



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
SEPTEMBER 28, 2020**

A meeting of the Planning Commission was held on SEPTEMBER 28, 2020 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building and in the Zoom Personal Meeting Room ID 728 439 8039.

David Heinold, County Planning Department, presented Zoom Meeting Room instructions on raising hands to speak on agenda items.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: David Heinold called roll of members present to determine a quorum. Commissioners Bonnie Duffy, Becky Randall, Adam Mohrhauser, Mike Ralston, Ryan VanDerVliet, and Jeff Barth responded present at the meeting.

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning
Maggie Gillespie – States Attorney

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:22 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak or no hands were raised in the Zoom Personal Meeting Room.

ITEM 1. Approval of Minutes – August 24, 2020

Chair Duffy called for any comments or amendments to the minutes. Nobody raised any comments or amendments.

A motion was made by Commissioner Randall and seconded by Commissioner Mohrhauser to approve the meeting minutes from August 24, 2020. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 2. CONDITIONAL USE PERMIT #20-36 to amend CUP #16-16 to exceed 3,600 square feet of total accessory building area – requesting 5,238 square feet on the property legally described as Tract 4, Peterson’s Addition, NE1/4 & NE1/4 SE1/4, Section 26-T103N-R49W.

Petitioner: Sam Schimelpfenig

Property Owner: Sam & Michelle Schimelpfenig

Location: 25465 477th Ave.

Located Approximately 5 miles southeast of Baltic

Staff Report: David Heinold

General Information:

Legal Description – Tract 4, Peterson’s Addition, NE1/4 & NE1/4 SE1/4, Section 26-T103N-R49W

Present Zoning – A-1 Agricultural District

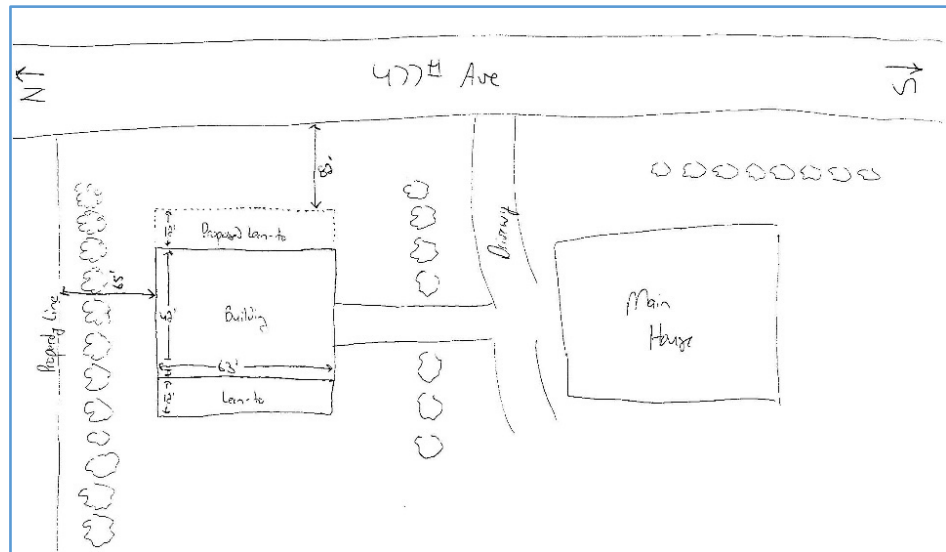
Existing Land Use – Residential

Parcel Size – 8.30 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to construct an additional 12’x63’ lean-to on the east side of an existing accessory building. The Planning Commission previously approved a total accessory building area of 4,482 square feet on the subject property in 2016. The proposed lean-to addition is shown, at right, on the site plan.



The request would amend condition #1 on conditional use permit #16-16 to allow 5,238 square feet of total accessory building area.

There are several accessory buildings that range from 1,200 sq. ft. to 1,800 sq. ft. on 4-5 acre lots. The property owner at 25397 477th Ave. has an 1,800 sq. ft. pole building about a half mile to the north of the petitioner’s residence. The two 5-acre lots just to the south at 25403 and 25406 477th Ave. have 1,664 and 1,620 sq. ft. of total accessory building area respectively. The property, 25455 477th Ave., immediately to the north of the subject property has 1,500 sq. ft. The largest total accessory building area is located at 47715 254th St., which has about 8,880 sq. ft. on an 11 acre parcel and appears to be used for horses and/or agricultural storage.



Conditional Use Permit Criteria:

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 area is primarily agricultural with a few residential acreages in the immediate vicinity. There should be no significant effect on the use and enjoyment as well as property values of other property in the immediate vicinity for the existing residential uses. The addition of a 12-foot lean-to on an existing accessory building for personal storage should not affect the use of properties in the surrounding area.

