of Rezoning #08-05.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to recommend approval of Rezoning #08-05. The motion passed unanimously.

**ITEM 12. CONDITIONAL USE PERMIT #08-32 to amend CUP #07-81 contractor's shop.**

Legal Description – Lot 6, Block 1 Green Valley Addn. in Section 12-T102N-R50W  
Location – 25749 Cottonwood Ave. I-29 Crooks Exit  
Petitioner / Owner- A& B Concrete, Inc.

**General Information**

Present Zoning - I-1 Light Industrial  
Existing Land Use - Commercial  
Parcel Size - 1 Acre

**Report by:** Scott Anderson

**Staff Analysis**

In September of 2007, the Planning Commission approved Conditional Use Permit #07-81 allowing a contractor's shop in the I-1 District at the Crook's exit with the following conditions:

- 1) Any outdoor storage shall be 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) The applicant shall maintain a minimum of five (5) off street parking spaces and one (1) loading space and continually meet the parking requirements outlined in Article 15 of the Zoning Ordinance.
- 5) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance.

Staff became aware through the building process that the incorrect legal description has been provided for the original conditional use permit. The applicant provided us with the following legal description: "Lot 1A, Block 2, Green Valley Addition". The correct legal description should be: "Lot 6, Block 1, Green Valley Addition". This error must be corrected. Staff felt the only way to correct this error was to amend Conditional Use Permit #07-81. All of the original conditions will apply.

**Recommendation**

Staff recommended approval of Conditional Use Permit #08-32 amending Conditional Use Permit #07-81 with the correct legal description of Lot 6, Block 1, Green Valley Addition to allow for a contractor's shop with the following conditions.

- 1) Any outdoor storage shall be 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) The applicant shall maintain a minimum of five (5) off street parking spaces and one (1) loading space and continually meet the parking requirements outlined in Article 15 of the Zoning Ordinance.
- 5) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to approve Conditional Use Permit #08-32 with the conditions as stated. The motion passed unanimously.

**ITEM 13. CONDITIONAL USE PERMIT #08-33to allow a bar and restaurant.**

Legal Description – N100' County Auditor Tract 2 SE1/4 SE1/4 of Section 9-T102N-R49W  
Location – 25795 475<sup>th</sup> Ave. Renner  
Petitioner / Owner- Ibro Deafic

Item 13 was placed on the regular agenda.

**ITEM 14. CONDITIONAL USE PERMIT #08-22 Outdoor Recreational Facility(LifeLight Festival)**

Legal Description – E1/2 NW1/4 SE1/4 & NE1/4 SE/4 (Ex. H-1 & Ex. Tr. 1 Alvines Addn.) in  
Section 36-T101N-R51W

Location – 26767 466<sup>th</sup> Ave. 3 miles west of Sioux Falls

Petitioner / Owner- Alan Green / Frank Alvine

**General Information**

Present Zoning – A-1 Agriculture

Existing Land Use - vacant

Parcel Size – 40+ acres

**Report by:** Scott Anderson

**Staff Analysis**

The applicant is requesting a Conditional Use Permit to allow for a permanent recreational use. In the past, a Temporary Use Permit has been issued allowing the music festival with associated camping and vending during Labor Day weekend. Festival attendance has been 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 fourth year the event will be held on the proposed site.

The applicant has prepared a narrative of the proposed event. This narrative has been included for the Planning Commission's review. 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 a misting station might be provided. This is somewhat vague and staff prefers requiring a misting station once the temperature exceeds 90 degrees.

The applicant has provided a detailed medical care plan for emergency needs. They have typically 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 has been obtained 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 stations and information center.

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 41<sup>st</sup> 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. 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 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 this type of use, however, allows them in conjunction with roadside stands and firework stands when a Conditional Use Permit is obtained. Based on the 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 at least 30 days prior to the event. The plan 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 within 10 days of the conclusion of the event. 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 (267<sup>th</sup> 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 (463<sup>rd</sup> 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 465<sup>th</sup> Avenue. The applicant has attempted to eliminate as much traffic volume at the intersection of 41<sup>st</sup> 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 15,000 parking spaces are available.

