



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
May 20, 2019**

A meeting of the Planning Commission was held on May 20, 2019 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Adam Mohrhauser, Mike Ralston, Ryan VanDerVliet, Doug Ode, and Jeff Barth.

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning
Drew Degroot – States Attorney

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:06 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

Consent Agenda

Commissioner Duffy read each item of the consent agenda.

Items 3 and 4 were requested to be moved to the regular agenda. Items 3 and 4 were moved to the regular agenda for discussion and action.

A motion was made to **approve** the consent agenda consisting of Items 1 and 2 by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously.

ITEM 1. Approval of Minutes – April 22, 2019

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Randall to approve the meeting minutes from April 22, 2019. The motion passed unanimously.



Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #19-17 to transfer one (1) building eligibility on the W1/2 SW1/4 (Ex. Ry & Ex. Tr. 1, Kjergaard's Addn.) & E1/2 SW1/4, N of Ry & Tract 1, Jacobson's Second Addn., From the NW1/4 SW1/4 to the SW1/4 SW1/4; all in Section 34-T101N-R47W.

Petitioner: Earl Grimmus

Property Owner: same

Location: Located approximately 7 miles east of Sioux Falls

Staff Report: Scott Anderson

General Information:

Legal Description – SW1/4 SW1/4; all in Section 34-T101N-R47W

Present Zoning – A1- Agriculture

Existing Land Use – vacant/cropland

Parcel Size – 40 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is requesting conditional use permit approval to transfer one building eligibility from the SW 1/4 of Section 34, Valley Spring Township to the SW 1/4 of the SW 1/4 of Section 20 of Valley Spring Township. The proposed location for the building eligibility transfer will be from cropland to cropland.

On April 4, 2019, staff visited the property and determined that the proposed location is appropriate for a single family dwelling. The attached questionnaire indicates that the building eligibility is being moved between crop producing parcels. There are no concentrated animal feeding operations within the immediate vicinity.

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.

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area. The addition of residential land use should not negatively affect the nearby residences and farmland.

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

The approval of the building eligibility for a single family dwelling will not increase the number of dwelling units allowed in this section. The surrounding area is primarily agriculture with several acreages in the area.



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

The placement of the building eligibility will result in the construction of a single family dwelling with a separate driveway.

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

Off-street parking requirements will be provided for once a single-family residence is constructed on the subject 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.

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations, or lighting in any amounts that would otherwise constitute a nuisance.

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

The health, safety, general welfare of the public should not be significantly impacted by the placement of one single family dwelling with a building eligibility. The intent of the Envision 2035 Comprehensive Plan will be met under the requirements of density zoning.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #19-17 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.

Action

As part of the consent agenda, a motion was made by Commissioner Barth to **approve** Conditional Use Permit #19-17 and seconded by Commissioner Randall. The motion passed unanimously.

Conditional Use Permit #19-17 – Approved



Regular Agenda

ITEM 3. CONDITIONAL USE PERMIT #19-21 to transfer two (2) building eligibilities on the S1/2 NE1/4 (Ex. H-1) & SE1/4 (Ex. Tract 1 Welbig's Addn. & Ex. H-1) from the SE1/4 SW1/4 & SW1/4 NE1/4 to the SE1/4 SE1/4; all in Section 15-T104N-R48W.

Petitioner: Kevin R. Crisp

Property Owner: same

Location: Located approximately 6 miles east of Dell Rapids

Staff Report: David Heinold

General Information:

Legal Description – S1/2 NE1/4 (Ex. H-1) & SE1/4 (Ex. Tract 1 Welbig's Addn. & Ex. H-1) from the SE1/4 SW1/4 & SW1/4 NE1/4 to the SE1/4 SE1/4; all in Section 15-T104N-R48W.

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 235.26 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to transfer two building eligibilities from the SE1/4 SW1/4 & SW1/4 NE1/4 to the SE1/4 SE1/4, all within Section 15 of Logan Township. There appears to be a couple major concentrated animal feeding operations just over approximately one mile to the northwest of the proposed transfer location, which is moving further away from both operations. There are no other concentrated animal feeding operations in the immediate area.

