

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
February 25, 2013

A meeting of the Planning Commission was held on February 25, 2013 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Jeff Barth, Becky Randall, Mike Cypher and Susie O'Hara.

STAFF PRESENT:

Scott Anderson, Pat Herman, Ryan Streff and Dustin Powers - County Planning  
Kersten Kappmeyer – Office of the State's Attorney

The meeting was chaired by Susie O'Hara.

**CONSENT AGENDA**

A motion was made by Randall and seconded by Barth to **approve** Items 1 thru 3 and 5 thru 7 of the consent agenda and move Item 4 to the regular agenda. The motion passed unanimously.

**ITEM 1. Approval of Minutes – January 28, 2013**

A motion was made by Randall and seconded by Barth to **approve** the minutes from January 28, 2013. The motion passed unanimously.

**ITEM 2. ZONING ORDINANCE TEXT AMENDMENT #13-03 to amend Section 3.00 and 26.00 of the 1990 Revised Zoning Ordinance for Minnehaha County.**

Petitioner: Boadwine Farms

**Staff Report:** Pat Herman

**Staff Analysis**

Minnehaha County has several agricultural operations which require employees to be on the site around the clock. The operations employ seasonal or migrant workers and are required by federal law to provide housing for the employees. The strict codes for the housing stock make it difficult to rehab existing housing to meet the government standards. There is also a lack of available housing in the rural parts of the county.

This application is a request to amend two sections of the 1990 Revised Zoning Ordinance. The A1 Agricultural District would add a new section under permitted special units. This would allow agricultural workforce housing if the listed conditions are met. If the conditions cannot be met the application would have the option to apply for a conditional use permit. The new section would read as follows:

**(M) Agricultural Workforce Housing provided:**

- 1) The dwelling structure shall use one residential building eligibility.
- 2) The agricultural employer must own the residential building eligibility.

- 3) The dwelling structure shall only be occupied by the agricultural labor force.
- 4) The dwelling structure shall house no more than 20 persons.
- 5) When not occupied by the labor force, agricultural workforce housing may be used for any uses accessory to a primary agricultural use.
- 6) The dwelling structure shall be removed or renovated into a single family dwelling when the agricultural operations cease.

Three definitions would be added to Section 26.0 of the zoning of ordinance. The definitions explain what workforce housing is, the specifics of a agricultural employer, and tie a migrant and seasonal agricultural worker to the definition used by the U.S. Department of Labor.

**26.02 10.A Agricultural Workforce Housing** - means any living quarters which meet the requirements of the International Building Code and International Housing Code, provided by any agricultural employer required to provide such housing for employees or families employed as labor force in agricultural activities on land owned and operated by such employer.

**26.02 14.C Agricultural employer** - means any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

**26.02 14.D Migrant or seasonal agricultural worker** – As defined by the U.S. Department of Labor.

The amendments have been reviewed by the Office of the State’s Attorney.

### **Recommendation**

The proposed changes to the zoning ordinance will allow agricultural operations to meet the needs of their employees and allow such operations to continue to grow and thrive within Minnehaha County. Staff recommended approval of Zoning Text Amendment #13-03.

### **Action**

A motion was made by Randall and seconded by Barth to **recommend approval** of Zoning Text Amendment #13-03. The motion passed unanimously.

**Zoning Text Amendment #13-03 – APPROVAL RECOMMENDED**

**ITEM 3. CONDITIONAL USE PERMIT #13-13 to allow the transfer of one residential building eligibility from the NE ¼ NE ¼ of Section 9-T102N-R51W to the SW ¼ NW ¼ of Section 10-T102N-R51W.**

Petitioner: Nathan Grace

Property Owner: Michael Grace

Location: 1/2 mile north of Hartford

**General Information**

Present Zoning – A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size – 119 Acres

**Staff Report:** Dustin Powers

**Staff Analysis**

This is a request to transfer a residential building eligibility. Approval of the transfer request would move the unused eligibility to the SW ¼ NW ¼ of Section 10 Hartford Township from the NE ¼ NE ¼ of Section 9 Hartford Township.

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

The surrounding land use is predominately agricultural crop ground with rural residences to the northeast. The petitioner's request to transfer a building eligibility will not increase the number of dwellings allowed under density zoning.

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

There should be no major effect upon the normal and orderly development of the area.

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

The construction of new dwelling units is required to be in conformance with the County's zoning, septic and building code. The petitioner will need to obtain a driveway permit from Hartford Township before the County can issue a building permit.

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

The minimum required lot size for a residential dwelling is 1 acre. This is sufficient space to meet any parking needs for a single family home.

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

These should not be at a level as to constitute a nuisance.

**Recommendation**

Staff found that the requested transfer is in conformance with the zoning ordinance and recommended approval of Conditional Use Permit #13-13 with the following conditions:

- 1) Each housing site shall be platted and a right-to-farm notice filed on the deed of each lot prior to the issuance of a building permit.
- 2) That Hartford Township shall approve any new driveway access.

**Action**

A motion was made by Randall and seconded by Barth to **approve** Conditional Use Permit #13-13 with the stated conditions. The motion passed unanimously.

**CUP #13-13 - APPROVED**

**ITEM 5. CONDITIONAL USE PERMIT #13-15 to amend CUP #92-29 to expand an existing trap shoot, rifle & pistol range.**

Petitioner: Isaac Chamness

Property Owner: Anthony Bour

Location: 45743 260<sup>th</sup> Street; 1.5 miles south of Humboldt

**General Information**

Present Zoning – A-1 Agricultural

Existing Land Use - Shooting Range

Parcel Size – 400 Acres

**Staff Report:** Ryan Streff

**Staff Analysis**

The applicant has submitted an application for Conditional Use Permit #13-015 to allow for the addition of a rifle and pistol range at Hunters Pointe Shooting Club near Humboldt. Conditional Use Permit #13-015 will amend their current Conditional Use Permit #92-029 that only allowed a trap shooting range. The current Conditional Use Permit #92-029 that is associated with this use was obtained by the property owner in 1992. No conditions were recommended or approved for this facility.

The subject property is located at 45761 260<sup>th</sup> Street and is legally described as the NW1/4 & E1/2 SW1/4 27-102-52 and SE1/4 27-102-52. The property is located in Section 27 of Humboldt Township, approximately 1.5 miles southeast of Humboldt, South Dakota. The entire property consists of two parcels of land containing 560 acres and is located in the A-1 Agricultural Zoning District. Of these 560 acres approximately 340 remains in agricultural production. Adjacent properties that surround this site are zoned A-1 Agricultural and are predominantly used for agricultural farming operations with scattered residential acreages around the area.

The petitioner has now applied to amend their conditional use permit in order to add one (1) rifle and pistol range to their current trap shooting range. The proposed range addition would consist of 20 firing lanes with a maximum target distance of 600 yards. The range would be constructed and designed according to the 2012 NRA Source Book and the MN DNR Outdoor Range Best Practices Manual. The range would be constructed in a relatively southern direction with the shooting structure erected just west of the current Pro Shop. As indicated by the applicant the three sided shooting structure would be approximately 160' x 12' in size. Located within the shooting structure would be an observation office that is located on the shooting line to house the range officer and to ensure optimal safety for all shooters and range personal. Natural barriers, berms and concrete retaining wall will be utilized to channel and contain projectiles to the designated area.

Staff conducted a site visit on Friday, February 8, 2013, and met with the General Manager of Hunters Pointe Shooting Club, Isaac (Chris) Chamness. Mr. Chamness gave staff a thorough tour of the current facility and the proposed addition of the rifle and pistol range. He indicated the location of the new shooting structure, retaining walls, berms and the natural barriers on the

site and how they would promote safety and contain projectiles within the range. Mr. Chamness also described the overall business plan and proposal of Hunters Pointe confirming their strict importance on safety measures, range officers responsibilities and range operations. The proposed site, business plan and other operations of the facility was satisfactory to staff.

Attachments:

- 1) Hunters Pointe narrative
- 2) Hunters Pointe site plans/building plans.
- 3) Letters of support for Hunters Pointe.
- 4) Neighborhood Meeting Details for Saturday, February 16, 2013.
- 5) Tour request information from Hunters Pointe to Commission.

**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 change to add one (1) rifle and pistol range in addition to the current trap shooting facility should have minimal impact on the neighboring properties. This facility has been in existence at this site since 1992 and no complaints have been received in regards to this operation. Noise from the additional range and the associated range operations will have some impact on the enjoyment or use of the surrounding properties and may affect residential property values.

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

The change in the permitted area to include a rifle and pistol range may have a slight impact on further construction or development within the general area as general public might not think the ideal location for a new residential dwelling is directly down range and within close proximity of this particular range. This change should not adversely affect the current residential uses or agricultural land in the area.

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

Infrastructures in terms of utilities and access roads have been provided to the property. All natural drainage systems shall be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water. Natural barriers, berms and concrete retaining walls will be utilized to channel and contain projectiles to the designated area within the boundaries of the property. Earth berms and/or natural barriers a minimum of eight (8) feet in height will be constructed or utilized along the sides of the shooting range. An earth berm and/or natural barrier at a minimum of twenty (20) feet in height will be constructed or utilized along the most southern most portion of the target range.

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 associated activities. A gate has been placed at the entrance of the facility along 260<sup>th</sup> Street. The gate will remain locked when the facility is closed. No parking will be allowed on 260<sup>th</sup> Street.

