

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION  
May 24, 2010**

A meeting of the Planning Commission was held on May 24, 2010 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Susie O'Hara, Wayne Steinhauer, Mike Cypher, Dick Kelly, Becky Randall and Don South.

STAFF PRESENT:

Scott Anderson, Phil Kappen, and Ryan Streff - County Planning  
Dustin DeBoer – Office of the State's Attorney

The meeting was chaired by Chair Susie O'Hara.

**ZONING BOARD OF ADJUSTMENT**

*The Planning Commission will convene as the Zoning Board of Adjustment to consider Item 1, a request for a variance.*

**ITEM 1. VARIANCE #10-01 to exceed the maximum height allowed in the C Commercial District.**

**Petitioner:** Michael Jamison / Raven Industries

**Location:** 47513 254<sup>th</sup> St. East of Midway Corner

**General Information**

Legal Description - E800' W1155' N800' of Tract 1 Raven Hills Addition in the NW1/4 of Section 27-T103N-R49W

Present Zoning – Commercial

Existing Land Use - Commercial

Parcel Size – 14.6 Acres

**Report by:** Scott Anderson

**Staff Analysis**

The applicant is requesting a variance to increase the maximum height of a structure from 35 feet to 55 feet for the purpose of constructing two new aerostat buildings. An aerostat building is used to house large helium balloons which are constructed on the site. The final stage of construction is field testing the balloons. The balloons have a diameter of up to 50 feet and are put aloft during the final testing. Should inclement weather occur, the balloons are brought to the ground and must be stored in a building to prevent damage. The applicant has indicated the need to construct a taller building to accommodate this need.

On May 11, 2010, staff conducted a site visit and met with the property owner. The property does slope gently to the south. The surrounding land uses consist primarily of agricultural uses. The Midway gas station is located directly to the west. The subject property is located near the intersection of S.D. Highway 115 and County Highway 122.

Minnehaha County Zoning Ordinance clearly states that the Board of Adjustment may not vary the setback regulations unless it makes findings based upon evidence that **all** of

the following conditions are present. Staff has visited the site and prepared its observations in regard to the following.

**1. That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.**

The nature of the commercial activities on the subject parcel necessitates the need for a building that exceeds the height requirements. The applicant has indicated a specific physical condition that requires a larger building. This area is prone to severe weather and the items being manufactured must be tested and protected during unstable weather events, thus a taller building is needed to house the balloons.

**2. That the Variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.**

The requested variance would not allow a use otherwise excluded from the district. The subject property is zoned commercial. The applicant is operating a commercial business.

**3. That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.**

Strict application of the Zoning Ordinance would be a hardship for the applicant. The balloons could be tested, but always face the threat of being damaged or destroyed should a bad weather event occur. The larger building is needed to protect the large balloons.

**4. That the granting of a Variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.**

The proposed variance is in the public's interest. The intent of the Zoning Ordinance is to promote health and safety. A larger building is needed to protect not only a product, but also those involved in the manufacturing. Occasionally, there is a legitimate need to increase the height of a building when a product is being manufactured that exceeds a typical building height limitation.

**5. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.**

This property would not be able to be further developed without the height variance. The applicant has demonstrated the need for a larger building. In reviewing the request staff has determined that there is a physical reason (storm events) that requires the need for a taller building to house and protect balloons that are being field tested. The variance is needed to allow for the reasonable use of the property.

**Recommendation**

Staff recommended approval of Variance #10-01 to increase the maximum height of a structure from thirty-five (35) feet to fifty-five (55) feet.

**Public Testimony**

There was no public Testimony on this item.

**Discussion**

Commissioner Cypher asked if this structure or property falls under the commercial regulations in the Zoning Ordinance. Commissioner Steinhauer asked if height is regulated in all zoning districts. Mr. Anderson stated that this property is zoned commercial and that all zoning districts have height limitations.

Commissioner Kelly asked the petitioner if this property was going to be developed further in the future. Hugh Dodson (petitioner) stated that there are only plans for the two additional buildings at this time.

**Action**

A motion was made by South and seconded by Randall to **approve** Variance #10-01 to increase the maximum height of a structure from thirty-five (35) feet to fifty-five (55) feet. The motion passed unanimously.

**Variance #10-01 – APPROVED**

**CONSENT AGENDA**

A motion was made by South and seconded by Steinhauer to approve the consent agenda with agenda items 5, 6, and 10 being moved to the regular agenda. The motion passed unanimously.

**ITEM 2. MINTUES – April 26, 2010**

A motion was made by South and seconded by Randall to approve the minutes from April 26, 2010. The motion passed unanimously.

**ITEM 3. CONDITIONAL USE PERMIT #10-30 to allow two buildings in excess of 10,000 square feet – 16,200 square feet & 11,900 square feet requested.**

**Petitioner:** Michael Jamison / Raven Industries

**Location:** 47513 254<sup>th</sup> St. east of Midway Corner

**General Information**

Legal Description - E800' W1155' N800' of Tract 1 Raven Hills Addition in the NW1/4 of Section 27-T103N-R49W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 14.6 Acres

**Report by:** Scott Anderson

**Staff Analysis**

The applicant is requesting a conditional use permit to allow two (2) structures to exceed 10,000 square feet. Article 6.03(A)3 of the Zoning Ordinance states that buildings which are 10,000 square feet or larger shall require a conditional use permit prior to construction. The applicant is proposing a 9,000 square foot addition onto the Training/Demolition Shop for a total of 16,200 square feet. The proposed addition will address business growth and the need for advanced training, research and development space. The second proposed structure is a storage shed. The proposed storage shed will be 11,900 square feet and is needed to shelter and store agricultural tractors and associated equipment that are an integral component of the on-site training, research and development efforts.