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

The future growth of the surrounding area is dependent on development of existing building eligibilities. There are a few residential parcels that have been developed along 477th Avenue. The proposed 12'x63' lean-to addition on the existing pole building should not negatively affect the normal and orderly development of surrounding properties in the immediate vicinity. The requested accessory building area is comparable to the existing accessory buildings on similar parcels.

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

Access has already been provided to the existing accessory building for the proposed lean-to addition. No further infrastructure will need to be provided.

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

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.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

There should be no effect on the health, safety, general welfare of the public and the Comprehensive Plan with the proposed accessory building addition. The intent of the Envision 2035 Comprehensive Plan to support orderly growth of non-agricultural land uses will be met. The proposed use of the accessory building is compatible with the existing accessory buildings in the surrounding area.



Recommendation:

Staff finds that the proposed accessory building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of Conditional Use Permit #20-36 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 5,238 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

Public Testimony

David Heinold, County Planning Department, presented a brief summary of the staff report and recommendation for the conditional use permit request.

Sam Schimelpfenig, 25465 477th Ave., identified himself as the petitioner for the conditional use permit request to construct an additional 12' x 63' lean-to on an existing accessory building.

Commissioner Duffy asked if the building is used for horses.

Mr. Schimelpfenig explained that the existing accessory and proposed lean-to addition will be used for general storage of equipment and collecting wood for woodworking activities.

Commissioner Duffy called for public testimony but no one moved to speak on the item.

No hands were raised in the Zoom Meeting Room.

Action

A motion was made by Commissioner Mohrhauser to **approve** Conditional Use Permit #20-36. The motion was seconded by Commissioner Ralston. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #20-36 – Approved



ITEM 3. CONDITIONAL USE PERMIT #20-39 to transfer one (1) building eligibility from NW1/4 SW1/4 to the SW1/4 SW1/4 (Ex. Tract 1A, Schuster's Addn.); all in Section 32-T102N-R47W.

Petitioner: Tom Schuster

Property Owner: same

Location: Located Approximately 1.5 miles east of Brandon

Staff Report:

General Information:

Legal Description – SW1/4 SW1/4 (Ex. Tract 1A, Schuster's Addn.); all in Section 32-T102N-R47W

Present Zoning – A1 Agriculture

Existing Land Use – Agriculture

Parcel Size – 157 acres

Staff Report: Scott Anderson

The petitioner is requesting the transfer of a building eligibility to allow the eligibility to be used along 262nd Street, approximately 2 miles west of Valley Spring. The area is a mix of agricultural land and some residents. There is extensive residential development along 256th Street, with a cluster of nine (9) residences located at the intersection of 256th Street and SD Highway 115.

Staff conducted a site visit on September 14, 2020. There is an existing shelter belt on the subject property which will screen any residence from the north and west. The site is currently in crop production. The applicant owns the residence closest to the proposed transfer.

Conditional Use Permit Criteria:

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 area around the proposed building eligibility site is primarily agricultural uses with several residential acreages along 262nd Street. One additional building site will not likely change the character of the area since many eligibilities have already been developed in the few miles around the proposed site. No known CAFOs are located within a mile of the proposed building site.

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

The property is located about 2 miles away from Valley Springs and therefore will not be affected by development pressure. The area is fairly well developed by residential acreages already. Much of the land will now be permanently preserved for agricultural production as the density zoning intended.



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

The property owner will be required to extend any needed utilities to the property. The development of a residential acreage will likely not change overall patterns of drainage. The property owner will be responsible for getting a driveway permit for any new access to the proposed property.

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

Off street parking will be met at the time a dwelling is constructed on the property.

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

A new residential acreage site should not create any offensive odor, fumes, dust, noise, vibration, and lighting. The property will have to be maintained to meet the public nuisance ordinance for Minnehaha County.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The health, safety, and general welfare of the public will not be negatively affected by the availability of the building eligibility. The Envision 2035 Comprehensive Plan includes planning to encourage the clustering of building eligibilities in order to preserve large tracts of land for agriculture.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #20-39 with the following conditions:

1. A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for the single-family dwelling.

Public Testimony

Scott Anderson, County Planning Director, presented a brief summary of the staff report and recommendation for the conditional use permit request.

Tom Schuster, 48518 262nd St., identified himself as the petitioner and explained that he planted tree shelterbelts with the plan to add two new single family dwellings in this area. Commissioner Mohrhauser confirmed with Tom Shuster that the Building Eligibility will be located next to his current acreage site.

Action

A motion was made by Commissioner Ralston to **approve** Conditional Use Permit #20-39. The motion was seconded by Commissioner Mohrhauser. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #20-39 – Approved



ITEM 4. CONDITIONAL USE PERMIT #20-40 to make one (1) building eligibility available on the property legally described as Tract 2A, Split Rock Estates, Section 35-T102N-R48W.