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

This use will generate some amount of noise because of the nature of the rifle and pistol facility. The petitioner has indicated that they will install berms along the south, east and west sides of the shooting range. Trees are located throughout the property, which will reduce the amount of noise and visual impacts that may cause a nuisance to neighboring property owners. No other uses at this facility should constitute a nuisance.

**Recommendation**

Staff recommended approval of Conditional Use Permit #13-015 to allow a Rifle & Pistol Range, Trap Shooting Range and banquet facility, with the following conditions.

- 1) That Conditional Use Permit #13-015 shall allow for one (1) 20 Lane Rifle & Pistol Range at a maximum of 600 yards, Trap Shooting Range and banquet facility for larger shoots and associated fundraisers.
- 2) That the property shall adhere to the site plans and building plans dated 2-8-13. That if minor changes occur these plans shall be approved by the Planning Director and major changes approved by the Planning Commission and kept on file with CUP #13-015.
- 3) That the range officer(s) on duty shall not be participating in any shooting activities and shall only be there to enforce the safety rules by observing shooters and running the firing line and trap shooting range(s).
- 4) That a range officer shall be present at the active firing line at all times on the rifle and pistol range when in use. That a minimum of one (1) range officer for the trap shooting range shall be required in addition to the range officer at the rifle and pistol range. That one (1) range officer shall not be responsible for both the rifle and pistol range and trap shooting range at the same time.
- 5) That range officer requirements shall apply to both members and non-members participating in active shooting. A range officer shall always be required.
- 6) That a bar, led sled or similar device shall be placed across the firing bench or firing area on the rifle and pistol range to restrict the angle of fire and ensure that bullets remain within the embankments.
- 7) That minimum 8' foot berms or earth embankments shall enclose the east and west sides of the rifle and pistol range. That a minimum of a 20' foot berm or earth embankment shall enclose the most southern portion of the target range. That concrete retaining wall shall be placed within the range as according to the site plan.
- 8) That no weapon greater than a .338 caliber shall be permitted to fire at this facility unless it's the use of guns that use black powder propellants.
- 9) That an authorization log defining the shooters ability/proficiency to gain access to targets on the rifle and pistol range that are beyond 200 yards shall be maintained by Hunters Pointe and/or the safety office.
- 10) That the hours of operation shall be from 8 a.m. to sunset Monday – Friday, weekends and holidays from 10 a.m. to sunset. That no shooting shall occur at the facility from dusk till dawn.
- 11) That an exception to the hours of operation shall be only in the event of a scheduled night shoot at the trap shooting range. No shooting shall occur from the rifle and pistol range

- during a night trap shoot.
- 12) That when the sighting-in of any weapon takes place it shall be conducted in an area that is baffled or that has other measures taken to ensure the projectiles are contained within the boundaries of the property.
  - 13) That the public address system shall be installed and maintained for the rifle and pistol range to voice commands for shooters on the range.
  - 14) That further safety inspections and/or safety precautions shall be required if the public's health and safety are threatened due to the lack of projectile containment or similar life threatening incidents.
  - 15) That a baffling system of the entire 600 yard range shall be required if projectiles are not contained within the boundaries of the property.
  - 16) That a gate shall be erected and maintained at all entrances or exists in order to mitigate trespassing and to insure proper access to the facility. That the facility and gates shall be locked when the range is closed and staff is not present.
  - 17) That building permits and other required inspections shall be obtained for all structures on the property and violations shall be corrected within 6 months.
  - 18) That all materials, supplies and products associated with the facility shall be stored within an approved structure, storage facility or screened from public view.
  - 19) That no unlicensed, inoperable or partially dismantled vehicle, equipment or parts shall accumulate on the property.
  - 20) That an adequate restroom facility(s) shall be provided at the property. That when an onsite wastewater system is used it shall be constructed in conformance with South Dakota State and Minnehaha County regulations.
  - 21) That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
  - 22) That parking and loading regulations outlined in Article 15.00 of the Minnehaha County Zoning Ordinance shall be met. That parking shall not be allowed along 260<sup>th</sup> Street.
  - 23) That an entrance sign(s) of 64 square feet shall be allowed and that all other signage shall comply with the zoning ordinance requirements stated in Article 16.00 On-Premise Signs and Article 17.00 Off-Premise Signs. Signs require a building permit.
  - 24) That the Conditional Use Permit #92-029 for this property in regards to the trap shooting range shall be repealed.

**Action**

A motion was made by Randall and seconded by Barth to **approve** Conditional Use Permit #13-15 with the stated conditions. The motion passed unanimously.

**CUP #13-15 - APPROVED**



**ITEM 6. CONDITIONAL USE PERMIT #13-16 to exceed 1200 square feet of accessory building area – 7,816 Requested.**

Petitioner: Jerry Fowlds

Property Owner: same

Location: 47715 254<sup>th</sup> Street; 2 miles east of Midway Corner

**General Information**

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 7.89 Acres

**Staff Report:** Dustin Powers

**Staff Analysis**

The property owner has applied for a conditional use permit to exceed the 1,200 sq. ft. accessory building area on property legally described as Tract 1 Gonyo's Addition NW ¼ of Section 25-T103N-R49W. The property owner is requesting this conditional use permit to construct a 1,800 (36' x 50') square foot building for a total of 7,816 square feet of accessory building area on the property.

In this area there are four properties that exceed 1,200 square feet of accessory building area. The total accessory building areas are: 1,350 square feet on 25406 477<sup>th</sup> Avenue, 1,800 square feet at 25397 477<sup>th</sup> Avenue, 2,208 square feet at 25403 477<sup>th</sup> Avenue and 12,222 square feet was approved for 47670 254<sup>th</sup> Street.

The property owner would like to construct this accessory building addition south of the primary structure. Regulations regarding accessory buildings found in *Article 15.07 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 30' (50' front yard along arterial or section line roads), side yard 7', and rear yard 30'. Detached accessory buildings may have a 3' side yard and 3' rear yard setback if the building is located in the rear yard with more than 10' between the house and accessory building.

In residential developments which exceed five 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 (254<sup>th</sup> Street). 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 and conditions.

**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 #13-16 with the following conditions:

1. That the accessory building area on the property shall not exceed 7,816 square feet.
2. That the building shall not exceed 35 feet in height.
3. That a building inspection is required to measure the outside dimensions of the building.
4. That a building permit is required.
5. That the building shall be an accessory use to the continued use of the property as a residential lot.
6. That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
7. That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
8. That the Planning & Zoning Department reserves the right to enter and inspect accessory buildings at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

**Action**

A motion was made by Randall and seconded by Barth to **approve** Conditional Use Permit #13-16 with the stated conditions. The motion passed unanimously.

**CUP #13-16 - APPROVED**

**ITEM 7. PRELIMINARY PLAN #13-01 for Silver Creek Estates Addition.**

Petitioner: Eric Willadsen  
Property Owner: Henry Carlson Company  
Location: 1 mile north of Renner Corner

**General Information**

Present Zoning – A-1 Agricultural  
Existing Land Use - Agricultural  
Parcel Size – 17.4 Acres

**Staff Report:** Dustin Powers

**Staff Analysis**

A preliminary site plan has been submitted for a five (5) lot residential subdivision entitled Silver Creek Estates Addition Lots 1-5. The proposed subdivision is located one (1) mile north of Renner Corner on the west side of SD Highway 115. The subject property has five (5) residential building eligibilities that will be allocated to each of the five (5) lots. Each of the dwelling units will operate with a septic system in accordance with the Minnehaha County On-Site Wastewater Treatment Ordinance. Access to the five lots will be off of 257<sup>th</sup> Street via the proposed cul-de-sac named Silver Creek Circle. The 1993 Revised Subdivision Ordinance for Minnehaha County details the information that is required in a preliminary plan in Section 4.01.

- 1. The name of the proposed subdivision and location by quarter section, section, township and range. Subdivision names shall not duplicated, be the same spelling, or alike in pronunciation with any existing subdivision located in the same section, unless it is an extension of or adjoining and existing subdivision. All subdivision names shall be subject to approval by the Planning Director.***

The name of the subdivision is Silver Creek Estates, Lots 1-5, S598' N631' W1271' E1346' N ½ NE ¼ of Section 9-T102N-R49W.

- 2. The names of all adjacent subdivisions and their platting pattern. Adjoining unplatted land shall be labeled as such.***

The adjoining land is unplatted.

- 3. The correct legal description. Notations stating acreage, scale, and north arrow.***

The legal description is on the plan and the standard map elements have been included.

- 4. The owner, developer, and surveyor's names and telephone numbers.***

The required information has been provided.

- 5. Vicinity map, showing locations of the preliminary plan and surrounding property for at least on mile in every direction.***

The submitted plan provides the required vicinity map.

- 6. *Exterior boundaries of the proposed subdivision referenced to a corner marker of the U.S. Public Land Survey, and the total acreage encompassed thereby.***

The quarter corner markers are shown and the proposed acreage of each lot is indicated.

- 7. *The location and width of all proposed and existing road rights-of-way, existing structures, easements, railroad rights-of-way, streams and water courses, lakes, wetlands, rock outcroppings, wooded areas, and other similar significant features.***

Silver Creek runs through Lots 3, 4 & 5 of Silver Creek Estates. Easements, culverts, water mains and other elements are shown as required. Road rights-of-way meet the required 66 feet and the cul-de-sac has the required 65 foot radius (75 foot radius proposed).