On May 6, 2019, staff visited the proposed building eligibility transfer location and determined that the use as two single family dwellings are an appropriate use for the surrounding area. The nearest concentrated animal feeding operation (CAFO) is more than one half mile away.

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.

A right-to-farm notice covenant is required to notify potential buyers to the realities of locating in an agricultural area. The addition of residential land uses should not negatively affect the nearby residences and farmland. The proposed building sites will be located on an existing farm area.

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

The approval of the building eligibilities for two single family dwellings will not increase the number of dwelling units allowed in this section. The surrounding area is primarily agriculture with a few existing single family dwellings north and west of the proposed location for the



dwelling. The current locations of the building eligibilities are completely within the 100-year floodplain of West Pipestone Creek. The proposed transfers will move the building eligibilities to an area more suitable for single family dwellings.

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

The placement of the building eligibility will result in the construction of two single family dwellings with a driveway approach proposed to be installed with access to 247th St. The applicant will need to obtain approval from Logan Township for the two driveways.

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

Off-street parking requirements will be provided for once the houses 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 proposed conditional use will not cause odor, fumes, dust, noise, vibrations, or lighting in any amounts that would otherwise constitute a nuisance.

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

The health, safety, general welfare of the public should not be significantly impacted by the transfer of one building eligibility. The intent of the Envision 2035 Comprehensive Plan will be met under the requirements of density zoning.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #19-21 with the following conditions:

- 1.) A right-to-farm notice covenant shall be placed on each deed prior to the issuance of building permits for the single family dwellings.
- 2.) That a driveway or culvert permit be obtained from Logan Township prior to the issuance of building permits for each single family dwelling.

Public Testimony

David Heinold, County Planning Department, presented a brief summary of the staff report and recommendations for conditional use permit #19-21.

Kevin Crisp, 24685 482nd Ave., stated that he agrees with the staff recommendation and understands the right to farm notice covenant requirement for the two houses.

Bruce Burkhart, 24607 481st Ave., mentioned that he has a CAFO and wants to be aware of what is being proposed for the building eligibility transfers in the surrounding intensive agricultural area. Mr. Burkhart explained that the proposed building eligibility transfers could possibly create conflict among competing land uses.

Commissioner Randall explained that she had a phone call and wanted to ensure that the planning commission is aware that moving building eligibilities can increase potential conflict



with agriculture. She continued to mention that it is good to have building eligibilities in a cluster near a paved highway.

Commissioner Barth mentioned that with the County being a high revenue agricultural area in the state, there can be conflict between agriculture and residential uses. He also added that at the same time the County will continue to grow throughout the future.

Action

As part of the consent agenda, a motion was made by Commissioner Barth to **approve** Conditional Use Permit #19-21 and seconded by Commissioner Ralston. The motion passed unanimously.

Conditional Use Permit #19-21 – Approved



ITEM 4. CONDITIONAL USE PERMIT #19-22 to allow Gravel Extraction on the property legally described as SW1/4, Section 25-T102N-R51W.

Petitioner: Jim Soukup

Property Owner: David Tyler

Location: 26092 465th Ave.

Located approximately 2 miles east of Hartford

Staff Report: David Heinold

General Information:

Legal Description – SW1/4 (Ex. Tract 1 Tyler’s Addn. & H-1),
Section 25-T102N-R51W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 144.97 Acres

Staff Report: David Heinold

Staff Analysis:

The applicant is requesting conditional use permit approval to allow gravel extraction on approximately 55 acres located in the SW1/4 of Section 25, Hartford Township. County Planning staff contacted the City of Hartford for their review and comments on the proposed use. The Hartford Planning and Zoning Board agrees with county staff recommendations except they would like the county to consider that “all” trucks be covered/tarped when loaded and leaving the pit area.

The following list is the Developmental and Operational Criteria for Rock, Sand, and Gravel Extraction in the 1990 Revised Zoning Ordinance for Minnehaha County:

(G). Developmental and Operational Criteria.

The following criteria shall be considered in developing conditions for applications involving rock, sand and gravel extractions. More stringent requirements may be imposed by the County or the applicant may present arguments to relax the requirements based on specific characteristics of the site.

