

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
June 22, 2009**

A meeting of the Planning Commission was held on June 22, 2009 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

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

The meeting was chaired by Don South.

- ITEM 8. CONDITIONAL USE PERMIT #09-36 to allow a rubble dump facility.**
Legal Description - W1000.89' of Lots B & C of Tract 1, & the W250' S206'
E340' of Tract 4, All in Waitt Tracts 1, 2, 3, 4 & 5
inclusive, in the NE1/4 of Section 35-T101N-R51W
Location – 46451 267th St. 3.5 miles west of Sioux Falls
Petitioner / Owner- Don Runge / Chuck Runge, Robert Runge & Avry
Krietnitz

Public Testimony

Petitioner Don Runge (609 N. Blue Bell Lane, Sioux Falls) stated that he would like the Planning Commission to defer their decision on Conditional Use Permit #09-36 until next Planning Commission Meeting on July 27, 2009 to allow for more time to address potential concerns.

Action

A motion was made by Commissioner Kelly not to defer Conditional Use Permit #09-36 until the next Planning Commission Meeting on July 27, 2009. The motion died for a lack of second.

Based on public testimony, Commissioner Rogen made a motion to **defer** Conditional Use Permit #09-36 until the next Planning Commission Meeting on July 27, 2009. Seconded by Commissioner Cypher. The motion passed (5-1, Kelly nay).

Motion to adjourn the Planning Commission and convene as the Zoning Board of Adjustment.

A motion was made by Commissioner Rogen and seconded by Commissioner Kelly to adjourn as the Planning Commission and convene as the Zoning Board of Adjustment. The motion passed unanimously (6-0).

ZONING BOARD OF ADJUSTMENT

ITEM 1. VARIANCE #09-01 to allow a single wide manufactured home.

Legal Description - SE1/4 SE1/4 in Section 17-T104N-R51W
Location – 24695 462nd Ave. 2 miles northwest of Colton
Petitioner / Owner- David Strom

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 10 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting a variance to allow a manufactured home that is less than twenty-two (22) foot wide with roof pitch of less than 3 in 12 slope. Both the width and roof pitch are regulated under Article 12.06(C) of Zoning Ordinance. The applicant has indicated that the need for the manufactured home which will not meet the minimum requirements of the Zoning Ordinance is purely a financial matter.

The subject property contains ten (10) acres. There is ample area with several sites where a manufactured home meeting all of the requirements of the Zoning Ordinance could be located.

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

No specific circumstances or conditions such as narrowness or topography exists that could be considered a physical hardship. The lot is relatively flat with some trees.

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.

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

No hardship exists. The applicant has full use of the property with the ability of placing a manufactured home that meets the requirements of Article 12.06.

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 not in the public's interest. The requested variance would specifically grant a privilege to the applicant. The applicant could place a manufactured home meeting the requirements of the Zoning Ordinance.

While staff can understand the applicant's desire to have the ability to place a manufactured home on the site that is smaller than the requirements of the Zoning Ordinance, thus saving money, the applicant has failed to provide any proof of a physical hardship or lack of use of the site. The Board of Adjustment must follow guidelines set

forth in Article 21.04 of the Zoning Ordinance which indicate that without a variance no reasonable use of the property exists. Staff can not support the variance request.

Recommendation

Staff recommended denial of Variance #09-01 to allow a manufactured home that is less than 22 feet wide with a roof pitch of less than 3 in 12.

Public Testimony

Commissioner Cypher asked if it was possible to transfer eligibility for a manufactured home.

Mr. Anderson stated that an eligibility was transferred to this property 2 months ago and at the same time the property was approved as a location for a manufactured home. He stated the mobile home can not be less than twenty-two (22) foot wide with roof pitch less than 3 in 12 slop.

The petitioner, Dave Storm, (645 Park Ave, Brookings, SD) stated that the couple that would like to move to this property have limited financial resources and can not afford a larger home. He stated he wants the family farm to stay in the family. He explained this is a rural area and a home of this nature should be allowed. He stated there is another single wide mobile home in the area which looks better than many stick built homes.

Commissioner Randall asked Mr. Storm if they have looked into purchasing a governors home.

Mr. Storm stated that they have very limited resources.

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

Commissioner Cypher stated that he understood the issues for the petitioner but the Planning Commission needed to be concerned with setting precedence. He continued that the board is required to follow the ordinance and in this case it means denial.

Commissioner Randall concurred, noting that she sympathized with the petitioner, however he did not meet the conditions as required by the ordinance.