- 8. *The boundary lines of flood hazard areas.***

The 100 year floodplain is indicated on Sheet 3.

- 9. *Existing contours at vertical intervals not greater than five feet. A lesser interval may be required in those cases where the character or topography of the land is difficult to determine.***

Contour lines are shown on Sheet 3.

- 10. *A systematic lot and block numbering pattern, lot lines and road names.***

No property currently has an address from the roadway at this time. The applicants will be responsible for the cost of all street signs and poles required by the new subdivision.

- 11. *Approximate dimensions and acreage of all lots.***

Acreages and dimensions are on Sheet 2.

- 12. *Certificates of approval for endorsement by the Planning Commission and County Commission.***

Certificates are on Sheet 1.

**Recommendation**

Staff found that the submitted preliminary subdivision plan to be in conformance with the 1993 Revised Subdivision Ordinance for Minnehaha County and recommended approval of Silver Creek Estates Addition, Lots 1-5, N ½ NE ¼ in Section 9-T102N-R49W with the following conditions:

1. The applicant is responsible for the cost of street signs and poles for the roadways and will be accessed the cost when the final plat is submitted.
2. Roadways shall be constructed to the standards of the 1993 Revised Subdivision Ordinance Article 8, Minimum Road Improvements and Design Standards.

**Action**

A motion was made by Randall and seconded by Barth to **recommend approval** of Preliminary Plan #13-01 with the stated conditions. The motion passed unanimously.

**Preliminary Plan #13-01 – APPROVAL RECOMMENDED**

## **REGULAR AGENDA**

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

### **ITEM 4. CONDITIONAL USE PERMIT #13-14 to allow a dog kennel.**

Petitioner: Don Smith & Debi Hay

Property Owner: same

Location: 2 miles north of Brandon

#### **General Information**

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 39.5 Acres

**Staff Report:** Scott Anderson

#### **Staff Report**

The applicant is requesting a Conditional Use Permit to allow a dog boarding facility. The narrative provided by the petitioner indicates that they plan on constructing a 30 foot by 60 foot building to accommodate approximately 20 dogs. The site plan provided by the applicant indicates that approximately five (5) outdoor dog runs will be constructed on the east side of the proposed building. The applicant has not indicated hours of operation for the kennel.

On February 4, 2013, staff conducted a site visit. The subject property is fairly well isolated from surrounding residences. The subject property consists of approximately 40 acres and the proposed kennel would be located near the south edge of the property. The primary land use surrounding the subject property is agriculture. There are four (4) residences and one (1) church located northeast to northwest of the subject site. The closest residences are located approximately 1,800 feet to the northwest and northeast. The church is located approximately 1,300 feet directly to the north. The other residences are also to the northeast and northwest and are located more than 2,200 feet away.

#### **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.**

Dog kennels do have an impact on surrounding properties. The primary use in this area is agriculture, however single family residences are allowed within the A-1 Agricultural District. The establishment of a dog boarding kennel could impact this use. The subject property consists of nearly 40 acres and the size of this lot will aid in buffering noise.

#### **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 vacant property in this area is for agriculture. The proposed use should not greatly impact that land use, other than restricting the potential for residential development.

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

The majority of utilities are in place. The existing residence has water and sewer and there is an existing driveway off a paved county highway. The applicant has indicated that they will be installing a new septic system to service the kennel. Staff will simply require that all animal waste is removed so as not to constitute a nuisance.

Staff attempted to determine the width of the driveway, but was unable to due to snow. For the safety of the public and customers, staff typically requires a driveway that is a minimum of twenty (20) feet wide. This driveway width allows for 2 vehicles to meet and pass each other and will not result in vehicle stacking on the county highway.

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

There appeared to be plenty of parking on the subject property. Article 15 of the County Zoning Ordinance regulates parking. This proposed use is not specifically identified and thus staff will classify it as a non-residential use (15.02U) and will require 1 space for each 300 feet of floor area. Using this requirement, the applicant would be required to provide six (6) spaces for each building. Staff recommends that six (6) off-street parking spaces shall 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 use can, without some control, become a nuisance. There is the possibility of noise, additional traffic, flies, odors. Given the location and a recommended set of conditions, the proposed use may be suitable.

Staff finds that given the scope of the proposed use, the location and a set of conditions, the proposed use is suitable for the subject property.

**Recommendation**

Staff recommended approval of Conditional Use Permit #13-14 to allow a dog boarding kennel with the following conditions:

1. That a maximum of 25 dogs be boarded. One (1) dog boarding kennel building shall be allowed and shall not exceed 30 feet by 60 feet. The kennel shall have a maximum of five (5) outdoor runs. Dogs shall be allowed in the outdoor runs only during daylight hours.
2. The hours of operation shall be daily from 7 a.m. to 7 p.m.
3. The property shall obtain and maintain a sale tax license from the S.D. Department of Revenue.
4. The dog kennel shall be operated by Debi Hay and Don Smith. The boarding kennel shall cease to operate once ownership changes or a Conditional Use Permit amendment is obtained.
5. All animal waste shall be disposed of in a sanitary manner so as not to produce odor or attract flies.
6. The driveway shall have a minimum width of twenty (20) feet.
7. A minimum of six (6) off-street parking spaces for each building shall be provided.



8. The applicant shall meet all the sign requirements specified in Article 16 of the County Zoning Ordinance and obtain a sign permit prior to the placement of any on-premise signage.
9. All new exterior lighting shall be shoe box style that directs the lighting downward.

**Public Testimony**

Don Smith, 48297 258<sup>th</sup> Street, stated that he is satisfied with the conditions, and noted that the dogs will usually only be out once in the morning and once in the evening.

LaShalle Rogen, 48274 258<sup>th</sup> Street, stated that she was representing the Split Rock Lutheran Church and the concern was the noise from the dogs being out during church and funeral services. She also wanted to know if this is just a boarding facility or if this would be allowed for training and/or breeding facility.

Scott Anderson indicated that this permit is only for a boarding facility and if that were to change an amendment to the conditional use permit would need to be obtained.

Don Smith indicated that they are willing to work with the Split Rock Lutheran Church to accommodate during times of church and funeral services.

**Discussion**

Commissioner Cypher indicated that he believes that the applicant and church can work out a schedule on their own and is accepting the conditions as stated in the report by staff.

**Action**

A motion was made by Cypher and seconded by Duffy to **approve** Conditional Use Permit #13-14 with the stated conditions. The motion passed unanimously.

**CUP #13-14 - APPROVED**

**ITEM 8. REZONING #12-09 from A-1 Agricultural to The Meadows PD.**

Petitioner: Mary Kidwiler  
Property Owner: Mary Kidwiler  
Location: northwest edge of Harford  
Staff Report: Pat Herman & Ryan Streff

**General Information**

Present Zoning – A-1 Agricultural  
Existing Land Use - Agricultural  
Parcel Size – 30± Acres

**Staff Report:** Pat Herman

**Staff Analysis**

Rezoning #12-09 is a request to amend the zoning from the A-1 Agricultural District to a planned development named The Meadows to allow for residential development. A planned development district provides flexibility from conventional zoning regulations, allowing the applicant to script their own zoning regulations. Section 10.0 of the Revised Zoning Ordinance for Minnehaha County outlines the planned development process.

The site is located in the NE ¼ of Section 16 Hartford Township. The property is bounded on the north by Co. Hwy 130 and on the east by Co. Hwy 151. Land use to the north, west, and south is predominately agricultural. There is an existing residence in the north end of this quarter whose property will abut the development on its east, south and west sides. There are also two existing residential lots on the south end of the development which adjoin this site.

The land to the east, across Hwy 151, is within the city limits of Hartford. The City acquired and annexed this property in the last couple years. The north 11 acres has been developed by Central States for a manufacturing plant zoned I-1 Light Industrial. Hartford plans to develop the land south of Central States as a sports complex and this property is zoned NRC Natural Resource Conservation.

**History**

The applicant first approached Hartford to build this development as an addition to the city. Unfortunately the city's zoning ordinance does not allow for a planned development and the desired design standards would not meet the minimum requirements of Hartford's residential districts. Hartford also did not have a date when water and sewer hook-up would be available to this area.

**Concept**

The Meadows development is a collection of twinhomes and townhomes designed to be integrated into the landscape. Modeled after the Low Impact Design concept (LID), the design focuses on adding residential use while preserving as much of the natural site as possible. The use of bio swales, wetland preservation, rain gardens and minimal pavement will all be integrated into the development.

### Planned Development

A planned development district requires a map on which the property is broken into subareas. For each subarea zoning text is written which details allowed uses, set back requirements, and restrictions. The new zoning district with the specifications for each subarea is listed below and corresponds to the attached map.