Buffer Area.

There is one residence within the 1,000 foot setback area from the proposed mining operation. The applicant has provided the required waiver for the nearest home that is located within the 1,000 foot setback area from the proposed mining operation.



Hours of Operation.

The application narrative states that the proposed hours of operation will be Monday through Friday, 7:00 a.m. – 6:00 p.m. and Saturday, 8:00 a.m. – 12:00 p.m. (Noon).

Visual Considerations.

The applicant plans to construct a minimum six-foot tall berm parallel to Interstate 90 to help obstruct the view by passing motorists as well as a berm on the west side of the proposed mining area from the one residence that is within the 1,000 foot setback for mining operations as required by the zoning ordinance. The south and east sides are both surrounding farmland and owned by the same property owner that do not cause any visibility issues.

Blasting.

No blasting will be done on this property for mining purposes.

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.
- (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.
- (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.
The applicant understands the need to control dust and help maintain the



road to an acceptable standard. The length of the haul road is one mile.

Hydrology, Dewatering and Drainage.

The petitioner has completed test borings on the property to show that water is not present within the gravel vein. The depth of the aggregate on the property ranges between 10 feet and 15 feet in depth.

Haul Roads.

The applicant is working with Hartford Township on identifying the appropriate haul routes for the proposed gravel extraction facility. The haul route identified in the submitted plan includes about a half mile of gravel township road before reaching a paved road, then South Dakota State Highway 38.

Operator Surety.

- (1). A surety bond should 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 agreement with the township concerning repair of designated haul roads. In lieu of the required surety, the operator may deposit cash with the County in the amount equal to the required surety.

Reclamation.

Once mining operations on the property are finished, the property will be returned for use as agriculture with the topsoil replaced to use the property as used in the past. The excavation will slope away from the property line no steeper than a 5:1 in order to farm the property once finished with mining activity.

Additional Considerations.

- (1). The maximum height of a bench in a quarry should be 30 feet.
- (2). 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.

On May 6, 2019, staff visited the proposed gravel extraction site and determined that the use is compatible with the surrounding area. The applicant should continue to work with the Hartford



Township supervisors to maintain the haul roads that will be used in conjunction with the gravel extraction business. There has continued to be consistent commercial development near the road intersection of South Dakota State Highway 38 and 466th 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.

Given the relatively sparse population of the area, it is likely that there is a neutral impact upon the use and enjoyment of surrounding properties. The majority of uses in the general vicinity revolve around agricultural production. The proposed use should not impact the property values of the agricultural land in the general vicinity. With proper planning and execution of the plan, the proposed gravel extraction should not affect the enjoyment of other properties 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.

There has been limited development of the surrounding vacant properties. A cement manufacturing facility and a few other warehouses have been constructed within the last five years to the east of the subject property. In addition, the City of Hartford continues to grow along the north side of Interstate 90 with the completion of a Mickelson Road realignment project a little over a half mile to the northwest of the proposed mining area. There is also a gravel pit already in operation to the east located just west of Skunk Creek. The proposed use should not affect the normal and orderly growth of surrounding vacant land, which is primarily used for agriculture. Once mining operations are complete, the applicant plans to return the site back to agricultural production.

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

The applicant has indicated that the haul roads to be used are 465th Avenue to 261st Street east one mile to 466th Avenue, then South Dakota State Highway 38. All other utilities needed for the operation have been provided.

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

The applicant meets all off-street parking and loading requirements.

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.

At a minimum, there should be a condition requiring application of dust control along the gravel portions of the haul route. Any increase in the amount and frequency of vehicular traffic will produce dust from travel on gravel surfaces. The application narrative explains the visual and other operational criteria that will be followed in conjunction with the proposed mining use. The combination of natural screening elements such as a berm and shelterbelt will aid in obstructing the view of the mining operation from surrounding properties. The applicant should take the



necessary precautions to prevent any sound disturbances or air quality issues during operation of the gravel pit to adjacent property owners as required by the zoning ordinance.