Action

Based on the staff report and public testimony, a motion was made by Commissioner Cypher and seconded by Commissioner Randall to **deny** Variance #09-01. The motion passed unanimously (6-0)

Motion to adjourn as the Zoning Board of Adjustment and convene as the Planning Commission.

A motion was made by Commissioner Rogen and seconded by Commissioner Kelly to adjourn as the Zoning Board of Adjustment and convene as the Planning Commission. The motion passed unanimously (6-0).

PLANNING COMMISSION

CONSENT AGENDA

At the request of the Commission and audience, Item 4 was placed on the regular agenda. There being no other objections from the Planning Commission or audience, a motion was made by Cypher and seconded by Randall to approve the consent agenda (Item 4 removed). The motion passed unanimously.

ITEM 2. MINTUES – May 18, 2009

A motion was made by Commissioner Rogen and seconded by Commissioner Randall to **approve** the minutes. The motion passed unanimously (6-0).

ITEM 3. CONDITIONAL USE PERMIT #09-41 to allow a contractor shop and storage yard

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

Location – 26067 Jesse St. south edge of Hartford

Petitioner / Owner- Alvin Waldner

General Information

Present Zoning - I-1 Light Industrial

Existing Land Use - Vacant

Parcel Size - 1 acre

Report by: Ryan Streff

Staff Analysis:

The petitioner/owner is requesting approval of conditional use permit #09-41 to allow a contractors storage yard and shop to be located at 26067 Jesse Street (corner of Jesse St. and Kelsey Ave.). The subject property is located in the Brower's Addition, a commercial/industrial development in the southeast quadrant of the I-90 and 463rd Ave. (Hartford exit). There will be light industrial uses to the north, south, east, and west of the subject property. I-90 is the northern boundary of the site and 463rd Ave. is the west boundary of the site.

The owner is proposing two (2) storage sheds that are each 60' x 80' in size. The buildings would contain a 60' x 40' contractor shop with the remaining area reserved for inside storage. Each building would have its own bathroom facilities, inside storage, and outside parking areas.

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.

To preserve the view from all roadways proper screening shall be erected around all

outside storage. Currently the owner is not proposing outside storage at this location at this time. In the event that outside storage is needed the owner shall submit a site plan to Planning and Zoning Department. All outside storage is required to be screened from public view. The screening/fence shall be at 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.

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 and Jesse Street which are both hard surface subdivision roads. The proposed buildings will be served by a septic system or holding tanks. The proposed septic system and drainage field is located in the south west portion of the site as noted in the sight plan. The petitioner should be aware that if this area is used for a septic system (not a holding tank) the ground must be preserved and cannot be used for driving, parking, or storage.

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

The Zoning Ordinance specifies 1 parking space for each 300 square feet of floor area. This would result in 16 parking spaces for each building totaling 32 parking spaces. All parking and driving surfaces on the property shall 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.

Nuisances consisting of odor, fumes, dust, noise, and vibration should be expected in an industrial development. All outside lighting shall be fully cut-off and fully-shielded with recessed lights that prohibit the spillage of light beyond the boundaries of the subject property. All signage shall comply with the zoning ordinance requirements stated in *Article 16.00 On-Premise Signs*.

Recommendation

Staff finds the proposed contractors storage yards and shops are an appropriate use and is consistent with the types of uses found in this commercial/industrially-zoned site. Staff recommended approval of conditional use permit # 09-41 with the following conditions:

- 1) The lot shall adhere to the submitted site plan and application dated 5-7-09.
- 2) If petitioner decides to change the layout of the property (buildings, septic system, or parking) or decides to include an outside storage area a new site plan shall be submitted to the Planning Department for approval.
- 3) In the event that outside storage is needed all outside storage 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.

- 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) All parking and driving surfaces on the property shall be hard-surfaced.
- 6) All outside lighting shall be fully cut-off and fully-shielded with recessed lights that prohibit the spillage of light beyond the boundaries of the subject property.
- 7) No unlicensed vehicles, inoperable or partially dismantled vehicles or equipment, or parts shall accumulate on the property.
- 8) Setbacks for the property shall conform to all requirements as set forth in the county zoning ordinance.
- 9) All signage shall comply with the zoning ordinance requirements stated in *Article 16.00 On-Premise Signs*.
- 10) In the event that the building(s) are leased to other individuals a conditional use permit shall be obtained if the type of use changes and or does not comply with the terms of this CUP #09-41.