THE MEADOWS PLANNED DEVELOPMENT DISTRICT. The regulations set forth herein or elsewhere in these regulations are the district regulations in The Meadows Planned Development District:

(A). **SUBAREA A.**

- (1). **USES PERMITTED.**
  - (a). Twinhome single family dwellings.
    - (i). Shall not exceed six structures; a total of twelve dwelling units.
- (2). **ACCESSORY USES.**
  - (a). Detached accessory building area.
    - (i). Shall not exceed 250 square feet.
  - (b). Wastewater treatment systems.
- (3). **DENSITY, AREA, YARD AND HEIGHT REGULATIONS.**
  - (a). Setbacks:
    - Front Yard – 30 feet minimum
    - Rear Yard – 30 feet minimum
    - Side Yard – 30 feet minimum
  - (b). Height:
    - 35 feet maximum
- (4). **OTHER REGULATIONS.**
  - (a). Fences are prohibited.
  - (b). Twinhomes shall be plumbed to connect to a sanitary sewer system.
  - (c). Each unit shall have address numbers. Each character shall be not less than 4 inches in height and not less than 0.5 inches in width. They shall be installed on a contrasting background and be plainly visible from the street or road fronting the property.

(B). **SUBAREA B.**

- (1). **USES PERMITTED.**
  - (a). Townhomes
    - (i). Shall not exceed thirty-six structures; a total of 145 dwelling units.

- (2). ACCESSORY USES.
  - (a). Hot tubs.
  - (b). Wastewater treatment systems.
  
- (3). DENSITY, AREA, YARD AND HEIGHT REGULATIONS.
  - (a). Setbacks:
    - Front Yard – 25 feet minimum
    - Rear Yard – 25 feet minimum
    - Side Yard – 7 feet minimum
  
  - (b). Height:
    - 85 feet maximum
  
- (4). OTHER REGULATIONS.
  - (a). Fences are prohibited.
  - (b). Townhomes shall be plumbed to connect to a sanitary sewer system.
  - (c). Each unit shall have address numbers. Each character shall be not less than 4 inches in height and not less than 0.5 inches in width. They shall be installed on a contrasting background and be plainly visible from the street or road fronting the property.

**(C). SUBAREA C.**

- (1). USES PERMITTED.
  - (a). Clubhouse
  - (b). Private recreational facilities.
  
- (2). ACCESSORY USES.
  - (a). Detached accessory buildings incidental to the permitted uses of Subarea C.
  - (b). Wastewater treatment systems.
  - (c). Parking lot.
  
- (3). PARKING REGULATIONS.
  - (a). Parking shall be restricted to the designated parking lot.
  
- (4). SIGN REGULATIONS.
  - (a). Limited to signs related to the permitted uses of Subarea C.
  
- (5). DENSITY, AREA, YARD AND HEIGHT REGULATIONS.
  - (a). Setbacks:
    - Front Yard – 25 feet minimum
    - Rear Yard – 10 feet minimum
    - Side Yard – 5 feet minimum
  
  - (b). Height:

35 feet maximum

- (D). **SUBAREA D.**
- (1). **USES PERMITTED.**
    - (a). Parkway system.
    - (b). Bio-swales, wetlands and water features.
    - (c). Biking and Walking trails.
    - (d). Streets.
  - (2). **ACCESSORY USES.**
    - (a). Those uses customarily incidental to the permitted uses of Subarea D.
    - (b). Wastewater treatment systems.
    - (c). Boulevard medians.
  - (3). **PARKING REGULATIONS.**
    - (a). Parking shall be restricted to driveways and to the streets.
    - (b). Shall conform to the Minnehaha County Zoning Ordinance Section 12.14 Commercial Vehicles and Equipment.
  - (4). **SIGN REGULATIONS.**
    - (a). One neighborhood identification monument sign not to exceed 300 square feet.
    - (b). Signs related to the permitted uses of Subarea D.
  - (5). **STREETS:**
    - (a). Streets shall be privately owned and maintained.
    - (b). Streets shall consist of two 16 foot wide paved right-of-ways separated by a 12 foot wide center median.
    - (c). Streets shall conform to the Minnehaha County Subdivision Ordinance Section 8.04 A, B, & C.
    - (d). Street name suffixes shall be either Boulevard or Place.

### **Wastewater**

Wastewater will be handled by a septic system. Staff required that the system be submitted to the DENR for approval. A copy of the 85 page engineering report from TSP is available for review in the Planning Department. As part of subareas A & B, staff has required that the homes be plumbed for a future hookup to Hartford's sanitary sewer system. The applicant is opposed to this requirement and is prepared to address this at the commission meeting.

### **Drainage & Wetlands**

The applicant is removing a large drainage ditch on the property and will offset this action by adding additional wetlands. Natural drainage from this property is to the north, north east. The applicant's plan is currently under review by the S.D. Corps of Engineers.

### Utilities

Water is available from Minnehaha County Community Water Corporation. Pat Herman spoke with Director Scott Buss and confirmed that there is sufficient supply to service this neighborhood.

### Highway Access

Shannon Schultz and Tom Wilsey, County Highway Department and City of Hartford representatives have visited the proposed access site as shown on the applicant's plans and do not feel the access location will be a problem. The Highway Department will have other requirements for culvert sizes, grading, and drainage which are not land use issues and will be addressed in the preliminary site plan portion of the process.

### Land Use

The request to rezone the property needs to be reviewed by the Commission as a land use decision. The details such as property layout, road design, utilities, wetland preservation, safety measures and drainage are the focus of the next step in the approval process – the preliminary site plan.

Minnehaha County's current Comprehensive Plan was adopted in 1998 and did not envision Hartford's growth to the north. The plan does recognize transition areas, those areas that are adjacent and in close proximity to a municipality. It is understood that these areas will change from agricultural uses to a more urban focus. The plan states "Utilize the planned development zoning district to accommodate a mix of land uses, promote arrangement of these uses on a comprehensive rather than piecemeal basis, and address problems related to existing land use patterns." Envision 2035, the new comprehensive plan under development by the county, depicts this area as transitional/residential.

The county does not have a joint planning area with Hartford, but has had a handshake agreement for many years. In this agreement the Planning Department forwards all applications which are for property within Hartford Township to the city for their review and comment. A joint platting area between the two government entities began on February 10, 2013.

The Hartford Comprehensive Plan was adopted in 2006. The future land use map depicts this area as single family residential. Single Family is also shown for the area to the east of this site which now has a manufacturing plant and future sports complex. As typical with all communities, plans are modified as opportunities become available. Labeled Growth Area "N" the plan offers minimal guidance for this subject area but does recommend an analysis of the area prior to development and a feasibility study for a trunk line system for sewer collection.

The "land use location and design criteria" are found in Appendix 1 of the Hartford Comprehensive Plan. High density multi-family lists the following criteria:

- 1) Adjacent to principal arterials near major commercial, institutional or employment centers;
- 2) Well designed transition to adjacent land use;
- 3) Provision of usable open space based on project size.

The Meadows development is at the intersection of two county highways. Co. Highway 151 is also Western Avenue within Hartford, a major arterial which provides direct access to both State Highway 38 and Interstate I-90. Multi-family units have traditionally been used as a transition or buffer between single family residential and other more intense land uses. This development would be next to a manufacturing area and sports complex, a conventional site for multi-family.

The Meadows has been designed to preserve the existing wetlands and add new wetlands to provide open space for the enjoyment of humans and animals alike. This open space accounts for approximately 20% of the development.

From a socio-economic standpoint, The Meadows will provide alternative housing from the large lot single family sites required throughout most of rural Minnehaha County.

### **Recommendation**

The rezoning request is for a site located within a transitional area as stated in the 1990 Minnehaha County Comprehensive Plan and the draft 2035 Envision Plan and it is consistent with the design criteria of the Harford Comprehensive Plan. Staff recommended approval of Rezoning #12-09.

### **Public Testimony**

Commissioner O'Hara asked if there are any currently building eligibilities on the property and if she was understanding correctly that there is only one access (entrance) point to the proposed development.

Pat Herman indicated that the previous eligibilities have been used for this property and confirmed that there is only one access point to the development and the City of Hartford has stated in the letter supplied to the Planning Commission that they would like to see another access point. However, the one access point does meet the requirements of the Minnehaha County Subdivision Plan.

### **Proponents**

Mary Kidwiler, 1001 Parkway Blvd., Brookings, introduced Mark Cline as the project manager and stated that the mission of the Meadows Development is to create a unique eco-friendly neighborhood that provides haven from everyday life as well as taking our environment into consideration. With their innovative design they have minimized the use of land while maximizing environmental benefits.

Mark Cline, project manager, stated that they have placed a very high standard of excellence in place throughout all of their efforts to date. Extensive research and development took place for over two years that delivered the summary you have before you today. Mr. Cline presented a rendering of the entrance to the development that will have a five (5) car length turning lane in addition to the two (2) traffic lanes. He stated that they have a 29.93 acre townhouse focused development planned that includes 145 townhouses and 12 twin homes, all placed in a safe, family friendly addition.

The water runoff management will be achieved by utilizing bioswales. They will be using rain

gardens, wetland areas and a pond to accommodate runoff from the site. The entire development has an integrated parkway system with a .6 mile long walking trail, 3 acres of wetland and nature areas, center medians (with trees) for all the streets, and individual garden space for each individual.

Mr. Cline presented a video from Bill Zortman and several letters from individuals in support of the Meadows Development.

Larry Luetke, 1100 S. Phillips Ave., stated that this is an ideal time for this project because the smaller towns around Sioux Falls have been growing faster in recent years.

Mark Luke, 26555 465<sup>th</sup> Avenue, from the Hartford Area Housing Committee stated that this will create a strong draw for this area and is a very well thought out project.