Petitioner: Aaron Hansen

Property Owner: same

Location: Located Approximately 0.25 mile east of Brandon

Staff Report:

General Information:

Legal Description – Tract 2A, Split Rock Estates, Section 35-T102N-R48W

Present Zoning – A1 Agriculture

Existing Land Use – vacant

Parcel Size – 5.03 acres

Staff Report: Scott Anderson

Staff Analysis: The petitioner is requesting to have a building eligibility assigned to Tract 2A and used to constructed a single-family residence along East Chestnut Trail, approximately 1 mile east of Brandon. The area is primarily residential with agricultural uses being conducted east of Chestnut Boulevard.

Staff conducted a site visit on September 9, 2020. There are several large residences already constructed on E. Chestnut Trail. The lot slopes off to the north. The applicant has submitted a site plan showing the general location and size of the proposed residence.

Conditional Use Permit Criteria:

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 area around the proposed building eligibility site is a mix of uses with many residential acreages along E. Chestnut Trail. One additional building site will not likely change the character of the area since many eligibilities have already been developed in the few miles around the proposed site. No known CAFOs are located within a mile of the proposed building site.

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

The property is located about 1 mile east of Brandon and therefore will not be affected by development pressure. The area is fairly well developed by residential acreages already.

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

The property owner will be required to extend any needed utilities to the property. The development of a residential acreage will likely not change overall patterns of drainage. East Chestnut Trail is a paved, private road that is approximately 10 feet wide. It is not wide enough for 2 vehicles to meet and pass each other and stay on the pavement.



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

Off street parking will be met at the time a dwelling is constructed on the property.

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

A new residential acreage site should not create any offensive odor, fumes, dust, noise, vibration, and lighting. The property will have to be maintained to meet the public nuisance ordinance for Minnehaha County.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The health, safety, and general welfare of the public will not be negatively affected by the availability of the building eligibility. The Envision 2035 Comprehensive Plan includes planning to encourage the clustering of building eligibilities in order to preserve large tracts of land for agriculture.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #20-40 with the following conditions:

1. A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for the single-family dwelling.

Public Testimony

Scott Anderson, County Planning Director, presented a brief summary of the staff report and recommendation for the conditional use permit request. Commissioner Mohrhauser asked if all the properties are developed or planned for development. Scott Anderson responded that most of the lots are developed and the 'L' shaped lot can be developed in the future. Commissioner Mohrhauser also asked if the narrow road will have to be widened. Scott Anderson noted that the road is not maintained by the township, but rather the residents along the road.

Arron Hansen, the petitioner was available on Zoom for questions. Commissioner Duffy asked if he has checked into maintenance of the road. Arron Hansen noted that there is a maintenance agreement for property owners along the road to maintain the road rather than the township.

David Rezac, 401 E. Chestnut Trail, raised concern about Chestnut Trail. Currently his house is the only house on the road and the driveway was built narrow enough for only one car at a time, and if there is any public plans on widening the road. Scott Anderson responded that the road provides the only legal access to the tract. The two property owners on the road would be encouraged to continue maintenance, or talk with the township to bring the road into township standards and have the township take over maintenance. Scott Anderson noted that improvements may lead to wider roads, cul-de-sac, and tree removal in the right of way.

Commissioner Ralston noted that the use of the land as a single family dwelling site is appropriate for the area.

Action



A motion was made by Commissioner Ralston to **approve** Conditional Use Permit #20-40 with recommended condition. The motion was seconded by Commissioner VanDerVliet. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #20-40 – Approved



ITEM 5. CONDITIONAL USE PERMIT #20-42 to transfer two (2) building eligibilities; one building eligibility from the property legally described as Tract 2A, Thyberg’s Second Addition, SE1/4, Section 4-T102N-R51W to Vacated Right-of-Way Lying Adjacent & Tract 4A, Kelley’s Addition, W1/2 SE1/4, Section 3-T102N-R51W, and one building eligibility from property legally described as Vacated Right-of-Way Lying Adjacent & Tract 1 McCulskey’s Addition, W1/2 Section 3-T102N-R51W.

Petitioner: Michael Thyberg

Property Owner: same

Location: Located Approximately 2 miles north of Hartford

Staff Report: Kevin Hoekman

General Information:

Legal Description – Vacated Right-of-Way Lying Adjacent & Tract 4A, Kelley’s Addition, W1/2 SE1/4, Section 3-T102N-R51W, and Vacated Right-of-Way Lying Adjacent & Tract 1 McCulskey’s Addition, W1/2 Section 3-T102N-R51W

Present Zoning – A1 Agriculture

Existing Land Use – Pasture Land and Cropland.