Action

Based on the staff report, a motion was made by O'Hara and seconded by Randall to **approve** conditional use permit #09-41. The motion passed unanimously (6-0).

ITEM 4. CONDITIONAL USE PERMIT #09-42 to transfer one eligibility each from Tr. C Heiberger Addition and Tr. 4 Swier's Addn. and two building eligibilities from the Tract 2 Swier's Addition, all to Tract 5 Swier's Sub.; all in Section 5-T103N-R51W.

Location – 4 miles southwest of Colton
Petitioner / Owner- Jeffrey Oyen

Item 4 was placed on the regular agenda.

ITEM 5. CONDITIONAL USE PERMIT #09-43 to amend CUP #86-25 to allow wine sales in addition to the existing malt beverage sales.

Legal Description - E ½ NW ¼ SE ¼ & NE ¼ SE ¼ (EX H-1, H2 & H3 & EX Tract 1 Alvine's Addn) in Section 36-T101N-R51W
Location – 26767 466th Ave., 3 miles west of Sioux Falls
Petitioner / Owner- Wild Water West -Francis Phillips

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Commercial
Parcel Size - 20 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting to allow the sale of wine and wine based drinks along with the sale of malt beverages at Wild Water West. The applicant has opened a swim-up bar and would like to expand the beverages offered there.

Wild Water West has been established at this site for over 20 years. The addition of wine sales to the existing malt beverage sales should not affect the existing conditions of approval for the establishment.

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 sale of wine and wine based beverages should not have any additional impact on the vicinity.

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

The proposed addition of wine sales will not impede development in the area.

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

The proposed additional sales will not require any further infrastructure development.

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

The parking requirements have been met for the existing establishment. The addition of wine sales at the establishment will not increase the need for 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.

Proposed additional use will not result in anything that may be considered a nuisance.

There have not been any issues with the sale of malt beverages at this site. The additional sale of wine and wine based beverages seems to be an appropriate amendment to the Conditional Use Permit for Wild Water West.

Recommendation

Staff recommended approval of Conditional Use Permit 09-42 amending Conditional Use Permit #86-25 to allow the sale of wine and wine based beverages at Wild Water West in addition to the other approved uses with the following condition.

The sale of wine and wine based beverages shall be permitted provided all other required permits and/or licenses are obtained from the County and State of South Dakota.

Action

Based on the staff report, a motion was made by O'Hara and seconded by Randall to **approve** of conditional use permit #09-43 to amend CUP #86-25. The motion passed unanimously (6-0).

ITEM 6. ZONING TEXT AMENDMENT # 09-03 to add Animal Livestock Shelter as a conditional use in the A-1 Agricultural District and to add a definition.

Petitioner – 2nd Chance Rescue

Report by: Pat Herman

Staff Analysis

The petitioner is requesting a text amendment to the Minnehaha County Zoning Ordinance to allow an Animal Livestock Shelter. This use would be added under the conditional use section in the A-1 Agricultural District and the term would be defined in the Definitions section. A livestock shelter would allow a rural farm like environment for housing abused, neglected, and unwanted animals which cannot be cared for in a typical shelter environment. Standard barnyard animals, such as horses, cows, pigs, and chickens would be allowed as would more atypical animals such as lamas or ostriches.

The petitioner is proposing the following definition:

Any facility operated, owned, or maintained by a duly incorporated Humane Society, animal welfare organization, or non-profit organization for the purpose of providing for and promoting the welfare, protection and the humane treatment of livestock. Livestock does not include exotic animals or household pets as defined by Ordinance MC29-02 the 2002 Minnehaha County Animal Control Ordinance.

Dogs, cats, and other household pets would not be allowed on this site, nor would exotic animals which includes wolf/dog hybrids. The Animal Control Ordinance does not allow exotic animals to be kept within the County's jurisdiction.

Staff supports the petitioner's request to amend the Zoning Ordinance. The addition of the definition and placing another conditional use within the agricultural district may benefit the public.

Recommendation

Staff recommended approval of zoning text amendment #09-03 to add livestock animal shelters as a conditional use in the A-1 Agricultural District and to add the following definition to Article 26, Definitions: Animal Livestock Shelter - Any facility operated, owned, or maintained by a duly incorporated Humane Society, animal welfare organization, or non-profit organization for the purpose of providing for and promoting the welfare, protection and the humane treatment of livestock. Livestock does not include exotic animals or household pets as defined by Ordinance MC29-02 the 2002 Minnehaha County Animal Control Ordinance.