On May 11, 2010, staff conducted a site visit and met with the property owner. The property does slope gently to the south. The surrounding land uses consist primarily of agricultural uses. The Midway gas station is located directly to the west. The subject property is located near the intersection of S.D. Highway 115 and County Highway 122.

**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 proposed structures should not negatively impact the property values of the area. The parcel is zoned C Commercial and the existing use is permitted within that zoning district. The surrounding land uses consist primarily of agricultural uses. The proposed larger structures should not impede the surrounding land uses.

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

The proposed larger structures should not have an effect on the normal and orderly development and improvement of the surrounding vacant property and uses in the area.

The proposed structures will meet the minimum required setbacks, allowing ample area for other development to occur in the area.

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

There is an existing access off of County Highway 122. The site is serviced by Minnehaha Community Water and has an individual on-site waste water disposal system, which has been approved by the S.D. Department of Environment and Natural Resources. No further utilities or infrastructure is required. The applicant will have to verify with the State that the existing on-site waste water disposal system is adequately sized.

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

The site plan provided by the applicant shows a 130 foot by 210 foot parking lot next to the new training center. The proposed 11,900 square foot structure is entirely off-street parking. Article 15 of the Zoning Ordinance requires two parking spaces for each 3 employees. The site plan indicates over 61 parking spaces, which would accommodate approximately 90 employees.

**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.**

Staff will include a condition that requires all new lighting to be the type that reflects the light downward and reduces excess ambient light. The larger building may reduce some noise, as it will allow equipment to be stored and worked on indoors. The proposed uses should not produce elements that may be considered a nuisance.

Staff has reviewed the Conditional Use Permit request and finds it consistent with the intent of the Zoning Ordinance. It will allow for orderly growth. The applicant has demonstrated a need and shown that the proposed larger structures will not harm the public.

**Recommendation**

Staff recommended approval of Conditional Use Permit #10-30 to allow for two (2) larger structures - a new Training/Demonstration Shop to be attached to the existing Engineering Shop having a total of 16,200 square feet and storage shed having a total of 11,900 square feet with the following conditions.

- 1) A building inspection is required to determine that the Training/Demolition Shop and Engineering Shop does not exceed 16,200 square feet and the new storage shed does not exceed 11,900 square feet measured from the outside perimeters.
- 2) Any new exterior lighting shall be shoe box style that directs the lighting downward.
- 3) The applicant shall meet the minimum parking requirements that are outlined in Article 15 of the Zoning Ordinance.
- 4) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance.

**Action**

A motion was made by South and seconded by Cypher to **approve** Conditional Use Permit #10-30 with the conditions stated. The motion passed unanimously.

**Conditional Use Permit #10-30 – APPROVED.**

**ITEM 4. ZONING ORDINANCE AMENMDENT #10- 11 Section 12.02 Wind Energy.**

**Petitioner:** County Planning Commission

**Report by:** Pat Herman

**Staff Analysis:**

At the March Planning Commission meeting, planning staff was directed to look at amendments to the wind energy portion of the zoning ordinance. Restrictions on small wind turbines used for a home or business were rewritten to allow the placement of turbines on the roof top or in close proximity to the structure.

Amendments to the section of the ordinance which addresses commercial wind operations or wind farms were also drafted. These included requiring applicants to provide a construction schedule, a plan depicting the staging area to be used for the storage of equipment and materials, and restrictions on shadow flicker. A wind turbine's moving blades can cast a moving shadow on a nearby building depending on the time of the year and time of day. It is possible to calculate whether a flickering shadow will in fact fall on a given location near a wind farm, and how many hours in a year it will do so. The proposed change would limit shadow flicker to 30 hours a year, a time frame which is consistent with other wind energy ordinances throughout the country.

**Recommendation:**

The Planning Commission reviewed the proposed amendments at the April 26, 2010 meeting and instructed Planning Staff to proceed with the text amendment process. Staff recommended approval of Zoning Text Amendment #10-11.

ORDINANCE MC

AN ORDINANCE AMENDING THE 1990 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY BY AMENDING SECTION 12.02 WIND ENERGY CONVERSION SYSTEMS AND ADDING SUPPORTIVE DESCRIPTION IN THE DEFINITON SECTION OF THE ORDINANCE.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC16-90, the 1990 Revised Zoning Ordinance for Minnehaha County hereby amended as follows:

**Section 1: That Article 12.02 (B) is hereby amended to read:**

(B). Accessory WECS

The applicant shall provide to the Planning Director documentation that the tower

structure for the system has received a professional structural engineer's certification.

1). Height.

WECS are exempt from the maximum height requirements of this Ordinance.

2). Setbacks

a). The setback for an accessory WECS shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the WECS is affixed by any extension to the side, roof or other elevated surface the setback shall be the same. The setback shall be measured from the furthest outward extension of all moving parts.

b). An accessory WECS not attached to a structure shall be setback a distance equal to its total height from:

1. any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road;
2. any overhead utility lines, unless written permission is granted by the affected utility;
3. all property lines, unless written permission is granted from the affected land owner.

3). Illumination and Security

(a). Illumination and markings shall be limited to the requirements of the FAA. There shall be no lights on the tower other than what is required by the FAA. FAA approved red lights shall be used from dusk till dawn. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.

b). All ground mounted electrical and control equipment shall be secured to prevent unauthorized access. Tower design shall not provide step bolts or a ladder readily accessible to the public for a minimum of eight (8) feet above ground.