Parcel Size – Combined 87.29 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property owner recently purchased two properties and plans on transferring two building eligibilities from adjacent properties located in section 4 to the west of the receiving parcels. Building eligibilities are allowed to be transferred with a conditional use permit if the parcels are contiguous and under the same ownership.

The West Branch Skunk Creek runs through the two receiving parcels. The petitioner notes that the receiving parcels will work better to develop the building eligibilities because the are clustered near existing acreages and closer to the highway. Staff would like to point out that Tract 1 receiving parcel is limited to developable area because of floodplain from West Branch Skunk Creek, and that the building site for the parcel will likely have access from 463rd Avenue.

Conditional Use Permit Criteria:

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 area around the receiving parcels already has a cluster of residential acreages. Nearby is agricultural cropland and a gravel quarry to the north. Access to the gravel quarry is limited north of the creek and does not affect the residential cluster. The additional residential dwellings will not change the character or uses of the area.



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

The area already has many residential acreages, and many of the building eligibilities have been used. Transferring two building will preserve larger parcels of cropland on the sending parcels.

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

Both receiving parcels have access to township gravel roads. The drainage will generally be the same once residential uses are placed on the properties. The landowner will have to extend any required utilities when the eligibilities are developed.

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

Off-street parking will be met once single family dwellings are constructed.

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 properties will have to comply with the public nuisance ordinance. Single family dwellings are not typical producers of odor, fumes, dust, noise, vibration, and nuisance lighting.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

A transfer of building eligibilities like this is supported by the comprehensive plan as a way to cluster building eligibilities and preserve large tracts of farm land.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #20-42 with the following conditions:

- 1.) A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for all single family dwellings.

Public Testimony

Kevin Hoekman, County planning staff, presented a brief summary of the staff report and recommendation for the conditional use permit request. Commissioner Duffy clarified with staff that the building eligibilities are being transferred from two parcels to two adjacent parcels.

Commissioner Mohrhauser asked if the cluster of houses in the area is due to past building eligibility transfers. Kevin Hoekman of County planning staff noted that that is a likely way the dozen or more houses in the area have been placed so close together.

Michael Thyberg, the petitioner was present for questions. He added that the sending parcels are also less desirable as rural water is not available. Th transfers will also save best farm land and remove building sites out of the floodplain.



Action

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #20-42 with staff recommended conditions. The motion was seconded by Commissioner Randall. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #20-42 – Approved



ITEM 6. CONDITIONAL USE PERMIT #20-38 to allow Rock Extraction on the property legally described as SW1/4 (Except Lots H-1, H-2, & H-3 Contained Therein, and Except Railroad Right of Way Contained Therein), Section 14-T102N-R48W and Part of the NW1/4 NW1/4 Lying North of and Adjacent to Tract 2 of Jones’s Addition Contained Therein and Lying Northwesterly of and Adjacent to Lot 1 of Kuehl’s Addition Contained Therein, Except Lot H-1 Contained Therein, and Except Railroad Right of Way Contained Therein, and Except the Southeasterly 33 Feet Thereof Lying Adjacent to Said Lot 1 Used for Township Road, Section 23-T102N-R48W.

Petitioner: Sweetman Construction Co.

Property Owner: same

Location: Approximately 48248 259th St.

Located Approximately 1.5 miles north of Brandon

Staff Report: David Heinold

General Information:

Legal Description – SW1/4 (Except Lots H-1, H-2, & H-3 Contained Therein, and Except Railroad Right of Way Contained Therein), Section 14-T102N-R48W and Part of the NW1/4 NW1/4 Lying North of and Adjacent to Tract 2 of Jones’s Addition Contained Therein and Lying Northwesterly of and Adjacent to Lot 1 of Kuehl’s Addition Contained Therein, Except Lot H-1 Contained Therein, and Except Railroad Right of Way Contained Therein, and Except the Southeasterly 33 Feet Thereof Lying Adjacent to Said Lot 1 Used for Township Road, Section 23-T102N-R48W.