#### Opponents

Cheryl Prunty, 25750 462<sup>nd</sup> Ave., stated that she was speaking on behalf of a number of neighbors in the area that are opposed to the project. They have a number of concerns starting with the proposed wastewater system and the location of the septic drain fields near the existing residential properties. They have concerns about runoff, saturated soils and the viability of this type of wastewater system. She stated that they had questions about why a cattle lot needs to notify the neighbors about their waste management practices but this development is not required the same notification. They also wanted to know if there were any similar developments like this in the county that utilize this same type of system. Ms. Prunty stated that the City of Hartford had denied this development after lengthy review and request that the County Planning Commission do the same.

George Ham, 700 Shamrock Drive, Hartford, stated that he is one of the members of the Hartford Planning & Zoning Commission. He stated that access to the site is the primary concern. Also there are concerns about rural water not supplying enough water pressure for sprinkler systems and fire protection. He was concerned that there will be no sidewalks, the use of septic systems, and the potential for dead trees/bioswales during dry years because the development will not have water sprinklers.

Mike Grace, 25744 463<sup>rd</sup> Ave., stated as a farmer he must get downstream permission to do drainage but this developments water drains toward his property and no permission is required.

Mark Wegleitner, 508 Aaron Circle, stated that he is a member of the Hartford Planning & Zoning Commission and is opposed to the development because they have not been honest since the beginning.

Dan Tobin, 46354 257<sup>th</sup> Street, stated that Western Avenue is a thoroughfare to the Hartford Elevator for heavy equipment during the farming season. Also Central States directly across the road is going to be moving many trailers in and out of their property and that should be considered.

#### Rebuttal



Mark Cline addressed the concerns that were brought forth during the public testimony. Mr. Cline stated that they work with the City of Hartford for seven (7) months to try to determine when sanitary services would be available for the development in which there is no date scheduled, yet the development is being required to install a double system for septic and sanitary hookup although not sure if or when it will happen. This will cause a financial burden on the Meadows Development if they are required to install this double system. Also both highly qualified engineers and state officials from the Department of Environment and Natural Resources (DENR) have reviewed and approved the designed septic system for the Meadows Development.

Mr. Cline indicated that the access to the Meadows Development will not impede the existing traffic flow of Western Avenue. They have incorporated a five (5) car length turning lane at the entrance to the development. The Minnehaha County Highway Department has approved the access point for the development and reviewed the traffic analysis the Meadows Development Company completed.

Mr. Cline replied to questions about sidewalks by describing the .6 mile walking path around the 30 acre development and that no resident of the development will live more than a block away from the path. He stated that 71% of streets accessing SD Highway 38 in Hartford do not have sidewalks and 60% of the streets accessing Western Avenue in Hartford do not have sidewalks; all of those streets are thru-streets.

Mr. Cline replied to the concerns about getting water to the property for fire protection. He stated that the detention pond for the property has multiple functions, one of them being a supplemental source of water for the fire department in the case of a fire. The wetlands and removal of the ditch that previously held the water has all been approved by the Corps of Engineers.

### **Discussion**

Commissioner O'Hara asked Pat Herman to come up and address questions brought up during public testimony. Pat Herman indicated that farmers must apply for a conditional use permit for a cattle lot and there are required setbacks for their lagoon systems and those are checked by the DENR. The same is for the septic system for the Meadows Development it was reviewed and approved by the DENR making sure that it met the required setbacks.

Pat Herman indicated that there currently is not a development in the county that is exactly like this one. There are a number of subdivisions in the county that have been out there for years but each of those lots are on their own septic systems. There are no subdivisions on a joint septic system as is proposed for the Meadows development.

Ms. Herman also stated that she has been in constant contact with Teresa Sidel from the City of Hartford and they have been informed throughout the entire process for the Meadows Development. She also reiterated that this is a rezoning application which examines whether the land use is appropriate for this area. If approved the applicant would have to submit a preliminary plan addressing the wastewater management, access, sidewalks, bioswales and drainage thru that process. Hartford does have a joint platting jurisdiction with Minnehaha

County for this area and the Planning Commissions and City Council/County Commission will both have to approve the preliminary and final plat/plans for the Meadows Development.

Commissioner O'Hara stated that this is in an area of high agricultural activity and usually for new residences there is a requirement of filing a right-to-farm notice on the property. She asked if that was something that should be addressed. Pat Herman indicated that would be something to add to the preliminary plan if this rezoning is to be approved.

Commissioner Cypher indicated that he understands the need for affordable housing but this is all about density zoning. He stated that this request is to allow over 150 units that could mean around 390 residents. This is that rural area, the property owner has used their building eligibilities, and this request is to give them an additional 150 building eligibilities. He stated that he does not want to set any precedent for approving developments on the edge of municipalities without the agreement from the municipality (in this case Hartford). He also included that in the past if a development is not hooked up to sanitary sewer then they will not be allowed. He stated that this goes against density zoning and what has consistently happened in the past for these types of developments. The commission should not approve this development due to the fact of the precedent it will set for every development in the future. He indicated that this is a Hartford issue.

Commissioner Barth asked Ms. Herman about the process going forward. She indicated that this item will be heard on March 19<sup>th</sup> by the County Commission. After that meetings minutes are published there is a 20 day appeal period to appeal the County Commission's decision to Circuit Court. If the rezoning is approved then the applicant will have to go through the preliminary/final plan process thru the City of Hartford and Minnehaha County which is when most of the items brought up tonight will be addressed.

Commissioners Duffy, Randall and O'Hara agreed with Commissioner Cypher about this needs to be a joint effort with the City of Hartford and does not want to create any unnecessary precedent.

**Action**

A motion was made by Cypher and seconded by Barth to **recommend denial** of Rezoning #12-09. The motion passed unanimously.

**Rezoning #12-09 – DENIAL RECOMMENDED**

**ITEM 9. CONDITIONAL USE PERMIT #13-17 to allow land application of wastewater solids byproduct.**

Petitioner: Michael Klema – Environmental Land Management

Property Owner: Todd Dawley

Location: see attached

**General Information**

Present Zoning – A-1 Agricultural

Existing Land Use - Agricultural

**Staff Report:** Scott Anderson

**Staff Analysis**

The applicant is requesting a conditional use permit to land apply waste by-products from John Morrell & Co. This use would most closely fit as a conditional use in the A-1 Agricultural District as (R) Commercial Composting.

The material proposed to be land applied is the by-product of the wastewater treatment at the John Morrell hog progressing plant in Sioux Falls. The wastewater is sent to the anaerobic digesters, then to a dissolved air flotation system and finally to a belt press where the material is de-watered. The de-watered, solid material is then loaded into side dump semis and taken to the field and spread. The solid waste by-product is relatively nutrient rich and contains nitrogen, phosphorus, potassium and zinc, which are all beneficial to plant growth. The by-product would benefit the fields upon which it would be applied. The applicant provided a report from Extended Ag Services outlining some of the benefits, which is included for your review.

The applicant has prepared a letter which further describes this process and how this material meets EPA guidelines. Staff has included the letter for your review.

The applicant has indicated that they may have up to 25 different property owners who have land that they would like to spread this by-product on. This is the initial application and this property owner has eight (8) separate parcels upon which this by-product would be spread.

**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 applicant has not indicated whether this product has an odor or would attract insects and/or rodents. Given the nature of the by-product and the strong potential for odor, this use could have a negative impact on the use and enjoyment of the properties in the vicinity of the spread sites.

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

This proposed use could have impacts on the development of surrounding vacant property. It is unlikely that any vacant property would be developed as residential sites with the regular land application of the solid by-product. The proposed use would probably not impact any agricultural uses such as livestock or crop production.

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

The applicant would be utilizing the existing road networks in the county to provide access to fields where solid byproducts would be land applied. This type of use would not require any other types of facilities

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

There would be no off-street parking requirements for this use.

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

Given the material being applied and the method of transportation, it very likely that the proposed use would constitute a nuisance for surrounding properties that have residences on them. The proposed use has the potential for odors, additional heavy traffic during the transportation of the material and attracting nuisance animals and insects.

The applicant has not indicated the total amount of by-product that would be land applied, nor the amount of traffic the hauling of this product would cause. It is not clear whether there is an odor associated with this material and if rodents and insects are attracted to the material. Furthermore, it should be noted that this by-product is actually an industrial waste by-product and not an agricultural waste product such as manure.

Staff finds the proposed use not in compliance with the intent of the Zoning Ordinance to promote the health and general welfare in the county and does not promote the best physical development of the county. The land application of John Morrell by-products has the potential to negatively impact existing land uses and harm land values with an unharmonious adjacent land use. The applicant has other options to dispose of this solid waste by-product that poses less impact on land uses, such as utilizing the exiting sanitary landfill.

**Recommendation**

Staff recommended **denial** of Conditional Use Permit #13-17.

**Action**

Commissioner O'Hara indicated that the applicant has withdrawn this application.

**CUP #13-17 – WITHDRAWN**

**ITEM 10. CONDITIONAL USE PERMIT #13-12 to amend CUP #81-010, #82-010, #01-095, & #11-019 and to allow five short range shooting bays.**

Petitioner: Charles Heck, President

Property Owner: Big Sioux Rifle and Pistol Club, Inc.

Location: 25951 484<sup>th</sup> Ave.; 1.5 miles northeast of Brandon

**General Information**

Present Zoning – A-1 Agricultural

Existing Land Use - Rifle and Pistol Range

Parcel Size – 11.68 Acres

**Staff Report:** Ryan Streff

**Staff Analysis**

This item was deferred from the January 28, 2013, Planning Commission Meeting.