4). Noise

The noise level of the WECS shall not exceed 50 dB(A) as measured at any property line or the WECS shall not create noise beyond the lot containing the WECS which exceeds 60 dB(A) as measured the nearest occupied structure.

5). Signs

One sign, not to exceed four (4) square feet, shall be posted at the base of the tower and display suitable warning of danger to unauthorized persons,

the system's manufacturer, and emergency shut-down procedures. No other signage shall be allowed.

6). Electromagnetic interference

If a WECS is installed in any location along or within the major access of an existing microwave communications link, the person desiring to install the WECS shall be required to provide a letter from the business whose link they are within or adjacent to stating that the business whose link is affected would have no objection to the installation of the WECS.

7). Air space

A WECS shall be located or installed in compliance with the guidelines of the Federal Aviation Administration Regulations with regard to Airport Approach Zones and clearance around VOR stations.

8). Interconnect.

The WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company.

9). Appearance.

The accessory WECS shall be galvanized or earth tone colored and be non-reflective.

**Section 2: That Article 12.02 (C) 2) is hereby amended to read:**

2). Setbacks

(a.) WECS shall be set back 2x the total WECS height from any exterior property line.

(b.) WECS shall be set back 1 .25x the total WECS height from the right of-way line of any public road or highway.

(c.) WECS shall be set back 3X the total WECS height from any occupied structure. A reduced setback shall be considered only with written approval from the owner of the occupied structure.

**Section 3: That Article 12.02 (C) 10) f). is hereby amended to read:**

f). A location map to scale of all occupied structures within ½ mile of the boundary of the property upon which the WECS are to be located.

**Section 4: That Article 12.02 (C) 10) (k-n). are hereby amended and added to read:**

k). Project schedule with anticipated construction date and completion date.

- l). A Staging Area Plan depicting properties where materials and construction equipment will be stored during the installation process.
  
- m). A Shadow Flicker Analysis shall be submitted for any occupied building with direct line-of-sight to a tower. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of the year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year and describe measures that shall be taken to eliminate or mitigate the problems. Shadow flickers on a building shall not exceed thirty (30) hours per year.
  
- n). Such additional information as shall be required by the Planning Director.

**Section 5: That Article 26.02 #656 shall be added to read:**

656. STRUCTURE, OCCUPIED. A residence, school, hospital, church, library, business or any other building used for public gatherings.

Adopted this 22<sup>nd</sup> day of June, 2010

MINNEHAHA COUNTY

\_\_\_\_\_  
Chair, Board of County Commissioners

ATTEST:

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County Auditor

1 <sup>st</sup> Reading	June 8, 2010
Legal Ad. – Argus Leader	June 11, 2010
Public Hearing	June 22, 2010

Fact of Adoption – Argus Leader	June 28 & July 5, 2010
Effective Date	July 25, 2010

**Action**

A motion was made by South and seconded by Cypher to **approve** the Zoning Ordinance Amendment #10-11 (Section 12.02 Wind Energy) as stated above. The motion passed unanimously.

**Zoning Ordinance Amendment #10-11 – APPROVED.**

**ITEM 7. CONDITIONAL USE PERMIT #10-23 to exceed 1200 square feet of accessory building area – 9,912 square feet requested – and to allow additional grain bins.**

**Petitioner:** Michael McAreavey

**Location:** 47077 257<sup>th</sup> St. ¼ mile east of Crooks

**General Information**

Legal Description - Scholten's Tr 1 (EX N410 S106.2 W321.2 & EX E250) in Section 11-T102N-R50W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 14.4

**Report by:** Pat Herman

**Staff Analysis:**

The property is located just to the east of Crooks on 257<sup>th</sup> Street. This area is a mixture of residential acreages and crop farming. The petitioner is requesting to exceed 1200 square feet of accessory building area. Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

- (1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

This property is the site of a working farm. There are a number of small bins (1,352 sq. ft.) which are rated at no value by the Equalization office, grain bins, and a 2800 sq. ft. building. This request is to add a 5760 sq. ft. storage building and additional grain bins.

**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.**

Development in Crooks and on the acreages to the east occurred with the existence of this farm. Additional farm buildings should not affect neighboring properties.

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

Right-to-farm notice covenants are required for any new residential development in the area. No complaints have been received in the Planning Department about this farm.

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

Utilities are existing for the property. Access to the new buildings will be from the township gravel road using the current driveway.

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

No additional parking spaces are 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.**

With the addition of new structures, all of the above should not increase beyond what is typical in a farm setting.

Additional storage is needed to allow for growth of the agricultural operation. The restrictions for accessory structures in the zoning ordinance are not intended to impede active farming operations. Staff is recommending an allowed accessory building area larger the request of the petitioner to allow future expansion for the agricultural business.

**Recommendation:**

Staff recommended approval of Conditional Use Permit #10-23 with the following conditions:

- 1) Accessory structure area shall not exceed 16,000 square feet.
- 2) Four additional grain bins shall be allowed. Their storage capacity shall not be counted in the 16,000 accessory structure area.
- 3) The accessory structure height is limited to one story (grain bins are exempted).
- 4) No commercial use of the accessory structure shall be permitted.
- 5) A building permit is required for all accessory structures and grain bins.

**Action**

A motion was made by South and seconded by Cypher to **approve** Conditional Use Permit #10-23 with the conditions stated. The motion passed unanimously.