Present Zoning – A-1 Agricultural District

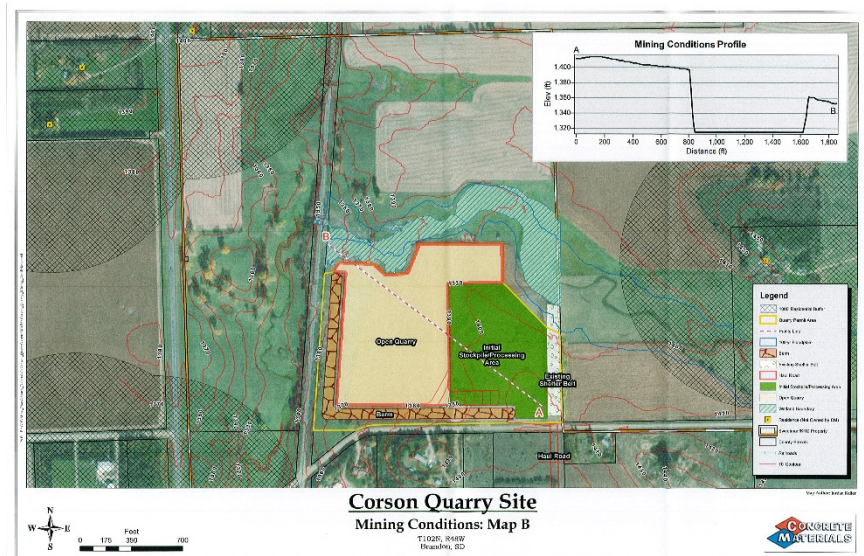
Existing Land Use – Agriculture

Parcel Size – 161.26 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to conduct rock extraction encompassing approximately 32 acres located north of 259th Street and east of the Burlington Northern Santa Fe railroad. The estimated timeline for production at this quarry would be 10 years. The narrative states that soil overlaying the quartzite





rock will be used to create berms on the south and west sides of the proposed extraction area. The existing shelterbelt on the east side will be maintained for screening to the east of the subject property. Excess soil will be stored on adjacent land owned by the applicant. Quartzite rock will be drilled and blasted, then crushed and screened on site utilizing portable equipment.

On September 15, 2020, staff visited the subject property for the proposed rock extraction area and determined that the use is appropriate for the surrounding area. The majority of the land immediately adjacent to the proposed site is used for agricultural purposes. The petitioner owns all of the land located to the immediate south as part of the sand and gravel extraction site.

The conditional use application shall be accompanied by the following:

- (1). Maps showing the area within which the extraction operations will be conducted, including areas to be disturbed, setbacks from property lines, and the location of all structures, equipment and access and haul roads.
The applicant provided maps showing the proposed mining area, extraction sites, location of haul road access, and transportation route.
- (2). A description of the surface land use and vegetation, including all pertinent physical characteristics.
The proposed site is located within the Western Corn Belt Plains ecoregion that has high agricultural productivity due to its fertile soil, temperate climate, and adequate precipitation during the growing season. This ecoregion has a relatively homogenous topography of level to gently rolling glacial till plains with areas of morainal hills and loess deposits.
- (3). A hydrologic study which shall include all available information from the State Geological Survey and other information pertinent to the application. If the applicant believes a study is not warranted, documentation shall accompany the application in support of this position.
The applicant provided a third-party study on the hydrologic impacts to the existing water resources in the surrounding area.
- (4). A reclamation plan which takes into consideration the criteria listed in Subsection G - reclamation.
A reclamation plan details that the proposed rock extraction site will become a water reservoir and the surrounding land returned to agricultural use upon completion of all mining operations.
- (5). The applicant shall meet with the township supervisors of the affected township to discuss repair and maintenance responsibilities on township roads to be used as haul routes. A summary of the meeting(s) shall be presented with the application.
The proposed haul route for the extraction site will travel across the township road into the existing sand and gravel pit for shipping via rail and truck transportation systems.



The zoning ordinance requires that rock, sand, and gravel extraction operations meet the following criteria when evaluating proposed extraction activities:

Buffer Area.

There are a few residences within the minimum 1,000-foot distance for the rock, sand, and gravel operation to an existing residence; however, the petitioner owns all of those residential properties.

Hours of Operation.

The applicant has not provided any details for the proposed hours of operation. The standard hours of operation for rock extraction is Monday thru Friday - 7:00 A.M. to 6:00 P.M., Saturday - 8:00 A.M. to 12:00 noon. Operations should not be conducted on legal holidays. Activities such as office or maintenance operations which produce no noise off-site should not be restricted by the hours of operation.

Visual Considerations.

The petitioner included a plan that shows the location of all berms on the property for the two phases of the extraction operation. The screening plan includes a berm along the portion of the subject property just east of the railroad tracks as well as along the southern edge of the proposed quarry. Future phases of the proposed rock extraction operation shall have berms in place in accordance with the zoning ordinance prior to extraction. Vegetation planted should remain in a live state.

Blasting.

The petitioner plans to follow the guidelines set forth by the United States Department of Interior Office of Surface Mining for blasting at the proposed rock quarry. These requirements include monitoring ground vibration and airblast.

Noise.

- (1). The noise level produced from rock, sand, and gravel operations should not exceed an average of 55 decibels recorded over a 10 minute period measured at the nearest existing residence to the extraction operation. Off- site activities which contribute to background noise levels should be taken into consideration when monitoring an operation. Blasting should not be recorded as part of the noise level.