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

Goal 5 of the Environmental Stewardship chapter of the Envision 2035 Comprehensive Plan states, “*Recognize that sand and gravel deposits within the County are an un-renewable natural resource and beneficial to the economy of the County and welfare of its people.*” The Envision 2035 Comprehensive then has an action statement that suggests that conflicts with existing neighborhoods should be minimized.

Recommendation:

Staff finds that the proposed use for gravel extraction is compatible with surrounding land uses as well as the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #19-22 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 on the site.
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. That all of the requirements in the Haul Road Agreement between Hartford Township be followed continually. Dust control shall be applied twice yearly on 261st St. for one mile.
6. 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 PM¹⁰ (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
7. 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.
8. 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.



9. That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
10. The boundaries of the extraction area shall conform to the site plan submitted with the application.
11. Topsoil shall remain on the site and be used in final reclamation.
12. Only clean fill shall be used as backfill.
13. There shall be no storage or accumulation of inoperable or discarded equipment or parts.
14. A gate shall be required at the haul road entrance to the property. The entire haul road shall have a dust control agent applied at least twice per year.
15. That all mining activity is concluded by January 1, 2030 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, 2029.
16. 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.
17. That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
18. The applicant shall abide by all regulations outlined in Minnehaha County Flood Management Ordinance, MC32-03, when working in the 100 year floodplain and/or floodway.
19. That all trucks be covered/tarped when loaded and leaving the pit area.
20. The applicant shall install signs at the end of the haul road directing truck traffic leaving the pit to turn north and exit onto S.D. Highway 38.
21. The applicant shall arrange a site review with the Planning Director in July of 2025 to discuss the progress of the mining and reclamation operations, determine that all of the conditions of approval are being met and discuss any additional issues that may arise.
22. That the Planning & Zoning Department reserves the right to enter and inspect the gravel extraction operation at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony

David Heinold, County Planning Department, presented a brief summary of the staff report and recommendations for conditional use permit #19-22.



Jim Soukup, P.O. Box 89106, Sioux Falls, stated that he has an issue with the requirement of tarps on all trucks entering and exiting the gravel pit. Mr. Soukup added that he sent the letter to the township on May 9th, but they already had a meeting. He continued to mention that he spoke with Terry Kroeger over the phone about the dust control issue and will apply the appropriate amount of dust suppression for the one mile section of gravel.

Commissioner Ode asked the petitioner if the material in the trucks can be moistened to prevent dust from flying out on the roads.

Mr. Soukup explained that the trucks don't have dust coming out of the trucks. He continued to mention that the purpose of the tarps are to keep rocks from flying out of the trucks.

Commissioner Barth mentioned that it seems impossible for the trucks to go west with the current road conditions.

Mr. Soukup explained that he has no plans for trucks to go west on 261st St. He continued to mention that the trucks will go straight to Sioux Falls and surrounding communities via SD Hwy. 38. He added that if the trucks do need to get to Hartford they will take SD Hwy 38.

Nichole Anderson, 46346 261st St., mentioned that the road to the west of the proposed gravel pit is in rough shape due to culvert and drainage issues. Mrs. Anderson questioned how long the proposed gravel pit would be in operation. She also mentioned concerns about the condition of the road and asked who will pay for the road to be rebuilt should it be damaged.

Greg Boggs, 46375 257th St., identified himself as one of the Hartford Township supervisors and mentioned disappointment that the letter didn't come before the township meeting. Mr. Boggs stated that he would like a written statement from Mr. Soukup for maintaining the section of gravel road that is proposed to be part of the haul route. He also questioned why the petitioner is not being required to hard surface the road for a commercial business.

Commissioner Barth asked Mr. Boggs if paving the road would alleviate his concerns. Mr. Boggs mentioned that it would solve the concerns, but needs it in writing from Mr. Soukup.

Mike Schuldt, 46470 261st St., stated that he grew up with this all his life and mentioned the example of Sands St. that has dust flying everywhere constantly. Mr. Schuldt added concerns about the increase in traffic on 261st St. and enforcement of the zoning criteria.

Nathan Goehring, 46466 261st St., stated concerns regarding his children's safety while driving to and from home. Mr. Goehring doesn't believe that there won't be trucks going west from the proposed gravel pit entrance. He continued to mention that the sound will be too loud for them.