The applicant has indicated that an annual traffic plan will be submitted to the S.D. Department of Transportation, Minnehaha County Highway Department, Lincoln County Highway Department, Minnehaha County Sheriff, and the S.D. Highway Patrol. The traffic plan should be rather detailed, indicating traffic routes, signage, and parking. The applicant should provide each agency with the traffic, signage and parking plans at least 60 days prior to the event to the above identified agencies for review.

### **Pedestrian Traffic**

In 2005, the applicant had parking lots which required attendees to cross Highway 17 and 267<sup>th</sup> 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.

#### **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 465<sup>th</sup> 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. The festival organizer's shall 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.

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 staff has included this requirement as a recommended condition of approval.

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 465<sup>th</sup> Avenue. The County Highway Superintendent has indicated that a temporary easement is needed from the property owner for the access road leading from 465<sup>th</sup> Avenue to the west parking lot and dust controls measures on both 465<sup>th</sup> Avenue and 268<sup>th</sup> Street be provided. 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 (20) 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 past 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 268<sup>th</sup> Street bordering the south side of Country Acres, one mile of 465<sup>th</sup> Avenue and 268<sup>th</sup> 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.

For the past three (3) years this use has been handled as a temporary use. The applicant is now requesting to have a permanent Conditional Use Permit allowing this annual event to be held on Labor Day Weekend. There have been issues in the past which have concerned staff, such as parking in the road right-of-ways and dust. The applicant has also learned over the years how to better handle these issues. Staff feels comfortable recommending approval of a Conditional Use Permit for this site, provided the applicant also meet the conditions of approval. Furthermore, staff would like to see an annual report outlining the attendance of the event and any significant issues that might have arisen. Should issues arise such as problems with parking or traffic control, staff does have the option to bring the Conditional Use Permit back to the Planning Commission for review.

### **Recommendation**

Staff recommended approval of Conditional Use Permit #08-22 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 Festival Director, 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 festival organizer's 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.
- 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 by October 1<sup>st</sup> of the year of the event, the applicant shall reimburse Minnehaha County for the cost incurred by the County for the 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 as determined by the Minnehaha County Sheriff.
- 9) That one (1) 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 stations and information center.
- 11) The applicant shall submit a plan to 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 at least 60 days prior to the event.
- 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) 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 for each year's event.
- 14) That annually, 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 at least 30 days prior to the event. 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 within 10 days of the conclusion of the event.
- 18) That the applicant shall prevent festival patrons from obstructing the highway or ditches by

- parking vehicles or placing other material there.
- 19) That prior to Planning Commission approval, the 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 465<sup>th</sup> Avenue located between 267<sup>th</sup> and 268<sup>th</sup> Streets and the one (1) mile of 268<sup>th</sup> Street located between 465<sup>th</sup> 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.
  - 23) The applicant has provide the Planning Department with a written annual report indicating the projected overall attendance and outline any significant issues that might have arisen.
  - 24) This conditional use permit is to allow a three (3) day event to be held on or around Labor Day weekend only. If applied for by the applicant the Planning Director may allow a fourth day to be added provided all of the above conditions apply to the added day.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to approve Conditional Use Permit #08-22 with the conditions as stated. The motion passed unanimously.

### **REGULAR AGENDA**

A motion was made by Steinhauer and seconded by O'Hara to approve the regular agenda with Items 3, 5, 10, & 13 added. The motion passed unanimously.

### **ITEM 3. CONDITIONAL USE PERMIT #08-24 to transfer one residential building eligibility from the NW1/4 SE1/4 to the SE1/4 SE1/4 in Section 24 –T103N-R51W. (#090380)**

Location – 4 miles southwest of Baltic  
Petitioner / Owner- Robert Tidemann

### **General Information**

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

**Report by:** Pat Herman

### **Staff Analysis**

The property is located 4 miles southwest of Baltic. The dominate land use is agriculture, with a few scattered residential acreages. The petitioner is requesting a transfer of one building eligibility from a land locked quarter-quarter.