Air Quality.

- (1). Air quality monitoring should be conducted at the operator's expense when conditions warrant.
Ambient air quality monitoring will occur according to the State regulations at the County's discretion.
- (2). Ambient air quality: total suspended particulate matter - 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once per year, and 60 micrograms per cubic meter of air as an arithmetic mean; PM¹⁰ (10 micrometers or less in size) consistent with the regulations of the State of South Dakota.
Impact on air quality will be minimized by following company procedures for controlling fugitive dust from mining and associated operations.
- (3). Employ techniques that minimize the release of particulate matter created by material stockpiles, vehicular movement and process operations.
- (4). Dust control agents should be applied to township gravel roads designated as haul routes and all driving surfaces within the extraction area.
Dust from traffic within the operational area will be controlled with water or applications of calcium chloride. Dust from the screening and conveying process is controlled by ensuring moisture is present in the material being processed. If visible dust can be observed leaving the crushing/conveying process, water is added to the aggregate material as it is fed into the process.

Hydrology, Dewatering and Drainage.

Dewatering of the extraction site should not result in downstream flooding. Berms should not interrupt the natural drainage of the area, unless such diversion is part of an approved drainage control system.

The applicant provided a Hydrologic Evaluation of the proposed mining area and it appears that Phase I mine development will not impact the adjacent South Tributary if dewater pumping is maintained below 900 gpm so as to maintain 2-year flood discharge below the existing conditions. The proposed mining area in Phase I does not encroach into the floodplain; therefore, there will be no impact on 100-year flood levels. The Hydrologic Study includes an analysis of the dewatering process as the mine develops. Drainage around the proposed quarry area is shown on the existing stream maps.

Haul Roads.

The applicant has identified the proposed haul route across 259th Street into the existing sand and gravel mining area to the south of the subject property. From there, the material will be shipped from the existing Corson site utilizing truck and rail systems.



Operator Surety.

The standard amount of \$5,000.00 surety shall be required to be filed with the County Auditor to protect the County in the event the operator abandons a site without completing the conditions imposed by the conditional use, including fulfillment of the haul road agreement concerning repair of designated haul roads.

Concrete Materials will comply with haul road agreement and surety required by Minnehaha County.

Reclamation.

Reclamation plan was provided with details at the beginning of the staff report. The applicant provided cross sections of the two phases for extraction showing the existing natural topography and anticipated topographic conditions upon completion of reclamation activities. Grading should achieve a contour that is most beneficial to the proposed future land use. All berms should be removed where rock extraction is conducted. In most cases involving quarry operations, the berms should remain in place unless their removal would serve a more useful purpose. Topsoil should remain on site and be used during reclamation. A seeding and revegetation plan should be developed for the affected area in consultation with the County Conservation District.

All required reclamation activities should be completed and a compliance inspection performed by the Planning Director prior to the release of the surety.

The applicant provided a detailed description of the plan for reclaiming the quarry area as a water-filled reservoir and the surrounding land returned to agricultural use.

Additional Considerations.

The maximum height of a bench in a quarry should be 30 feet. The property should be secured during non-working hours by means of gates and fencing. The property should continue to be secured until all required reclamation activities have been completed.

Conditional Use Permit Criteria:

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.

Currently, the petitioner owns all of residential properties within the required 1,000-foot buffer area. Much of the surrounding land in the immediate vicinity to the south of the subject property is in use for sand and gravel extraction. There are a few residential homes within a half mile of the proposed extraction site. Based on analysis of surrounding land uses, the proposed rock extraction operation should not negatively affect the use and enjoyment of existing property or property values in the immediate vicinity.



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

The land used for mining will be reclaimed as a water reservoir and agricultural land. The surrounding area is primarily agricultural land, residential acreages, and commercial businesses. There should be no effect on the normal and orderly development of surrounding vacant property, which is determinant on the availability of building eligibilities and future municipal annexation or development. The land to the south has been used for sand mining for the past twenty years and continues to expand eastward towards the County Highway.

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

The petitioner supplied information from the Hydrology Study that states that natural drainage follows the existing intermittent stream towards Split Rock Creek and on to the Big Sioux River. The proposed rock extraction pit will require dewatering released into the natural drainageways. There are two existing intermittent streams to the north of the mining area, but no impacts are expected if dewater pumping is maintained below 900 gallons per minute so as to maintain 2-year flood discharge below the existing conditions. The section of 259th Street will only be used for emergency access to the proposed mining area. The rock extracted from the pit will only be transported across 259th Street through the existing sand and gravel pit to the south. The material will then be transferred to the existing rail and truck transportation networks.