The petitioner submitted an application, Conditional Use Permit #13-012, to allow five (5) short range shooting bays. The short range shooting bays would be in addition to the three (3) previously approved long range shooting bays from 1981.

The property is located at 25951 484<sup>th</sup> Avenue and is legally described as the N606 W840 N2/5 SE1/4 24-103-48. The subject property is located in Section 24 of Brandon Township, approximately two (2) miles northeast of Brandon. This property is 11.68 acres in size and is located in the A-1 Agricultural zoning district. Adjacent properties that surround this site are zoned A-1 Agricultural and are mainly used for agricultural farming and mining operations with a few scattered residential acreages around the area.

There are currently two (2) active conditional use permits associated with this use. The first conditional use permit #81-10 was approved by the County Commission to allow a rifle and pistol range on December 29, 1981. The second Conditional Use Permit #11-019 (replaced Conditional Use Permit #01-95) was obtained to amend condition #8 to extend the hours of operation.

**Current Conditions of Conditional Use Permit #81-10.**

- 1) A new site plan shall be submitted to the Planning Office which takes into consideration all conditions placed on the rifle range. All construction shall be in accordance with this site plan.
- 2) A gate shall be erected at the east end of the driveway.
- 3) The driveway shall be widened to permit two vehicles to meet.
- 4) A 10-foot earth embankment shall enclose the firing line.
- 5) A bar shall be placed across the firing bench to restrict the angle of fire and ensure that bullets remain within the embankment. A baffle may be required later if problems develop.
- 6) Bury or remove all junk on the property. The junk shall not be moved to another location on the property.
- 7) Install some type of restroom facilities since the range will be open to the public.

- 8) The range shall not be open for more than four days per week and the hours shall be limited to 8 a.m. to sunset with the following exception: the range may be operated one additional day per week for a maximum of six weeks between September 15<sup>th</sup> and December 1<sup>st</sup>.
- 9) Night firing shall be prohibited.
- 10) A compliance inspection must be performed prior to the range being opened for use.

The petitioner (Big Sioux Rifle & Pistol Club) has now applied to amend their conditional use permit in order to add five (5) short range shooting bays. To avoid confusion the best way to address the additional request of the short range shooting bays is to repeal all previous conditional use permits and combine them into one (1) permit. In order to address the concerns of the Planning and County Commissions regarding the current facility one (1) comprehensive permit detailing the entire facility is needed to maintain the operations effectively.

Attachments:

- 1) Big Sioux Rifle & Pistol Club Narrative
- 2) Range Evaluation Report (Bruce Plate – NRA Range Technical Team Advisor)
- 3) Site Plan Dated January 8, 2013 (Details all shooting bays)
- 4) Big Sioux Rifle & Pistol Club Site Plans 1-7
- 5) Petition and request for action against the Big Sioux Rifle and Pistol Club – This document was submitted by the surrounding property owners.
- 6) Letters of concern – Sent from area property owners.

**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 change to add five (5) short range bays in addition to the three (3) long range bays should have minimal impact on the neighboring properties. This facility has been in existence at this site since the 1980's and the short range bays have been in operation since 2004. Noise from the additional short range bays and the associated range operations will have some impact on the enjoyment or use of the surrounding properties or affect property values.

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

The change in the permitted area should have no impact on further construction or development within the general area. This change will not affect the residential uses or agricultural land in the area.

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

Infrastructure that is needed for the Big Sioux Rifle and Pistol Club to operate has been provided. 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 associated activities. Gates have been placed at the entrance of the facility and also at the entrance of the short range bays. These gates remain locked when the facility is closed.

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

This use will generate some amount of noise because of the nature of the rifle and pistol facility. The petitioner has installed berms along all the shooting bays and trees are located throughout the property, which will reduce the amount of noise and visual impacts that may cause a nuisance to neighboring property owners. No other uses at this facility should constitute a nuisance.

**Recommendation**

Staff finds that the most effective way to move forward with an amendment to a conditional use permit that is currently in violation is to simultaneously repeal all previously issued conditional use permits associated with this use, while creating one (1) new comprehensive permit detailing the entire facility. Staff can then address the entire facility and all safety concerns related to the three (3) long range bays and the five (5) short range bays in order to maintain effective operational procedures.

Note: Recommended changes to the conditions within the staff report provided to the Planning Commission are shown in a “**bold**” font.

Staff recommended approval of Conditional Use Permit #13-012 to allow a Rifle & Pistol Range with three (3) long range bays and five (5) short range bays, with the following conditions.

- 1) That Conditional Use Permit #13-012 shall allow a Rifle & Pistol Range consisting of three (3) long range bays and five (5) short range bays.
- 2) That the property shall adhere to the site plan dated 1-8-13.
- 3) That the range officer(s) on duty shall not be participating in any shooting activities and shall only be there to enforce the safety rules by observing shooters and running the firing line(s) and range(s).
- 4) **That a range officer shall be present on each active firing line at all times. That a range officer shall be present with each active shooter whenever the short range pistol bays are used. That one (1) range officer shall not be responsible for both the long range and short range shooting bays at the same time.**
- 5) **Range officer requirements shall apply to both members and non-members participating in active shooting. A range officer shall always be required.**
- ~~6) That a range officer(s) shall be required to be present when the range is open to the public.~~
- 7) That Blue Sky Baffles shall be installed and maintained on all three (3) long range bays.
- 8) That all Blue Sky Baffles shall be completely installed on all three (3) long range bays by January 1, 2015.
- 9) That when the baffling system is not applicable or where “blue sky” can be seen (i.e. from the prone position) a bar or similar device shall be placed across the firing bench or firing area in the long range shooting bay(s) to restrict the angle of fire and ensure that bullets remain within the embankments.
- 10) **That a baffling system of the short range bays shall be required if projectiles are not contained within the boundaries of the property.**
- 11) That 10’ foot berms or earth embankments shall enclose all firing lanes or shooting bays

at all times.

- 12) That the range shall not be open **to the public** for more than four days per week and the hours shall be limited to 8 a.m. to sunset with the following exception: the range may be operated one additional day per week for a maximum of six weeks between September 15<sup>th</sup> and December 1<sup>st</sup>.
- 13) **That the five (5) short range bays shall only operate a maximum of four (4) days a week and the hours shall be limited to 8 a.m. to sunset. No shooting from club members or the public shall be allowed on the other remaining three (3) days. The schedule of operational days shall be provided to the Planning Department annually by March 1<sup>st</sup>.**
- 14) That no shooting shall occur at the facility from dusk till dawn.
- 15) That further safety inspections and/or safety precautions shall be required if the public's health and safety are threatened due to the lack of projectile containment or similar life threatening incidents.
- 16) **That all equipment (i.e. towers & lines) in the immediate vicinity owned by the Department of Energy or other similar corporations shall be kept free of projectiles. Hence no shooting of the towers or lines shall occur from this property.**
- 17) **That when the sighting-in of any weapon takes place it shall be conducted in an area that is baffled or that has other measures taken to ensure the projectiles are contained within the boundaries of the property.**
- 18) That a gate shall be erected and maintained at all entrances or exists in order to mitigate trespassing and to insure proper access to the facility. That the gates shall be locked when the range is closed.
- 19) That all materials, supplies and products associated with the facility shall be stored within an approved structure, storage facility or screened from public view.
- 20) That adequate restroom facilities shall be provided at the property. When an onsite wastewater system is used it shall be constructed in conformance with South Dakota State and Minnehaha County regulations.
- 21) That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
- 22) That parking and loading regulations outlined in Article 15.00 of the Minnehaha County Zoning Ordinance shall be met.
- 23) That no unlicensed, inoperable or partially dismantled vehicle, equipment or parts shall accumulate on the property.
- 24) **That building permits and other required inspections shall be obtained for all structures on the property and violations shall be corrected within 6 months.**
- 25) **That signage shall comply with the zoning ordinance requirements stated in Article 16.00 On-Premise Signs and Article 17.00 Off-Premise Signs. Signs require a building permit.**
- 26) That all previous conditional use permits for this property regarding the Rifle & Pistol Range be repealed. These include Conditional Use Permits #81-010, #82-010, #01-095 and #11-019.



### Public Testimony

Commissioner O'Hara asked Ryan Streff to explain conditions #12-14 for better clarification on the hours of operation. Ryan Streff indicated that Condition #12 addresses how they used the range in the past and was on their previous permit. Condition #13 addresses just the operation of the short range bays and Condition #14 just clarifies that there will be no shooting when it is dark out.

Commissioner O'Hara asked if there is any qualification for the required range officers. Mr. Streff stated that the applicant would better describe what they require for the range officers.

Commissioner Randall asked about Condition #8, and whether or not the long range bays that currently do not have baffles will be in use prior to the installation of those baffles. Mr. Streff indicated that currently the permit does not require them to be closed, but the Planning Commission does have that ability to change that condition. Because of the cost to construct the baffles staff has given them until January 1, 2015 to construct them.

### Proponents

Jon Haverly, 4605 S. Magnolia Circle, stated that they applied only for the short range bays since they already had permits for the 50, 100, and 200-yard ranges. Notwithstanding the fact that they only proposed to add the short range bays, in a spirit of compromise they were willing to look at the whole site, under conditions they believe are reasonable. Mr. Haverly presented a packet containing staff's recommended conditions contrasting with conditions that the Big Sioux Rifle & Pistol Club (BSR&P) would agree to.