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

Rural acreages always have some negative impact on farming operations. There are no existing CAFO's in close proximity to the building site.

#### **2) The effect upon the normal and orderly development and improvement of surrounding vacant**

**property for uses predominant in the area.**

The request is in conformance with density zoning and does not increase the number of dwelling units allowed in this section.

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

Access is from County Highway 122. There is an existing driveway approach allowing access to the highway. The Highway Department must approve any relocation or changes to the approach

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

The minimum one acre lot is sufficient to accommodate any uses association with 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.**

A single family dwelling should not generate a nuisance.

**Recommendation**

Staff finds the request to be in conformance with density zoning and recommended approval of Conditional Use Permit #08-24 with the following conditions:

- 1) The property shall be platted and a right to farm notice covenant filed on the deed of the lot prior to the issuance of a building permit.
- 2) Access to Hwy 122 is restricted to the existing driveway unless written approval is obtained from the County Highway Department.

**Public Testimony**

The petitioner, Robert Tidemann, was present. No one spoke to the item and the floor was closed to public testimony.

Based on the staff report, a motion was made by Steinhauer and seconded by Twedt to approve Conditional Use Permit #08-24 with the conditions as stated. The motion passed unanimously.

**ITEM 5. CONDITIONAL USE PERMIT #08-26 to transfer one residential building eligibility from the SW1/4 NE1/4 to the NE1/4 NE1/4 in Section 31-T102N-R51W. (#140436)**

Location – 2.5 miles southwest of Hartford  
Petitioner / Owner- Vern Landeen

**General Information**

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

**Report by: Phil Kappen**

**Staff Analysis**

The subject property is located along 261<sup>st</sup> Street (township road) and west of 461<sup>st</sup> Ave. The area is predominantly in ag uses with scattered acreages. The petitioner wishes to transfer the eligibility from a landlocked 1/4-1/4 to a site along the north road. The petitioner plans to utilize an existing driveway for access onto both 261<sup>st</sup> Street and 461<sup>st</sup> Avenue.

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

There are a number of farmsteads in the area, however, there are no CAFOs anywhere near the proposed site. The closest farmstead, to the northeast, has only a very few head of cattle. Staff has worked with the

property owner on an ordinance violation enforcement issue for a number of years and the owner has not indicated any interest in expanding his operation. The farmstead constitutes a public nuisance because of the junk and scrap stacked on the site and staff will continue to work with that property owner in order to abate the violation. There is also a building eligibility by right on the property to which the eligibility would be transferred.

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

The majority of the area will continue to be maintained in ag uses. The relocation of the home location should not impede that continued use.

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

Access would be from 261<sup>st</sup> Street.

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

There is adequate area on the site for any necessary parking associated with the 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.**

There should be no impacts of these kinds from the approved residential use.

**Recommendation**

Staff finds, that the location of the house is appropriate given the absence of CAFOs and that the proposal is consistent with density zoning, Staff recommended approval of CUP #08-26 with the following condition:

Any residential lot shall be platted and a right-to-farm notice covenant filed on the property prior to the issuance of any building permit.

**Public Testimony**

The petitioner, Vern Landeen, stated that there are two approaches to this property one from the north and one from the east. He stated that he had been in farming for 11 years. He plans to construct his own house here in 2-5 years, financed by the sale of the 2<sup>nd</sup> building eligibility.

Henry Dansman, 46106 261<sup>st</sup> St., lives just to the northeast of this site. He would prefer not to have another house close to him. This is a farming community and should stay that way. This area is for farming not for folks who just want country living.

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

Commissioner Randall noted that this was just moving a building eligibility, not increasing the number of dwellings allowed.

Based on the staff report and public testimony, a motion was made by Twedt and seconded by Steinhauer to approve Conditional Use Permit #08-26 with the conditions as stated. The motion passed unanimously.