Action

Based on the staff report, a motion was made by O'Hara and seconded by Randall to **approve** of Zoning Text Amendment #09-01. The motion passed unanimously (6-0).

ITEM 7. CONDITIONAL USE PERMIT #09-44 to exceed 1200 sq. ft. of accessory building area, 2304 sq. ft. requested.

Legal Description - Tract 1 Ruhaak Addition in Section 23-T102N-R51W

Location – 2310 E 2nd St. 1 mile east of Hartford

Petitioner / Owner- Brent Reilly

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Residential

Parcel Size - 10 Acres

Report by: Ryan Streff

Staff Analysis:

The property owner has applied for a conditional use permit to exceed the 1,200 sq. ft. accessory building area at 2310 E 2nd Street in Hartford. The property owner is requesting this conditional use permit to construct a 2,304 sq. ft. (36' x 64') storage building. The proposed building will be painted metal with two garage doors on the east side. The property is located approximately 1 mile east of Hartford. This particular parcel is part of a group of residential lots platted as Ruhaak Addition. The owner's lot is part of a five (5) lot subdivision of which there are four (4) lots along the south section line. All of these lots in the subdivision have under the permitted (1,200 sq. ft.) accessory building square footage.

In this area there are two accessory buildings and one farm site that exceed the 1,200 sq. ft. area (see attached map). The largest accessory building is located at 25963 465th Ave. (2,646 sq. ft.) and the other is located at 25961 465th Ave (1,296 sq. ft.).

The property owner would like to construct this accessory building southwest of the primary structure. Regulations regarding accessory buildings found in *Article 12.07 Accessory Buildings and Uses* shall be met. Setbacks for an accessory building that is located in front of the primary structure in the A-1 Zoning District are front yard 50' (section line roadway setback), side yard 7', and rear yard 30'.

In residential developments which exceed four or more lots in size, accessory building area is limited to 1,200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

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 should have little impact on 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 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 or residential related items and no commercial or business activities are allowed.

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

Access to the proposed accessory building would be through the current access to the primary structure (2nd street and 465th Ave). This is only an accessory structure 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 offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property. All outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.

The proposed building will only be used for personal storage and no commercial or business related activities will be allowed.

Staff has found that these conditions for approval will help ensure that over-sized accessory buildings will fit in with the character of the surrounding properties. The planning department will perform a building inspection to ensure that the accessory building adhered to the submitted site plan dated 5-22-09.

Recommendation

Staff found that the proposed accessory building size conforms to the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #09-44 with the following conditions:

- 1) There shall be a maximum of 2,304 square feet of detached accessory building allowed on the property.
- 2) The accessory building shall adhere to the submitted site plan and application dated 5-22-09.
- 3) No other detached buildings shall be allowed on the property.
- 4) The building shall be an accessory use to the continued use of the property as a residential lot. Only personal residential storage shall be allowed in the building and no commercial uses or commercial storage can be kept in the building.
- 5) All outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) A building inspection is required. The building will be measured to determine that the building does not exceed 2,304 sq. ft. in size.
- 7) Setbacks for the property shall conform to all requirements as set forth in the county zoning ordinance.
- 8) The building shall not exceed thirty-five (35) feet in height.

Action

Based on the staff report, a motion was made by O'Hara and seconded by Randall to **approve** of conditional use permit #09-44. The motion passed unanimously (6-0).

REGULAR AGENDA

A motion was made by Steinhauer and seconded by Rogen to approve the regular agenda, Item 4 added. The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT #09-42 to transfer one eligibility each from Tr. C Heiberger Addition and Tr. 4 Swier's Addn. and two building eligibilities from the Tract 2 Swier's Addition, all to Tract 5 Swier's Sub.; all in Section 5-T103N-R51W.

Location – 4 miles southwest of Colton
Petitioner / Owner- Jeffrey Oyen

General Information

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

Report by: Pat Herman

Staff Analysis:

The petitioners have submitted an application to transfer four residential building eligibilities. The property is located in Grand Meadow Township, in an area predominantly used for agriculture. The receiving parcel has one available eligibility, so a total of five houses could be built on this site. The petitioners are requesting the transfer as the eligibilities are located on land that is dedicated for or is now wetlands. Without groundwater testing, it is not known if houses could be constructed on the property to which the building eligibilities are currently assigned.