**Conditional Use Permit #10-23 – APPROVED.**

**Item 8. CONDITIONAL USE PERMIT #10-25 to exceed 1,200 square feet of accessory building area – 2,688 sq. ft. requested.**

**Petitioner:** Thomas Smithback

**Location:** 46418 258<sup>th</sup> St. ½ mile northeast of Hartford

**General Information**

Legal Description - Lot 2 Smithback's Addition S1/2 SW1/4 in Section11-T102N-R51W

Present Zoning – A-1 Agriculture

Existing Land Use - Residential

Parcel Size – 9.9 Acres

**Report by:** Phil Kappen

**Staff Analysis:**

The subject property is located 1 mile north of Hartford. The petitioner is planning to construct a new home and wishes to also construct a 2,688 square-foot accessory building for the storage of his personal maintenance equipment and for horses. The surrounding areas are agricultural with scattered acreages.

**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 noted, a portion of the building will be used for horses. The subject property is zoned for agricultural purposes and the keeping of the resident's horses is an allowed use.

Many of the neighboring properties already have accessory buildings that are larger than that proposed by the applicant. The closest properties with oversized buildings are immediately to the northwest (a total of 7,506 square feet at 25782 464<sup>th</sup> Avenue), immediately north (a total of 2,880 square feet at 25776 464<sup>th</sup> Avenue), ½ mile to the northeast (a total of 4,808 square feet at 46486 258<sup>th</sup> Street) and ½ mile to the east (three properties – 1,728 square feet at 46475 258<sup>th</sup> Street, 2400 square feet at 46488 258<sup>th</sup> Street, and a total of 3,072 square feet at 46493 258<sup>th</sup> Street). The placement of a 2,688 square foot building on the subject property should have little impact on the neighboring properties.

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

The predominant use of the surrounding property will continue to be agricultural. The placement of a building that will be used, in part, for agriculturally-related uses should not affect the continued use of the property for agricultural purposes.

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

Access to the property will be via 258<sup>th</sup> Street (County Highway 130). The petitioner will need to obtain written permission to access the highway from the County Highway Department before any building permit can be issued for the site.

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

There is adequate space for the single parking space required for a single-family residential use under Section 15.02 of the county zoning ordinance. No other uses are approved for the property.

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

There should be little odor, fumes dust, noise or vibration from the approved residential use or the keeping of a limited number of the petitioner's own horses at the site. Any new outside lighting should be of full cutoff and fully shielded design to prevent the spillage of light beyond the boundaries of the property.

**Recommendation:**

Staff finds that the proposed oversized building conforms to the general character of the area and that the request is in compliance with the county zoning ordinance. Staff, therefore, recommended approval of CUP #10-25 with the following conditions:

1. The applicant shall be allowed one approach onto the property from 258<sup>th</sup> Street. Prior to issuance of any building permit, the applicant shall obtain an approach permit from the Minnehaha County Highway Department.
2. The building shall be used only for the petitioner's personal residential storage and/or agricultural use. No commercial or business uses or storage shall be allowed.
3. The building shall not exceed one story in height.
4. A building inspection is required to determine that the buildings do not exceed 2,688 square feet measured from the outside perimeters.

**Action**

A motion was made by South and seconded by Cypher to **approve** Conditional Use Permit #10-25 with the conditions stated. The motion passed unanimously.

**Conditional Use Permit #10-25 – APPROVED.**

**Item 9. CONDITIONAL USE PERMIT #10-26 to exceed 1200 square feet of accessory building area 2160 square feet requested.**

**Petitioner:** John Decker

**Location:** 46507 Lorraine Circle 2.5 miles southeast of Wall Lake

**General Information**

Legal Description - Lot 6 (ex E 50') Prairie View Estates W1/2 NW1/4 in Section 36-  
T101N-R51W

Present Zoning – A-1 Agriculture

Existing Land Use - Residential

Parcel Size – 4.52 Acres

**Report by:** Ryan Streff

**Staff Analysis**

This subject property is located in section 36 of Wall Lake Township, approximately 4 miles west of Sioux Falls. The surrounding land use is agriculture with many small to medium sized residential acreages from 1 -18 acres. The parcel is part of twelve (12) lots south of 267<sup>th</sup> Street and near the intersection of 267<sup>th</sup> Street and 465<sup>th</sup> Avenue. The petitioner has applied for a conditional use permit to exceed the 1,200 sq. ft. accessory building area at 46507 Lorraine Circle. The property owner is requesting this conditional use permit to construct a 2,160 sq. ft. (40' x 54') accessory storage building.

The petitioner is asking for approval for a 2,160 sq. ft. accessory building. There are three (3) lots near the subject property that have larger accessory building areas than what is proposed by the petitioner. These three (3) larger accessory building areas consist of 15,480 sq. ft to the west, 2,594 sq. ft. to the south, and 2,600 sq. ft. to the east. (See attached accessory building area map)

The petitioner would like to exceed the 1,200 sq. ft. of accessory building area on a lot that is approximately 4.52 acres in size and is in a subdivision of more than four lots. Section 12.07 D of the county zoning ordinance states: *In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.*

The property owner shall meet all regulations regarding accessory buildings. These regulations are found in *Article 12.07 Accessory Buildings and Uses*. Minimum setbacks required for accessory buildings in the A-1 Zoning District are front yard 30', side yard 7', and rear yard 30'. There is a minimum setback of 50' from any section line road or major arterial street.

**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 larger accessory structures in the general area of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure will not impact the neighboring properties. The construction of this accessory building should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The construction of the proposed accessory building should have no impact on further construction or development within the subdivision or general area. The building will only be used for the owner's personal storage, residential related items, and no commercial or business activities will be allowed. This use will not affect the agricultural land in the area.