**ITEM 10. CONDITIONAL USE PERMIT #08-31to allow vehicle & equipment sales.**

Legal Description – Lot 10 Blk 1 Brower Addn. & Lots 16 & 17 Blk 2 Brower’s 2<sup>nd</sup> Addn.  
SW1/4 of Section 27-T102N-R51W

Location – 46334 Kelsey Dr. south edge of Hartford

Petitioner / Owner- Haensel Distributing (Clint & John Haensel)

**General Information**

Present Zoning - I-1 Industrial  
Existing Land Use - Industrial  
Parcel Size - 3 Acres

**Report by:** Phil Kappen

**Staff Analysis**

The subject property is located in Brower's Addition, a commercial/industrial development in the southeast quadrant of the I-90/Hartford exit. There will be commercial or light industrial uses to the west, south and east and I-90 lies along the north boundary of the site. Last year the petitioner obtained a conditional use permit to allow the storage and rental of storage containers on the site. The petitioner was required to screen the storage area with a screening fence and they have completed an attractive fence at the site. The petitioners now wish to amend the CUP to also allow vehicle and equipment sales from the site. They would like to carry a line of mini-trucks and a line of electric vehicles. As this is an amendment, any new conditions should be added to the conditions on the existing permit.

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

As the subject property lies along I-90, care must be taken to preserve the view from the highway right-of-way. The storage area is already screened. Unlicensed, damaged or dismantled vehicles and parts should not be allowed to accumulate on the property.

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

The surrounding properties will all be developed in commercial or light industrial uses. The proposed use should be compatible with those types of uses.

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

Access to the property will be via Kelsey Drive, a subdivision road. That portion of Kelsey Drive in the expansion area of the subdivision is required to be hard surfaced. When that occurs the driveway and parking surfaces on the subject property will also have to be hard-surfaced. The petitioner's site plan shows that there will be a security fence to control access to the lot. The fence is set back at the required distance from the road right of way and the area in front of the fence will be hard-surfaced.

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

The petitioner's site plan shows a parking area for customer use. That parking will 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.**

Any outside lighting should be of a shoe box style that directs light downward. All signage, including any proposed banners or flags shall conform with the zoning ordinance requirements.

**Recommendation**

Staff finds that the proposed use is consistent with the types of uses found in a commercial or industrially-zoned site and recommended approval of conditional use permit # 08-31 with the following amended conditions:

- 1) All rental storage containers shall be screened from public view by a screening fence. The fence shall be a minimum of 8 feet in height with a minimum of 90% opacity maintained over the entire height of the fence. The fence shall be maintained in earth-tone colors such as browns or greens. Any other outside rental storage, such as a motor home, shall also be kept within the screened outside storage area as shown on the petitioner's site plan.
- 2) Storage containers shall not be stacked and shall not exceed the height of one storage unit.
- 3) All storage containers for sale shall also be kept within a screened area with the exception of one

display model. The fence shall be a minimum of 8 feet in height with a minimum of 90% opacity maintained over the entire height of the fence. The fence shall be maintained in earth-tone colors of browns or greens. The display model shall be maintained in good repair and shall be kept well-painted in earth-tone colors.

- 4) All screening fences on the property, and any storage or parking areas, shall be placed so as to maintain any required setbacks from property lines.
- 5) Landscaping trees shall be planted along the I-90 right-of-way at a maximum spacing of 40 feet on center. Deciduous trees shall be a minimum of 1½ inches in caliper and coniferous trees shall be a minimum of 5-6 feet in height.
- 6) All parking and driving surfaces on the property shall be hard-surfaced within six months of the hard-surfacing of Kelsey Drive.
- 7) All outside lighting should be of a shoebox style that directs light downward and prohibits the spillage of light beyond the boundaries of the subject property.
- 8) No unlicensed vehicles, inoperable or partially dismantled vehicles or equipment, or parts shall accumulate on the property.
- 9) The operation shall conform to all sign requirements as set forth in the county zoning ordinance.