Mr. Haverly stated the following:

The BSR&P accepts Conditions #1 & #2 without reservation. Conditions #3-#6 seems confusing and redundant and redrafted them into one condition to say "One range officer shall be required for the long range bays when open and a separate range officer shall be required for the short range bays when open. At any time any other shooter is present, the range officer shall not participate in any shooting activity." Conditions #7-#9 were left as the planning staff had presented them. There is no evidence of any issue regarding the short range bays and the baffling would not add any material benefit, therefore the BSR&P struck Condition #10. He stated that there is no practical way to install those baffles without spending millions of dollars. The BSR&P was okay with Condition #11 because they already have 10-foot berms around everything already. Conditions #12-14 were all combined into one that stated "That the ranges shall not be open to the public for more than four days per week and the hours shall be limited to 8 a.m. to sunset with the following exception: the range may be operated one additional day per week for a maximum of six weeks between September 15<sup>th</sup> and December 1<sup>st</sup>". The BSR&P combined these for clarity and to eliminate the requirement of providing a schedule of operation days every year. Condition #15 is inconsistent with the zoning ordinance on conditional uses and approval of conditions during the application period. This would make the conditions subject to change every time someone has a little issue with the BSR&P.

All intentional criminal acts are already prohibited by criminal law, and there is no evidence that any alleged damage was caused by BSR&P or from its range, therefore BSR&P struck Condition

#16. The BSR&P changed Condition #17 to read, "Sighting-in of any weapon shall be conducted only on the ranges from authorized firing points", for clarity. Conditions #18-20 were accepted as those items are already in place at BSR&P. Condition #21 was deleted because the BSR&P has only one light for security reasons. Condition #22 was struck because there are already enforcement mechanisms under the county ordinances for parking. Condition #23 was accepted as recommended by the planning staff. Condition #24 was struck because the building permit sections of the county ordinance already address those enforcement mechanisms and there is no need for it to be on the permit. Condition #25 was deleted because there is already a sign ordinance to address any signage on the property. Condition #26 was reworded to read "That all previous conditional use permits for this property regarding the Rifle & Pistol Range are subsumed into Permit #13-012. These include Conditional Use Permits #81-010, #82-010, #01-095 and #11-019.

Mr. Haverly stated that they have already done remediation with baffles on the 50-yard and 200-yard ranges which cost around \$30,000. It looks like it will take an additional \$10,000 for the baffles on the 100-yard range. The BSR&P does not believe the baffles on the 100-yard range are necessary but for compromise and to ease the minds of the surrounding neighbors they are willing to do that prior to 2015 once the funds become available.

Commissioner O'Hara stated that staff's recommendation was to have a range officer on each active firing lane and the BSR&P changed that to say only one range officer for the long range bays, which changes the essence of what staff was requesting. Mr. Haverly stated that it is very impractical to have six (6) range officers, and is difficult with a volunteer organization. Commissioner O'Hara asked if one (1) person is able to adequately manage six (6) sites at one time. Mr. Haverly stated that the lanes are centrally located and one person can adequately watch them.

Commissioner Barth indicated that he appreciated the suggested amendments to staff's recommendation, however doesn't believe he can fully digest the material in just 20 minutes.

Donald Srstka, 4501 S. Ash Grove Avenue, stated the club is a very good club and has been doing a lot of good things in this community.

Chuck Heck, 1608 S. Glendale, stated that he wanted to clarify that on the five (5) short range bays there will one (1) range officer for each bay that is active. If there is one (1) short range bay active then one (1) range officer, if there is two (2) short range bays active then two (2) range officers, and so on. But the BSR&P would like to see that there is only one (1) required range officer for the three (3) long range bays, not one (1) for each one that is active. That range officer might have to check people in, fill out a membership, and check the ranges. During the fall when they are busy however, it is their own rule that they will have two (2) range officers out there. Mr. Heck indicated that they would like to keep the 100-yard range open until they get the baffles built, however, it will only be used for events and only with a range officer present.

Commissioner Cypher asked Mr. Heck to explain the certification of a range officer. Mr. Heck replied that presently anyone can volunteer to be a range officer. They would first have to go to the range and shadow an existing range officer. That range officer then reports whether or not

the person shadowing has the personality to be a range officer and if they understand the responsibilities. The BSR&P's Larry Swenson is currently in Arizona becoming a NRA certified range officer and instructor. He will then be able to come back and instruct the range officers to a certified level with documentation.

Commissioner Cypher asked how many people have the combination to the padlock on the gate. Mr. Heck stated that normally they change it at the beginning of the year and they give it to the range officers.

#### Opponents

Kellee Valnes, 48326 260<sup>th</sup> Street, stated their house is directly southwest of the BSR&P. Mrs. Valnes summarized all of the previous events that have led to their opposition to the operations at the BSR&P. She stated that Larry Swenson from the BSR&P had stated at the previously held County Commission meeting that there was not a range officer on the property when the shooting of the Valnes's property took place. During the investigation of the shooting the Valnes's discovered that there were five shooting bays for a live action tactical range that were not on the original conditional use permit. In the summer up to 19,000 shots a day can be fired on these tactical ranges. Mrs. Valnes stated that it doesn't make sense that the BSR&P would come and amend their conditional use permit for something small like the hours and days of operation but believed that verbal permission was satisfactory for allowing the tactical shooting bays. She stated that the ranges encroach on easements of the Department of Energy, they provide little safety to the surrounding properties and the noise and number of shots greatly exceed that of the original permit.

Keith Jones, 25968 483<sup>rd</sup> Avenue, lives directly west of existing ranges. He stated that his daughter is scared to go outside every time there are shots being fired because of these incidents. He indicated that he works for Sweetman Construction and they are going to be mining that area in the future and does not want to have his guys down there working with heavy equipment and be shot at during the same time. He stated that he has to have mining inspectors come out and inspect his operation two (2) times a year and believes the gun club should have to be inspected as well.

Sandra Aichele, 25975 484<sup>th</sup> Avenue, presented a photo taken from her property line showing that she can see the office building at the BSR&P. She stated that when it was built she was unable to see that building from her property line, so obviously the berms have sunk or eroded down. She also asked how you know who the range officers are, shouldn't they have some type of ID or badge.

Dennis Sterk, 48336 259<sup>th</sup> Street, he stated that the pistol bays are directly in line with his property and doesn't believe that they should be able to operate the tactical range until they have the permit and it is inspected to make it legal.

John Malloy, works for Concrete Materials and stated that there needs to be some sort of certification process for their range officers and there needs to be more of them on site. He stated there needs to be safety standards in place to protect the surrounding neighbors.

### Rebuttal

Jon Haverly stated that the NRA report was requested right after the incident occurred on the Valnes property. It took the NRA a considerable amount of time to get that report to them after the review of the BSR&P was conducted. The BSR&P has implemented and exceeded many of the suggestions that were in the report. Mr. Haverly stated that the berms have not changed in height they had replaced the old building with a new, taller metal building and that is why it can be seen now. Mr. Haverly commented that they are not only looking at the safety of the shooters but the surrounding neighbors as well. The BSR&P has constructed the baffles on the 50-yard and 200-yard range and are willing to construct the baffles on the 100-yard range as an offer of compromise and not as a waiver of what their other rights are.

Commissioner O'Hara asked if there was any limit on the caliber of weapons used on the ranges. Mr. Haverly stated that they don't allow the use of a 50-caliber like used with sniper rifles in Iraq, otherwise the guns we use now are no different in power than the 30-06 of 1906.

Commissioner O'Hara asked if the range officers wore any type of identification when on the ranges. Mr. Haverly stated that there are vests, hats, and badges that will identify who the range officer is.

### Discussion

Commissioner Barth asked Ryan Streff what the current condition is of the encroachment of the Department of Energy easement. Mr. Streff indicated that he had spoken with the power company and they do not wish to have the ranges closed that encroach on their easement since they are already in place. However, going forward they do not wish to have any other structures or uses operating within their easements. Mr. Streff indicated that Conditions #16 and #17 were on the permit to address some of the concerns of the residents and Department of Energy.

Commissioner Barth asked about frangible ammunition and if the BSR&P had looked into requiring that type of ammunition on their ranges. Michael Riter, 27685 483<sup>rd</sup> Canton, stated that traditional rounds are lead with a copper jacket; the frangible rounds have a pre-fragmented jacket that begins to disintegrate when it hits something solid. A frangible round is made of compressed copper powder and is punched into a mold which puts it into a bullet shape so when it hits something solid in turns into powder. Some indoor ranges require the use of frangible rounds, the problem however, is that it is extremely expensive.

Commissioner O'Hara stated that she understands the benefits of the gun range but really believes that because of the limited size of the property, we really can't be too careful and she encouraged that they keep the conditions that staff has recommended. She stated she was not sure if they should open up the 100-yard range until the baffles are installed.

Commissioner Randall stated that she agrees with Commissioner O'Hara and likes the way the conditions are spelled out. She also agreed that the 100-yard range should not be used until the baffles are installed. Mrs. Randall also stated that the BSR&P should think about having a volunteer sign people in so that the range officer can focus on the ranges.

Commissioner Barth stated that he pleased with what the gun club has done with the baffles on the two long range bays but does not see how the pistol bays can be made safe. He believes that the 100-yard range can be safely operated, however, the pistol bays being used for competitive active shooting cannot be operated safely.