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

The applicant has not provided any details regarding the parking and loading requirements, but the amount of land area allows for flexible space for meeting the minimum parking spaces for the proposed rock extraction site.

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

The applicant proposed to incorporate buffer zones on the west and south sides of the mining area along with the existing trees on the east side. The buffer zones will have shelterbelts and other features to reduce dust, noise, and visual impacts from surrounding property owners as well as passersby. There will be a small gravel surface area on 259th Street in transporting the rock material south across the road to the existing mining operation. At a minimum, the petitioner should assist with maintenance operations of the township road to ensure safety measures are being met for road users. The use of rail transportation for a majority of the haul route will lessen the impacts on the roads as well as reduce air emissions and related carbon footprint impacts. In addition, there will be material transported on trucks via South Dakota State Highway 11.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The Envision 2035 Comprehensive Plan, Goal 5 states to recognize that rock, sand, and gravel deposits within the County are a nonrenewable natural resource and beneficial to the economy of the County and the welfare of its people. There should be no significant negative harm to the health, safety, general welfare of the public, and the Comprehensive Plan with the proposed rock extraction site.



Recommendation:

Staff finds that the conditional use permit request for a rock extraction site is an appropriate land use for the surrounding area and conforms to the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #20-38 for the rock extraction operation with the following conditions:

- 1.) An annual fee shall be paid to the County in accordance with Section 15.14 of the zoning regulations. (Note: An annual fee of \$10 per acre of unreclaimed land is assessed to the operator.)
- 2.) There shall be no fuel storage allowed in areas designated as a ground water protection area or flood plain.
- 3.) Hours of operation shall be from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays.
- 4.) That the only dewatering shall be for use in dust control, road projects and rock washing. The applicant shall obtain any required permits from the state for use of the water.
- 5.) The ambient air quality standards for total suspended particulate matter shall be 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once a year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
- 6.) The County Planning Department shall direct the operator to install air quality sampling stations if the standards appear to be exceeded. Such monitoring shall be at the operator's expense.
- 7.) The sound level from on-site operations shall not exceed an average of 55 decibels recorded over a 10-minute period measured at the nearest residence.
- 8.) That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
- 9.) The boundaries of the extraction area shall conform to the site plan submitted with the application.
- 10.) Topsoil shall remain on the site and be used in final reclamation.
- 11.) Only clean fill shall be used as backfill.
- 12.) There shall be no storage or accumulation of inoperable or discarded equipment or parts.
- 13.) That earth berms and vegetation shall be constructed in the areas where the mining operation is directly adjacent to a public road or residence as required by the 1990 Revised Zoning Ordinance for Minnehaha County in Section 12.08 (G).
- 14.) That all mining activity is concluded by January 1, 2033 and that reclamation shall be in accordance with the plan filed with the State and outlined in the application and all reclamation of the site shall be completed by December 31, 2034 in accordance to all requirements outlined in Article 12(G) of the Minnehaha County Zoning Ordinance.
- 15.) That if one (1) or more acres of area is disturbed the applicant is required to obtain a General Permit from the Department of Environment and Natural Resources.
- 16.) That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.



- 17.) The applicant shall abide by all regulations outlined in Minnehaha County Floodplain Management Ordinance, MC32-03, when working in the 100-year floodplain and/or floodway.
- 18.) The rock extraction operations shall be secured during non-working hours by means of gates and fencing. The property shall be continuously secured until all required reclamation activities have been completed.
- 19.) All existing shelterbelts around the rock extraction areas shall be maintained.
- 20.) A non-point discharge elimination system (NPDES) permit shall be obtained for all applicable areas of rock extraction.
- 21.) All other required federal and state permits shall be obtained for the facility.
- 22.) The facility shall comply with all plans submitted to the planning staff.

Public Testimony

David Heinold, County Planning Department, presented a brief summary of the staff report and recommendation for the conditional use permit request to allow rock extraction.

Ron Klinker, identified himself as the Environmental Manager for Knife River Corp North Central and asked for questions from the Planning Commission.

Todd Massmann, 48189 259th St., explained that he lives at the property across the state highway from the subject property. Mr. Massmann presented concern regarding impacts to his well.

Beth Warden, 26003 482nd Ave., identified herself as a resident in the Corson unincorporated area and explained the historical significance of the land around the subject property. Ms. Warden mentioned that she appreciated the information meeting open house held last week. She questioned the movements of the twenty company trucks and time period for shipping materials. She also asked how many trains would traverse through the site to pickup quartzite. She stated concerns over impacts to historical significance, wildlife, natural hydrology, property values, and blasting notification for area property owners.