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

Access to the proposed accessory building will be through a driveway located along 465<sup>th</sup> Avenue. If a new driveway is constructed a driveway/culvert permit is required by Wall Lake Township.

No other infrastructure improvements are required at this time.

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

The property has sufficient parking for all residential activities.

**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 uses in the building which should constitute these types of nuisances.

**Recommendation**

Staff found that the proposed accessory building size conforms to the general sizes of other accessory buildings in the area and recommended approval of Conditional Use Permit #10-26 with the following conditions:

1. Accessory building area shall not exceed 2,160 square feet on the property.
2. The building shall not exceed one story in height.
3. A building inspection is required to measure the outside dimensions of the building.
4. A building permit is required.
5. The building shall be an accessory use to the continued use of the property as a residential lot.
6. Only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
7. All outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.

**Action**

A motion was made by South and seconded by Cypher to **approve** Conditional Use Permit #10-26 with the conditions stated. The motion passed unanimously.

**Conditional Use Permit #10-26 – APPROVED.**

**Item 11. Conditional Use Permit #10-31 to allow a truck terminal operation.**

**Petitioner:** Toboll Properties

**Location:** 47219 Hobbs Circle I-29 Crooks Exit

**General Information**

Legal Description - Lot 6 Northwest Industrial Park in Section 18-T102N-R49W

Present Zoning – I-1 Light Industrial

Existing Land Use - Commercial

Parcel Size – 1.77 Acres

**Report by:** Phil Kappen

**Staff Analysis:**

The subject property is in the Northwest Industrial Park, an industrially-zoned subdivision in the southeast quadrant of the Crooks/Renner exit on I-29. The properties to the southwest and north are in existing commercial/industrial uses, to the south and west are vacant industrial lots and the land to the east is agricultural land. The petitioner proposes a trucking terminal operation at the 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.**

The property immediately north of the subject property is currently used for a trucking operation and the property to the southwest is a sales lot for truck parts and equipment. There is also another trucking firm at the north end of the subdivision. The operation of an additional trucking firm should have no negative impact on other properties in the subdivision.

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

The vacant parcels within the subdivision are planned for other industrial uses. The agricultural property to the east will continue in farming uses. The operation of the proposed use on the subject property will have no impact on the continued uses of these surrounding properties.

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

Access to the property is via Trade Avenue and Hobbs Circle, both hard-surfaced roadways. Those roadways have been constructed to withstand the impact of heavy truck traffic. There have been past complaints in this neighborhood about trucks being unloaded within the road right-of-ways. No parking or unloading of any vehicles should be allowed within road right-of-ways.

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

Over half of the property already has hard-surfaced parking. This includes parking areas for employee vehicles and for semi trucks. The western portion of the lot is in gravel and may be used for overflow parking. A grassed setback area is already located between the designated parking areas and the road right-of-ways for both Hobbs Circle and Trade

Avenue.

**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 trucking operation may result in noise and fumes from the trucks, but no more than other trucking firms in the subdivision. Any additional outdoor lighting should be of a full cutoff and fully shielded design to prevent off-site light impacts.

**Recommendation:**

Staff finds that the proposed use is of a type that would typically be found in an industrially-zoned area and that it conforms with the zoning ordinance and with existing uses in the subdivision. Staff, therefore, recommended approval of CUP #10-31 with the following conditions:

1. The operation shall conform to the site plan dated April 28, 2010 and submitted as a part of the conditional use application.
2. If any outside storage of vehicle parts or materials is proposed, it shall be screened from public view by a minimum six-foot high screening fence. The fence shall be of earth-tone colors and shall be maintained with a minimum 90% opacity over the full height of the fence.
3. Inoperable or unlicensed vehicles shall not accumulate on the property.
4. No vehicles shall be parked within any road right-of-way and no trucks may be unloaded within a road right-of-way.
5. The petitioner shall procure and maintain a South Dakota Sales Tax License.

**Action**

A motion was made by South and seconded by Cypher to **approve** Conditional Use Permit #10-31 with the conditions stated. The motion passed unanimously.

**Conditional Use Permit #10-31 – APPROVED.**

**REGULAR AGENDA**

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

**ITEM 5. CONDITIONAL USE PERMIT #10-21 to allow a wind anemometer.**

**Petitioner:** Scot Pulse

**Location:** 3 miles southeast of Dell Rapids

**General Information**

Legal Description - SE1/4 (Ex H-1) of Section 24-T104N-R49W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 40 Acres

**Report by:** Ryan Streff

**Staff Analysis**

The applicant is requesting to construct a temporary meteorological tower near the intersection of 248<sup>th</sup> Street and 478<sup>th</sup> Avenue for gathering wind speed, direction, and velocity data. The meteorological tower is used in determining the feasibility of wind generation and specifically designed for collecting wind energy resource measurements. The proposed tubular steel tower would be approximately 60 meters (183 feet) in height. The tower will utilize guy wires that will be anchored with standard screw-in anchors, arrow-head anchors or rebar anchors, depending on the soil conditions. Wind speed and direction sensors will be placed at several intervals along the tower. A temperature sensor is also often attached to the tower near the logger. The sensors then relay data to a data logger at the base of the tower. A solar panel will provide power to the data collection system, which will then transmit the data via cell phone on a regular basis. The applicant has indicated that this temporary tower may be collecting data for two (2) to five (5) years.

The applicant has indicated that no cranes or concrete foundations area required for the construction of the tower. It was also stated that a pickup truck is used to transport the tower components to the site and a three-man crew can usually install the tower within a couple of days.