### **Public Testimony**

The petitioners, Clint and John Haensel stated that they were in agreement with the stated conditions. They plan to sell mini-trucks and need a dealer's license for traded in vehicles. They plan to start small and hopefully grow. They estimate 20-50 vehicles to be on the lot. The Haensels contacted the DOT concerning both signage and lighting and were told the State had no restrictions. Working with the Planning Department they plan to put lettering on one of the storage containers. For lighting there will be two poles inside the fence and poles spaced 15-25 feet around the outside of the fence. The lights will be a shoe box design. The road leading to this site will be paved this summer and the Haensel's plan to piggy back onto that operation and have their lot paved at the same time.

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

Commissioner Steinhauer expressed his dismay at the state of the roads in this subdivision. Commissioner Twedt agreed but stated that it was not fair to punish this applicant for problems that were created in the past.

Based on the staff report and public testimony, a motion was made by Twedt and seconded by O'Hara to approve Conditional Use Permit #08-31 with the conditions as stated. The motion passed (Steinhauer nay).

### **ITEM 13. CONDITIONAL USE PERMIT #08-33 to allow a bar and restaurant.**

Legal Description – N100' County Auditor Tract 2 SE1/4 SE1/4 of Section 9-T102N-R49W  
Location – 25795 475<sup>th</sup> Ave. Renner  
Petitioner / Owner- Ibro Dzafic

### **General Information**

Present Zoning - C Commercial  
Existing Land Use - Commercial  
Parcel Size - 1 Acres

**Report by:** Scott Anderson

### **Staff Analysis**

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

The site plan provided by the applicant indicates a seating area of approximately 2400 square feet and a pizza kitchen area of 204 square feet. During the site visit conducted on May 9, 2006, staff counted nineteen (19) parking spaces located between the Renner Corner gas station and the proposed restaurant. Furthermore, five (5) additional parking spaces were located along the west end of the building for use by the post office.

The property is zoned commercial. There are residences located to the north, west and east across Highway 115. The property has been used for commercial uses in the past. However, the building did not contain uses that would operate until the early morning hours. On April 15, 2008, staff contacted the applicant to ask if they intended to operate video lottery from the bar. Mr. Deafic indicated that there would not be any video lottery associated with the bar/restaurant.

Staff has been contacted by a representative from the Renner Sanitary District on April 16, 2008. The representative from the sanitary district indicated they may not be able to service a use that uses a significant amount of water. The property owners were made aware of this by a letter sent out in 2006. Food preparation uses a significant amount of water. Staff is recommending that the applicant contact the Renner Sanitary District to determine if their proposed use can be accommodated.

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

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

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

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

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

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

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

Article 15.02(P) of the Zoning Ordinance indicated the parking requirements for a restaurant/bar to be one (1) space for each 100 square feet of floor area or one (1) parking space per three fixed seats, whichever is greater. The proposed restaurant is approximately 66 feet by 70 feet for 4620 square feet. A 2400 square foot restaurant/bar would require 24 parking spaces. Currently, there appears to be approximately 24 spaces, which meets the minimum parking requirements. Staff will recommend that 24 parking spaces be maintained for the operation of the restaurant/bar. Should any new parking spaces be constructed, staff will need to review the parking plans and may require landscaping and screening.

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

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

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

only minor limited impacts on any surrounding properties.

### **Recommendation**

Staff recommended approval of Conditional Use Permit #08-33 to allow a restaurant and bar with the following conditions:

- 1) That the applicant obtain and hold in good standing the appropriate liquor and/or beer/wine licenses with the state and county.
- 2) That the applicant obtain a South Dakota Sale Tax License.
- 3) That a minimum of twenty-four (24) parking spaces be available for use by the restaurant/bar. The construction of any new parking areas must be reviewed and approved by the Planning Director for landscaping and screening.
- 4) That the applicant follow all signage requirements as outlined in Article 16 of the Minnehaha County Zoning Ordinance, which includes obtaining any required sign permits prior to installation.
- 5) That the bar use not exceed the square footage as shown on the site plan, which is 2400 square feet of retail area.
- 6) That the applicant contact the Renner Sanitary District prior to commencing operation to determine if the bar/restaurant can be serviced.