Commissioner Duffy stated that safety is the primary concern here, buildings are one thing but lives are another. She believes that the range officers need to be there and that staff has done a good job laying out a set of recommended conditions.

Commissioner Cypher stated that this use is lethal entertainment, but is also necessary entertainment because of the training benefits for officers. He stated that this is a necessary facility but it needs to be contained. He indicated that he walked the tactical bays and believes that if they are operated correctly with a range officer present then they should be alright, but it needs to be extremely supervised.

Ryan Streff clarified that Condition #4 states that there should be a range officer for each active shooting line. So if all the short range bays were being used and the 3 long range bays were being used there would need to be eight (8) range officers; one (1) at each bay. If there is only one (1) bay active then there only needs to be one (1) range officer.

Commissioner Barth asked Ryan Streff if he had any comments on Mr. Haverly's recommended changes to the conditions.

Mr. Streff stated that following:

The BSR&P struck out Conditions #21, #22, #24 and #25; these are common to almost all of our conditional use permits and they should not be struck. Condition #26 should be left as repealed that way they operate under just this one permit if approved. Condition #3 should not be an issue for the BSR&P therefore no reason to strike it out. Conditions #3, #4 and #5 were all put in to address the range officers and where they need to be. Condition #10 was put in as a precautionary measure that if something were to happen then the baffles can be required in the future. Conditions #12, #13 and #14 were called out separately to cover all aspects of the shooting hours. Condition #15 was put in to allow for inspections if there is something threatening the safety of the public. Conditions #16 and #17 were from the Department of Energy addressing their concerns. The BSR&P's amendment to #17 was fine but essentially said the same thing as staff's recommendation. He indicated he understood some of the BSR&P changes, however, the staff's recommendations are for safety and addressing any issues in the future.

### Action

A motion was made by Cypher to approve Conditional Use Permit #13-012 with the following conditions:

- 1) That Conditional Use Permit #13-012 shall allow a Rifle & Pistol Range consisting of three (3) long range bays and five (5) short range bays.
- 2) That the property shall adhere to the site plan dated 1-8-13.

- 3) That the range officer(s) on duty shall not be participating in any shooting activities and shall only be there to enforce the safety rules by observing shooters and running the firing line(s) and range(s).
- 4) That a range officer shall be present on each active firing line at all times. That a range officer shall be present with each active shooter whenever the short range pistol bays are used. That one (1) range officer shall not be responsible for both the long range and short range shooting bays at the same time.
- 5) Range officer requirements shall apply to both members and non-members participating in active shooting. A range officer shall always be required.
- 6) That Blue Sky Baffles shall be installed and maintained on all three (3) long range bays.
- 7) That all Blue Sky Baffles shall be completely installed on all three (3) long range bays by January 1, 2015.
- 8) That when the baffling system is not applicable or where "blue sky" can be seen (i.e. from the prone position) a bar or similar device shall be placed across the firing bench or firing area in the long range shooting bay(s) to restrict the angle of fire and ensure that bullets remain within the embankments.
- 9) That a baffling system of the short range bays shall be required if projectiles are not contained within the boundaries of the property.
- 10) That 10' foot berms or earth embankments shall enclose all firing lanes or shooting bays at all times.
- 11) That the range shall not be open for more than four days per week and the hours shall be limited to 8 a.m. to sunset with the following exception: the range may be operated one additional day per week for a maximum of six weeks between September 15<sup>th</sup> and December 1<sup>st</sup>. No shooting from club members or the public shall be allowed on the other remaining three (3) days.
- 12) That the schedule of operational days shall be provided to the Planning Department annually by March 1<sup>st</sup>.
- 13) That no shooting shall occur at the facility from dusk till dawn.
- 14) That further safety inspections and/or safety precautions shall be required if the public's health and safety are threatened due to the lack of projectile containment or similar life threatening incidents.
- 15) That all equipment (i.e. towers & lines) in the immediate vicinity owned by the Department of Energy or other similar corporations shall be kept free of projectiles. Hence no shooting of the towers or lines shall occur from this property.
- 16) That when the sighting-in of any weapon takes place it shall be conducted in an area that is baffled or that has other measures taken to ensure the projectiles are contained within the boundaries of the property.
- 17) That a gate shall be erected and maintained at all entrances or exists in order to mitigate trespassing and to insure proper access to the facility. That the gates shall be locked when the range is closed.
- 18) That all materials, supplies and products associated with the facility shall be stored within an approved structure, storage facility or screened from public view.
- 19) That adequate restroom facilities shall be provided at the property. When an onsite wastewater system is used it shall be constructed in conformance with South Dakota State and Minnehaha County regulations.
- 20) That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents

- the spillage of light beyond the boundaries of the subject property.
- 21) That parking and loading regulations outlined in Article 15.00 of the Minnehaha County Zoning Ordinance shall be met.
  - 22) That no unlicensed, inoperable or partially dismantled vehicle, equipment or parts shall accumulate on the property.
  - 23) That building permits and other required inspections shall be obtained for all structures on the property and violations shall be corrected within 6 months.
  - 24) That signage shall comply with the zoning ordinance requirements stated in Article 16.00 On-Premise Signs and Article 17.00 Off-Premise Signs. Signs require a building permit.
  - 25) That all previous conditional use permits for this property regarding the Rifle & Pistol Range shall be repealed. These include Conditional Use Permits #81-010, #82-010, #01-095 and #11-019.

Randall seconded the motion with an amendment to approve Conditional Use Permit #13-012 with the following conditions:

- 1) That Conditional Use Permit #13-012 shall allow a Rifle & Pistol Range consisting of three (3) long range bays and five (5) short range bays.
- 2) That the property shall adhere to the site plan dated 1-8-13.
- 3) That the range officer(s) on duty shall not be participating in any shooting activities and shall only be there to enforce the safety rules by observing shooters and running the firing line(s) and range(s).
- 4) That a range officer shall be present on each active firing line at all times. That a range officer shall be present with each active shooter whenever the short range pistol bays are used. That one (1) range officer shall not be responsible for both the long range and short range shooting bays at the same time.
- 5) Range officer requirements shall apply to both members and non-members participating in active shooting. A range officer shall always be required.
- 6) That Blue Sky Baffles shall be installed and maintained on all three (3) long range bays.
- 7) That all Blue Sky Baffles shall be completely installed on all three (3) long range bays by January 1, 2015.
- 8) That the 100-yard range shall remain closed until the Blue Sky Baffles are installed.
- 9) That when the baffling system is not applicable or where "blue sky" can be seen (i.e. from the prone position) a bar or similar device shall be placed across the firing bench or firing area in the long range shooting bay(s) to restrict the angle of fire and ensure that bullets remain within the embankments.
- 10) That a baffling system of the short range bays shall be required if projectiles are not contained within the boundaries of the property.
- 11) That 10' foot berms or earth embankments shall enclose all firing lanes or shooting bays at all times.
- 12) That the range shall not be open for more than four days per week and the hours shall be limited to 8 a.m. to sunset with the following exception: the range may be operated one additional day per week for a maximum of six weeks between September 15<sup>th</sup> and December 1<sup>st</sup>. No shooting from club members or the public shall be allowed on the other remaining three (3) days.
- 13) That the schedule of operational days shall be provided to the Planning Department

- annually by March 1<sup>st</sup>.
- 14) That no shooting shall occur at the facility from dusk till dawn.
  - 15) That further safety inspections and/or safety precautions shall be required if the public's health and safety are threatened due to the lack of projectile containment or similar life threatening incidents.
  - 16) That all equipment (i.e. towers & lines) in the immediate vicinity owned by the Department of Energy or other similar corporations shall be kept free of projectiles. Hence no shooting of the towers or lines shall occur from this property.
  - 17) That when the sighting-in of any weapon takes place it shall be conducted in an area that is baffled or that has other measures taken to ensure the projectiles are contained within the boundaries of the property.
  - 18) That a gate shall be erected and maintained at all entrances or exists in order to mitigate trespassing and to insure proper access to the facility. That the gates shall be locked when the range is closed.
  - 19) That all materials, supplies and products associated with the facility shall be stored within an approved structure, storage facility or screened from public view.
  - 20) That adequate restroom facilities shall be provided at the property. When an onsite wastewater system is used it shall be constructed in conformance with South Dakota State and Minnehaha County regulations.
  - 21) That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
  - 22) That parking and loading regulations outlined in Article 15.00 of the Minnehaha County Zoning Ordinance shall be met.
  - 23) That no unlicensed, inoperable or partially dismantled vehicle, equipment or parts shall accumulate on the property.
  - 24) That building permits and other required inspections shall be obtained for all structures on the property and violations shall be corrected within 6 months.
  - 25) That signage shall comply with the zoning ordinance requirements stated in Article 16.00 On-Premise Signs and Article 17.00 Off-Premise Signs. Signs require a building permit.
  - 26) That all previous conditional use permits for this property regarding the Rifle & Pistol Range shall be repealed. These include Conditional Use Permits #81-010, #82-010, #01-095 and #11-019.

Duffy seconded the amended motion. A vote of 3-2 (Cypher and Barth No) was taken to allow the amended motion. A vote of 4-1 (Barth No) was taken to **approve** Conditional Use Permit #13-012 with the amended conditions.

**CUP #13-012 – APPROVED**