Based on the data, the applicant has indicated that subsequent wind generation towers could be installed in the area. Staff has indicated to the applicant that any future wind generation towers require a conditional use permit for each tower and a building permit prior to construction.

**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 proposed tower should have very limited effect on the surrounding properties. The area is primarily agricultural in nature. Furthermore, this tower is a temporary use and would be removed in approximately two to five years after construction. Property values should not be impacted.

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

The temporary tower should not impede orderly development or hinder improvements of

the vacant properties in the area. As the primary use is agricultural, there is very little vacant property with the majority of land being utilized for crops or livestock production.

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

The field approach located along 248<sup>th</sup> Street near the junction of 478<sup>th</sup> Avenue will provide access to the temporary tower. No other facilities or improvements are needed.

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

The proposed use should not require much parking. The site will not be visited for periods of time. When an operator is on site, only one or two parking spaces would be needed. Staff will recommend that two (2) off-street parking spaces be provided.

**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 tower should not produce odor, fumes, noise or vibration. The applicant has indicated that safety lights are not required at this height, so there should be no nuisance lighting.

**Recommendation**

Staff found that the proposed temporary tower is acceptable to the area. Staff recommended approval of conditional use permit #10-21.

**Public Testimony**

Ann Evangelisto (47754 258<sup>th</sup> ST) stated that she does not have an issue with wind energy or the Met Tower, but is concerned that approving this temporary use will open the door for wind turbine development in the area. She informed the commission that the wind turbines could potentially impact her plans to develop property she owns with 4 housing eligibilities approximately a ½ mile to the west of the proposed Met Tower site. Commissioner Kelly informed Ms. Evangelisto that approving the Met Tower does not permit wind turbines to be constructed. He continued to state that constructing a wind turbine would require a separate conditional use permit.

Commissioner Kelly asked Scott Pulse (petitioner) what the actual height of a wind turbine would be. Mr. Pulse stated that these structures are normally between 350 and 400 feet.

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

**Action**

A motion was made by Cypher and seconded by Randall to **approve** Conditional Use Permit #10-21 with the following conditions. The motion passed unanimously.

- 1) That the tower shall not exceed 60.50 meters in height.
- 2) That the applicant shall obtain a building permit prior to the erection of the temporary tower. Standard A-1 setbacks shall apply.
- 3) That any FAA lighting requirements are met and any permits are obtained if necessary, and that if lighting is required, red lighting shall be used at night.

- 4) That the tower be removed within six (6) years after the building permit is issued. Any future wind generation devices would require a new conditional use permit approval.
- 5) That fencing and bright tape and/or paint is placed around each of the guy anchors for safety purposes.
- 6) That when the tower is removed it shall leave little indication of its presence.
- 7) That two off-street parking spaces be provided.

**Conditional Use Permit #10-21 – APPROVED.**

**ITEM 6. CONDITIONAL USE PERMIT #10-22 to allow a wind anemometer.**

**Petitioner:** Scot Pulse

**Location:** 4 miles southeast of Dell Rapids

**General Information**

Legal Description - N1/2 SW1/4 of Section 31-T104N-R48W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 80 Acres

**Report by:** Ryan Streff

**Staff Analysis**

The applicant is requesting to construct a temporary meteorological tower in section 31 of Dell Rapids Township for gathering wind speed, direction, and velocity data. The meteorological tower is used in determining the feasibility of wind generation and specifically designed for collecting wind energy resource measurements. The proposed tubular steel tower would be approximately 60 meters (183 feet) in height. The tower will utilize guy wires that will be anchored with standard screw-in anchors, arrow-head anchors or rebar anchors, depending on the soil conditions. Wind speed and direction sensors will be placed at several intervals along the tower. A temperature sensor is also often attached to the tower near the logger. The sensors then relay data to a data logger at the base of the tower. A solar panel will provide power to the data collection system which will then transmit the data via cell phone on a regular basis. The applicant has indicated that this temporary tower may be collecting data for two (2) to five (5) years.

The applicant has indicated that no cranes or concrete foundations area required for the construction of the tower. It was also stated that a pickup truck is used to transport the tower components to the site and a three-man crew can usually install the tower within a couple of days.

Based on the data, the applicant has indicated that subsequent wind generation towers could be installed in the area. Staff has indicated to the applicant that any future wind generation towers require a conditional use permit for each tower and a building permit prior to construction.

**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 proposed tower should have very limited effect on the surrounding properties. The area is primarily agricultural in nature. Furthermore, this tower is a temporary use and would be removed in approximately two to five years after construction. Property values should not be impacted.

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

The temporary tower should not impede orderly development or hinder improvements of the vacant properties in the area. As the primary use is agricultural, there is very little vacant property with the majority of land being utilized for crops or livestock production.

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

**provided.**

The field approach located along 478<sup>th</sup> Avenue approximately ½ mile north of 250<sup>th</sup> Street will provide access to the temporary tower. No other facilities or improvements are needed.

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

The proposed use should not require much parking. The site will not be visited for periods of time. When an operator is on site, only one or two parking spaces would be needed. Staff will recommend that two (2) off-street parking spaces be provided.

**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 tower should not produce odor, fumes, noise or vibration. The applicant has indicated that safety lights are not required at this height, so there should be no nuisance lighting.

**Recommendation**

Staff found that the proposed temporary tower is acceptable to the area. Staff recommended approval of conditional use permit #10-22.

**Public Testimony**

Ann Evangelisto (47754 258<sup>th</sup> ST) stated that she does not have an issue with wind energy or the Met Tower, but is concerned that approving this temporary use will open the door for wind turbine development in the area. She informed the commission that the wind turbines could potentially impact her plans to develop property she owns with 4 housing eligibilities approximately 1/3 of a mile to the west of the proposed Met Tower site.