### **Public Testimony**

Mr. Anderson stated that the staff report was incorrect and that the petitioner will not have video lottery. He explained the zoning ordinance does not make a distinction between a bar and a restaurant. If this establishment quit serving food it could still operate as a bar. The petitioner plans to operate primarily as a restaurant. Commissioner Twedt wondered if the sanitary district should not have been contracted prior to the application. Mr. Anderson explained that the sanitary district did not contact him until the day before the staff report was to be sent out. He is somewhat confused by their statement about concerns with serving this use. He had been told by a developer that he was assured 19 houses would be allowed to hook up to the district. Commissioner Randall noted the reduced speed limit in this area and the safety concerns of adding turning traffic.

The petitioner, Ibro Dzafic, stated that he had no objection to the conditions and that he will not have video lottery machines.

Sandy Sorum, 47510 258<sup>th</sup> St., owns Renner Corner. She is in favor of a restaurant but has concerns about the malt beverage sale plans. She has an agreement with the landowner which contains a no compete clause and she feels these plans break that clause. Gordy Swanson stated that Ms. Sorum could take private action on this clause, but the law does not allow the Planning Commission to consider it in their decision making process. For example, covenants exist, but the Planning Commission can only enforce the zoning ordinance standards. This works the same way. Mr. Swanson noted that the conditional use permit did not override anything in a no compete clause and the Sorums could go to court. In response to Mr. Anderson, Mr. Swanson stated that this clause could be brought up during the hearing on the malt beverage license. The license is reviewed for location and good character. The Sorums could argue that there would be an over concentration at this site and that it is not in good character to violate the no compete clause.

Paul Giese, 47315 256<sup>th</sup> St., spoke on behave of the property owner, Jerry Ward. He stated that at couple years ago a pizza shop, coffee shop, and sandwich shop all operated out of this building at the same time. He doesn't see how there could be a sewer district issue. He also stated that Mr. Ward felt that the no compete clause issues were resolved in 2006.

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

Commissioner Steinhauer suggested adding a condition that there be no video lottery allowed. Commissioner Twedt shared the concerns about traffic but noted that most restaurants are in high traffic areas.

Based on the staff report, a motion was made by Steinhauer and seconded by O'Hara to approve Conditional Use Permit #08-33 with the following conditions:

- 1) That the applicant obtain and hold in good standing the appropriate liquor and/or beer/wine licenses with the state and county.
- 2) That the applicant obtain a South Dakota Sale Tax License.
- 3) That a minimum of twenty-four (24) parking spaces be available for use by the restaurant/bar. The construction of any new parking areas must be reviewed and approved by the Planning Director for landscaping and screening.
- 4) That the applicant follow all signage requirements as outlined in Article 16 of the Minnehaha County Zoning Ordinance, which includes obtaining any required sign permits prior to installation.
- 5) That the bar use not exceed the square footage as shown on the site plan, which is 2400 square feet of retail area.
- 6) That the applicant contact the Renner Sanitary District prior to commencing operation to determine if the bar/restaurant can be serviced.
- 7) No video lottery is allowed.

The motion passed unanimously.

**ITEM 15. CONDITIONAL USE PERMIT #08-27 to exceed 1200 sq. ft. of accessory building area (5688 sq. ft. requested).**

Legal Description – S386' N687' E634.07' NE1/4 SE1/4 of Section 35-T101N-R51W  
Location – 26759 465<sup>th</sup> Ave. 2 miles southeast of Wall Lake  
Petitioner / Owner- Eric Roth

**General Information**

Present Zoning - A-1 Agricultural  
Existing Land Use - Residential acreage  
Parcel Size - 5.61 Acres

**Report by:** Phil Kappen

**Staff Analysis**

The subject property is located along 465<sup>th</sup> Avenue (a township road) approximately ½ mile south of 267<sup>th</sup> Street (Co. Hwy 148). To the east and west of the site is located agricultural land, to the north and south are residential lots. The petitioner wishes to exceed 1200 square feet of accessory building and is therefore required to obtain a conditional use permit.