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 concentration of five houses will always have an impact on agricultural production. Clustering houses is often done to preserve productive crop ground. In this case, crop ground will be taken out of production for this subdivision, but wetlands will be preserved. The receiving parcel is surrounded by crop ground and a right to farm notice will have to be filed on the deed of each lot prior to the issuance of any building permits.

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

The request to transfer does not increase the number of building eligibilities that are allowed in this section. The eligibilities are not being moved closer to an existing CAFO. There are hogs being raised to the west and southwest of this site, but the distance from these operations is roughly equal to the assigned location.

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

The development of this site will have an effect on drainage, the township gravel road, and require the provision of utilities. When the petitioners first inquired about applying for this transfer they were informed that a preliminary subdivision plan would be required. A drainage plan is required as part of that application. Access is from a gravel road so hard surfacing is not required.

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

With a minimum lot acreage of one acre, there is sufficient space for the parking needs of 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.

None of these should be at the level as to constitute a nuisance.

Recommendation

Staff found this request to meet the standards of density zoning and recommended approval of Conditional Use Permit #09-42 with the following conditions.

- 1) A preliminary subdivision plan shall be submitted and approved prior to the start of construction.
- 2) The lots shall be platted and a right-to-farm notice covenant filed on the deed of each lot prior to the start of construction.

The petitioner and/or developer shall pay for any street signs associated with the subdivision.

Public Testimony

Commissioner South asked what the distance was from the property to the hog farm. Ms. Herman stated that the distance was ½ to ¾ of a mile.

The petitioner, Jeffrey Oyen (46191 255th Street, Cooks, SD) stated that he is not adding eligibilities but is simply moving the eligibilities to an area that is suitable for building. He stated the other areas would be made into wetland areas.

Commissioner South asked what Oyen met by “be made into wetland areas”.

Mr. Oyen stated this is a wetland mitigation bank. He stated that land owners can buy credits at this site to satisfy the deletion of wetlands on their property. Commissioner Cypher stated that they are essentially swapping land.

Commissioner Kelly asked if they would be building the wetlands right a way or would wait to build them as needed. Mr. Oyen stated that they would be built as needed.

Charley Jones (46080 251st Street, Hartford, SD) stated that he owns the hog farm to the west of the subject property. He stated that he is a 4th generation farmer on the land. He stated that he has 1,700 head of hogs and his son (Chris Jones) has 1,600 head of hogs south of the property. He stated that manure is usually spread every 2-3 weeks on his land near the subject property. He stated that the Planning Commission should not allow a subdivision in a rural area, as no hog facility would be allowed in a subdivision. He stated that he is on the township board and that maintenance of this road could be an issue due to the increase in traffic. He also noted that there are no houses on this stretch of road so it is not cleared regularly in the winter.

Glen Swier (25046 462nd Ave, Colton, SD) stated that he owns the farm ground across the road from the subject property, and he lives about 1 mile from the Jones Farm. He stated that he does not think that people from the city realize the smell from hogs and increased traffic levels and dust during harvest season.

Harold Swier (25073 462nd Ave, Hartford, SD) stated that people from the city are not going to enjoy the smell from the hog farms in the area. He stated that he is opposed to

moving the eligibilities to the subject property. He stated that he lives northeast of the site.

Commissioner South asked what the CAFO threshold was. Mr. Jones stated it was 1,000 animal units.

Commissioner Cypher stated that the setback from the subject property to the hog farm facility meets the criteria for over 1,000 animal units. He stated this area is hog country and if you live here you have to accept that. He stated that the smell is not a concern to him. He stated that the request meets the ordinance conditions to move the eligibilities to the subject property.

Commissioner O'Hara stated that it would be difficult to move the eligibilities due to the concerns that have been addressed. She stated the land the eligibilities are located on is not buildable. She stated that if they can not be used there, why should they get to move them. They are being moved to viable farm ground.

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

Action

Based on the staff report, a motion was made by O'Hara and seconded by Randall to **deny** Conditional Use Permit #09-42. The motion passed unanimously (6-0).

OLD BUSINESS

Agriculture Tourism

Commissioner Kelly addressed his concerns about the \$250 permit fee for placement of a farm stand. He stated it seems that everyone wants to support the big guys, what about the smaller operations. He stated we should have a size or a set dollar limit on the operation to determine the cost of the fee.

Commissioner South asked what cost is for a fireworks stand. Ms. Herman stated the cost was \$250. Commissioner O'Hara asked how we go about monitoring these types of uses. Mr. Anderson stated it would be monitored by the Planning & Zoning Department.

New Business

None

Planning Commission Adjourned at 7:45.