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

**Action**

A motion was made by South and seconded by Randall to **approve** Conditional Use Permit #10-22 with the following conditions. The motion passed unanimously.

- 1) That the tower shall not exceed 60.50 meters in height.
- 2) That the applicant shall obtain a building permit prior to the erection of the temporary tower. Standard A-1 setbacks shall apply.
- 3) That any FAA lighting requirements are met and any permits are obtained if necessary, and that if lighting is required, red lighting shall be used at night.
- 4) That the tower be removed within six (6) years after the building permit is issued. Any future wind generation devices would require a new conditional use permit approval.
- 5) That fencing and bright tape and/or paint is placed around each of the guy anchors for safety purposes.
- 6) That when the tower is removed it shall leave little indication of its presence.
- 7) That two off-street parking spaces be provided.

**Conditional Use Permit #10-22 – APPROVE**

**Item 10. CONDITIONAL USE PERMIT #10-27 to exceed 1200 square feet of accessory building area– 4000 square feet requested.**

**Petitioner:** Morgan & Raylene Larson

**Location:** 46611 266<sup>th</sup> Avenue 3miles east of Wall Lake

**General Information**

Legal Description - Tract 2 Murschels Addn NW1/4 in Section 30-T101N-R50W

Present Zoning – A-1 Agriculture

Existing Land Use - Residential

Parcel Size – 10.79 Acres

**Report by:** Ryan Streff

**Staff Analysis**

This subject property is located in section 30 of Wayne Township, approximately 2.5 miles west of Sioux Falls. The surrounding land use is agriculture with many small to medium sized residential acreages from 1 -20 acres. The parcel is part of thirteen (13) lots near the intersection of 266<sup>th</sup> Street and 466<sup>th</sup> Avenue. The petitioner has applied for a conditional use permit to exceed the 1,200 sq. ft. accessory building area at the general location described as 515' East of Hwy 17 and 266<sup>th</sup> Street junction. The property owner is requesting this conditional use permit to construct a 4,000 sq. ft. (50' x 80') accessory storage building.

The petitioner is asking for approval for a 4,000 sq. ft. accessory building. There are two (2) lots adjacent to the subject property, one (1) of which is to the east and one (1) that is to the south that have larger accessory building areas than what is proposed by this petitioner. In addition there are three (3) other lots in the general vicinity that exceed the 1,200 square foot accessory building area. (See attached accessory building area map)

Currently there is no residential dwelling unit built on this parcel. The petitioner has been informed that accessory structures cannot be constructed on the lot without having a primary residential dwelling unit.

The petitioner would like to exceed the 1,200 sq. ft. of accessory building area on a lot that is approximately 10.50 acres in size and is in a subdivision of more than four lots. Section 12.07 D of the county zoning ordinance states: *In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.*

The property owner shall meet all regulations regarding accessory buildings. These regulations are found in *Article 12.07 Accessory Buildings and Uses*. Minimum setbacks required for accessory buildings in the A-1 Zoning District are front yard 30', side yard 7', and rear yard 30'. There is a minimum setback of 50' from any section line road or major arterial street.

**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 larger accessory structures in the general area of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure will

not impact the neighboring properties. The construction of this accessory building should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The construction of the proposed accessory building should have no impact on further construction or development within the subdivision or general area. The building will only be used for the owner's personal storage, residential related items, and their own animals or pets only, and no commercial or business activities (i.e. Stable or Kennel) will be allowed. This use will not affect the agricultural land in the area.

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

Access to the proposed accessory building will be through a driveway located along 266<sup>th</sup> Street. This access will also be the primary access point to the residential dwelling unit on the property.

No other infrastructure improvements are required at this time.

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

The property has sufficient parking for all residential activities.

**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 uses in the building which should constitute these types of nuisances.

**Recommendation**

Staff found that the proposed accessory building size conforms to the general sizes of other accessory buildings in the area and recommended approval of Conditional Use Permit #10-27.

**Public Testimony**

Dennis Murschel (2516 W Costello RD) questioned if there was going to be a business located at the property. Ryan Streff stated that the proposed building is for personal storage only and that no commercial use would be allowed. Morgan Larson (petitioner) stated that the building would be for his own use and no business would be located at the property. Mr. Murschel also stated that he owns the surrounding property and wants to make sure that a home is built along with the accessory building to prevent the possibility of a commercial use of the building.

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

**Action**

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #10-27 with the following conditions. The motion passed unanimously.

1. Accessory building area shall not exceed 4,000 square feet on the property.

2. The building shall not exceed one story in height.
3. A building inspection is required to measure the outside dimensions of the building.
4. A building permit is required.
5. The building shall be an accessory use to the continued use of the property as a residential lot.
6. Only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
7. All outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
8. The right-to-farm notice shall be filed before a building permit can be issued.

**Conditional Use Permit #10-27 – APPROVED.**

**Item 12. CONDITIONAL USE PERMIT #10-24 to exceed 1,200 square feet of accessory building area– 4,230 sq. ft. existing – 5,958 square feet requested.**

**Petitioner:** Jeremy & Jennie Hartung

**Location:** 25617 479<sup>th</sup> Ave. 5 miles northwest of Brandon

**General Information**

Legal Description – Lot B Tract 3 Swenson's Addn NE1/4 in Section 6-T102N-R48W

Present Zoning – A-1 Agriculture

Existing Land Use - Residential

Parcel Size – 10.57 Acres

**Report by:** Phil Kappen

**Staff Analysis:**

The subject property is located 5 miles northwest of Brandon, just south of the intersection of 256<sup>th</sup> Street and 479<sup>th</sup> Avenue. The petitioners have a total of 4,230 square feet of existing accessory buildings (7 structures) on their property and are proposing an additional 1,728 square-foot building for a total of 5,958 square feet. All surrounding properties are zoned for agricultural uses and a large portion of the land in the area is dedicated to agriculture. There are, however, a number of non-farm acreages within the quarter section in which the subject property is located and scattered acreages in the surrounding area.