Matt VanDyke, 25935 482nd Ave., presented similar concern as Mr. Massmann about impacts to his well if the aquifer were to be damaged from the proposed rock extraction operations. Mr. VanDyke questioned who would be responsible for delivering rural water to his business.

Marion Timm, 25861 482nd Ave., explained that Meridian Mineral tried to obtain approval to mine the quartzite on the subject property but ultimately was rejected by the EPA. Mrs. Timm stated there were concerns from property owners about damage to their homes from the rock extraction site near Rowena with no reimbursement from the pit operators. She mentioned concerns regarding their well and questioned how the proposed use is now acceptable in surrounding area.

Mr. Klinker explained that the dewatering process requires a permit from Department of Environment and Natural Resources, which would ensure that no impacts to water. He continued to mention that blasting is a science that involves a mathematical equation for how



much explosive can be detonated based on the closest residential property per eight millisecond timeframe.

Mr. Klinker continued to explain the blasting process for the proposed operation.

Doug Hoy, 3604 S. Harmony Dr., identified himself as having worked with Concrete Materials and Knife River over the years on drilling and blasting at other existing quarries around the area. Mr. Hoy explained the testing procedures for drilling and blasting. He continued to mention that it is likely that property owners will feel a tremor or vibration from the drilling and blasting process. Mr. Hoy explained that property owners may call whenever they experience any damage so the company can be responsible for resolving these inquiries. He also added that Concrete Materials and Knife River want to maintain open communication between the company and surrounding property owners.

Commissioner Mohrhauser questioned if a specific timeframe for blasting could be set so that neighbors would be aware of the blasts before they happen at the proposed extraction site.

Mr. Hoy explained that the company would be glad to send notices to interested property owners when blasting would occur at the proposed extraction site.

Andy Haas, Concrete Materials, explained that the amount of truck traffic will vary with demand. Mr. Haas continued to mention that the company will be reducing the number of trucks travelling from Sioux Falls to Corson with the proposed rock extraction site across the street from the Corson Redi-Mix Plant. He explained that the amount of rail traffic wouldn't change from the two trains per day, but could see up to four trains per day at a future date.

Mr. Klinker stated that they can send out notifications of the time periods of blasting that will occur at the proposed extraction site.

Mr. Haas explained that the waterfall area will not be disturbed because it is part of the BNSF main railroad right-of-way into Sioux Falls.

Mr. Klinker explained they had a historical and cultural survey completed that resulted in a finding of no significant historical or cultural areas found on the property. He continued to mention that the survey also found that the waterfall is not on their property. Mr. Klinker explained that they do not foresee any impacts to wildlife in the area. He mentioned that they will make sure they are aware of any eagles that happen to nest in the area, but they have not found anything to date. He explained that this is private property and asked people to stay off the property to ensure their safety and eliminate any liability should something happen there.

Mr. Klinker explained that amount of water discharged during the dewatering process may change over time, but will not impact the wetland. He added that the quarry in the St. Cloud area has been successfully in operation for about 15 years and the company also operate other mining sites in this area. He continued to mention that they have very good relationships with property owners in the surrounding areas and strive to be responsive to complaints as they arise.



Doug Hoy explained that the Hydrology Study does list that there may be occasions when the company will need to conduct site-specific tests to ensure that no impacts to wells occur from the operation of the rock extraction site. He continued to mention that the company will respond appropriately to requests from property owners regarding the conditions of wells should there be any effects from the proposed operation.

Beth Warden questioned the discrepancy in information that was provided last week at the open house meeting about discharge into the wetland from the dewatering process.

Ron Klinker explained that dewatering doesn't happen continuously.

Andy Haas explained that the amount will vary from year to year in the dewatering process to the discharge point. He added that the water discharge will vary based on mother nature.

Commissioner Duffy mentioned that it is important the applicant is having conversations with the neighboring property owners about the proposed rock extraction operation. She explained that the applicant is being vigilant in responding to property owner concerns and maintain good stewardship with the community.

Commissioner Duffy called for public testimony but there was no answer.

Commissioner Duffy closed the floor to public testimony.

Discussion

Commissioner Barth mentioned that he had communication with Beth Warden and Dan Kippley outside of the Planning Commission meeting, but it has not influenced his decision on the conditional use permit request.

Commissioner Mohrhauser concurred that there is a lot of concern regarding the proposed rock extraction site, but the applicant has shown a willingness to work with the neighboring property owners.

Action

A motion was made by Commissioner Mohrhauser to **approve** Conditional Use Permit #20-38 with staff recommended conditions. The motion was seconded by Commissioner VanDerVliet. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #20-38 – Approved



MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES

September 28, 2020

Old Business

None.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Ralston. a roll call vote was taken and the motion was approved unanimously. The meeting was **adjourned** at 8:47 p.m.