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

The site was formerly a farmstead and, until recently contained a number of old dilapidated buildings. The petitioner has recently removed a number of these old buildings in an effort to improve the property. Before removing the buildings the petitioner had a total of 4053 sq.ft. of accessory building area. This was the largest total size of such buildings on any lot within the immediate vicinity. The next two properties to the north have 600 sq.ft. and 648 sq.ft. respectively. The next property past those lots has 3924 sq.ft. of accessory building area.

After the recent removal of 1257 sq.ft. of accessory buildings there are two buildings remaining which total 2796 sq.ft. The petitioner proposes to construct an additional 42x64' (2688 sq.ft.) building on the site. If approved, this would bring the total square footage to 5484 sq.ft. This would constitute a 35% increase over the previous total, which was already the largest total in the immediate area.

**2) The effect upon the normal and orderly development and improvement of surrounding vacant**

**property for uses predominant in the area.**

There are already a number of residential acreages in the area and many of the available residential building eligibilities have been used. The site is well beyond the Sioux Falls joint area, so future development (beyond the remaining density-zoning eligibilities) will likely be far in the future. Most of the vacant land in the area will continue in agricultural uses.

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

Access to the property is via 461<sup>st</sup> Street. There is an existing driveway onto the road and no added driveways are proposed.

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

There is adequate space on the property for the approved residential use on the site. No other uses have been approved.

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

There should be little of the above impacts from the allowed residential use. As was noted previously, no other uses have been approved at the site.

**Recommendation**

Staff cannot support the request addition of 2688 sq.ft. of accessory building. We can, however, support a return to the previous total of 4053 sq.ft. This would allow another 1257 sq.ft. over what exists at this time. Staff recommended approval of conditional use permit #08-27 with the following conditions:

1. The property shall be allowed a total of 4053 square feet of detached accessory buildings.
2. The buildings shall be limited to one story in height.
3. No commercial uses or the storage of commercial equipment shall be allowed on the property. The buildings shall be used strictly for the petitioner's personal, non-commercial storage.
4. The petitioner must call for an inspection of the buildings.

**Public Testimony**

The petitioner, Eric Roth, stated that there is an old barn on the property that they would like to keep. It is in the condition that it could only house animals. The shed on the site doesn't have much storage. They are a young couple and have lots of toys to store. It is more cost efficient to build a larger building. Mr. Roth stated he grew up on a farm and would like to fix the barn up for sentimental reasons. He displayed pictures of the buildings that had been removed and explained that he is fixing the place up. Commissioner South indicated that he is inclined to grant the compromise but doesn't want to set precedence with a larger square footage. He suggested Mr. Roth find a way to attach something to the house so that they would not be limited in square footage. Mr. Roth stated that he had already purchased the building package and that it was on the site. He asked for some leniency. Commission Steinhauer noted Mr. Roth's good intentions but explained that the concern was for the use of the building after Mr. Roth sold the property. Often these large buildings are turned into illegal businesses or storage facilities. Mr. Roth stated that he had talked to all his neighbors and no one was against this building. He didn't know there was a size limit until he came in for the building permit and by then he had already spent \$15,000 on the package. Commissioner O'Hara noted that it was regrettable that he had spent the money, but that could not be a reason for allowing an increase in building square footage. If that was the way around the rules, everyone would just buy the building first.

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

Commissioner Steinhauer stated that the property is being cleaned up but that he doesn't want to increase the allowed square footage. He suggested allowing four years for Mr. Roth to come into compliance with the allowable square footage. This would give the petitioner time to look at all his options. Commissioner O'Hara stated that the square footage should not be increased.

Based on the staff report and public testimony, a motion was made by Steinhauer and seconded by Twedt

to approve Conditional Use Permit #08-27 with the following conditions:

- 1) The property shall be allowed a total of 4053 square feet of detached accessory buildings. The property shall be brought into compliance by 5:00 pm on April 28, 2012.
- 2) The buildings shall be limited to one story in height.
- 3) No commercial uses or the storage of commercial equipment shall be allowed on the property. The buildings shall be used strictly for the petitioner's personal, non-commercial storage.
- 4) The petitioner must call for an inspection of the buildings.

The motion passed (O'Hara nay.)