In 2008, the applicant obtained a conditional use permit to exceed the 1,200 square-foot limit so that they could construct a 2,400 square foot accessory building and obtained a building permit for that size building. The County Equalization office has the new building listed as 2,560 square feet rather than the allowed 2,400 square feet. Our office has verified the size of the structure.

**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 acreages clustered around the subject property and the subject property currently has the greatest amount of accessory buildings in its immediate vicinity. The closest properties immediately to the north (25605 479<sup>th</sup> Avenue), to the east (25618 479<sup>th</sup> Avenue) and to the south (25633 479<sup>th</sup> Avenue) have, respectively, 2,400 square feet of accessory building, 2,681 square feet of total accessory buildings, and 610 square feet of total accessory buildings. Other properties within ½ mile of the site include lots to the south with approximately 1,672 square feet of accessory buildings (25645 479<sup>th</sup> Avenue) and approximately 2,900 square feet of total accessory buildings (25669 479<sup>th</sup> Avenue). One-quarter mile west of the property (47859 256<sup>th</sup> Street) is a lot with a total of 1,262 square feet of existing accessory buildings. One-half mile to the north (25552 479<sup>th</sup> Avenue) is a lot with a 5,400 square-foot accessory building and one-half mile to the west (47839 256<sup>th</sup> Street) is a property with a total of 1,640 square feet of accessory buildings. The proposed size is greatly out of character with other residential properties in the vicinity.

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

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

All existing building eligibilities within the northeast quarter of this section have been used. The majority of the remaining land will continue to be used for agricultural production. The larger building would pose little impact on the continued use of neighboring properties for agriculture.

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

Access to the property is via 479<sup>th</sup> Avenue, a Brandon Township Road. The applicant has not proposed any additional driveway and it is believed that no added access is planned.

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

Section 15.02 of the county zoning ordinance requires that at least one off-street parking space for a residential use. There is ample space for this amount of off-street parking on the property.

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

There should be little odor, fumes dust, noise or vibration from the approved residential use. Any new outside lighting should be of full cutoff and fully shielded design to prevent the spillage of light beyond the boundaries of the property.

Staff finds that the total amount of accessory buildings on the property, if the proposed oversized building were approved, would not conform to the general nature of the adjoining residential properties. There are also concerns regarding the petitioner's adherence to the conditions placed on their previous conditional use and building permits, that, however, is an enforcement issue and must be addressed separately.

**Recommendation:**

Staff recommended denial of CUP #10-24.

**Public Testimony**

Jeremy Hartung (25617 479<sup>th</sup> Ave.) stated that he owns and lives at the property. He informed the commission that in the location he wishes to build the new accessory building there was at one time a large barn. Mr. Hartung stated that he wishes to build the new accessory building to mimic the appearance of a traditional barn. He continued to tell the commission that he has received letters of support from the property owners that are adjacent to his property. Mr. Hartung stated that the new building would only be visible to the neighbor to the south until the new trees that are planted to the south of the building matured.

Commissioner South asked what the other buildings on the property are being used for. Mr. Hartung stated that the buildings on the property are used for personal storage and equipment such as tractors, cars, and their boat.

Commissioner Steinhauer stated his concerns about large accessory buildings and their potential to be used for commercial purposes. He continued to state that by allowing the total square footage to be divided between multiple buildings diminishes the likelihood

the property or accessory buildings will be used for a commercial type use. Commissioner Steinhauer stated that he does not agree with staff that the proposed oversized building would not conform to the general nature of the area and its surrounding properties.

Commissioner Kelly informed the petitioner that he has done a great job improving his property. He continued to state that the 1,200 sq. ft. accessory building area is not a prohibition, but requires a conditional use permit to be approved.

Commissioner Cypher stated that this type of barn should be allowed, as it would be a great addition to the area. He stated that the building should be built as presented to the commission and to mimic a typical barn.

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

**Action**

A motion was made by Steinhauer and seconded by Kelly to **approve** Conditional Use Permit #10-24 with the following conditions. The motion passed unanimously.

1. Accessory building area shall not exceed 5,958 square feet on the property.
2. A building inspection is required to measure the outside dimensions of the building.
3. A building permit is required.
4. The building shall be an accessory use to the continued use of the property as a residential lot.
5. Only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
6. All outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.

**Conditional Use Permit #10-24 – APPROVED.**

**Item 13. CONDITIONAL USE PERMIT #10-28 to Class 1 Major Home Occupation – garbage hauling business, truck repair, truck and dumpster storage.**

**Petitioner:** Todd Snyders

**Location:** 46350 265<sup>th</sup> St. ½ mile northeast of Wall Lake

**Recommendation:**

Staff recommended that the Planning Commission defer Item #13 due to an incomplete application.

**Action**

A motion was made by South and seconded by Steinhauer to **defer** Conditional Use Permit #10-28. The motion passed unanimously.

**Conditional Use Permit #10-28 – Deferred.**

Old Business

No old business

New Business

No new business

County Commission Items

No County Commission items.