Penny Wagner, 46462 261st St., stated concerns over the weight of the trucks, weight limit on the roads, and the length of the proposed operation.



Commissioner Barth explained that 2030 is the recommended expiration date.

Mr. Soukup explained that the condition of 261st St. from 465th Ave. to the east is far better than to the west. He added that the township is aware that they plan to keep the road maintained to an acceptable standard. Mr. Soukup continued to mention that there is not enough aggregate in the pit to pave an asphalt stretch of road.

Commissioner Randall asked the petitioner about condition #19 and Mr. Soukup explained that the City of Hartford doesn't know why there was a concern about requiring tarps on all trucks.

Commissioner Ode questioned the concerns about a speed limit and Scott Anderson explained that the Township is responsible for setting speed limits.

Commissioner Duffy asked the petitioner what the timeframe for the proposed operation will be and Mr. Soukup added that it may be 5 or 10 years depending on the economy. Mr. Soukup continued to mention that it would go until 2030.

Nichole Anderson questioned if there was a requirement in place for maintenance of the haul road.

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

Commissioner Duffy closed the floor to public testimony.

Discussion

Commissioner Mohrhauser explained that the applicant is required by the conditions of approval to obtain a Haul Road Agreement with the Township for maintenance of the haul roads.

Commissioner Barth stated that he is not opposed, but not ready to approve the proposed operation. Commissioner Barth would like to check with the Highway Department before deciding on the conditional use permit.

Commissioner Barth explained that he is not worried about tarping the trucks.

Commissioner Mohrhauser would like to review a copy of the Haul Road Agreement.

Commissioner Ralston explained that the applicant is required to have the Haul Road Agreement in place prior to operation of the proposed gravel pit. Commissioner Ralston mentioned that the planning commission has approved gravel pits near Ellis on gravel roads like this request.

Commissioner Duffy added that conditions are in place for reason to mitigate concerns that may arise from the proposed operation.



Commissioner Ralston stated that he would like to make a motion to approve the conditional use permit request to add condition #23, No trucks are allowed west of the designated entrance and exit for the gravel extraction site on 261st St.

Commissioner Ralston indicated that he concurs with the Hartford Planning Commission.

Action

A motion was made by Commissioner Ralston to **approve** Conditional Use Permit #19-22 with an addition of condition #23, “No trucks are allowed west of the designated entrance and exit for the gravel extraction site on 261st St.” and seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #19-22 – Approved

Recess the County Planning Commission meeting

A motion was made by Commissioner Barth to **recess** the County Planning Commission meeting at 8:11 p.m. to reconvene as the Joint Minnehaha County and City of Sioux Falls Planning Commission and seconded by Commissioner Ralston. The motion passed unanimously.



Reconvene as County Planning Commission

A motion was made by Commissioner Randall to **reconvene** as the County Planning Commission at 8:15 p.m. and seconded by Commissioner Mohrhauser. The motion passed unanimously.

ITEM 5. REZONING #19-05 to rezone from the A-1 Agricultural District to the Almond Branch Planned Development District on the property legally described as Tract 1, Hanson Addition, E1/2 SE1/4, Section 14-T103N-R50W

Petitioner: Parth Patel & Nimita Patel

Property Owner: same

Location: Located approximately 4 miles southwest of Baltic

Staff Report: Scott Anderson

General Information:

Legal Description – Tract 1, Hanson Addition, E1/2 SE1/4, Section 14-T103N-R50W

Present Zoning – A-1 - Agriculture

Existing Land Use – vacant

Parcel Size – 5 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is proposing to rezone a 5 acre parcel from A-1 Agricultural to a Planned Development District to be called the Almond Branch Planned Development. The petitioner expressed plans to construct a reception hall to be used for renting for private gatherings such as corporate meetings and weddings, and one private single family residence. The applicant has submitted a general rendering of the type of wedding barn/events facility and a general narrative. This information is included for your review. The 5 acres parcel was created in April of 2019 and there is one (1) building eligibility included with the parcel.

There are approximately 5 active agricultural sites located within a ½ mile proximity of the proposed site. The area is located in an agricultural area. The property directly to the north has been approved for a 1,500 unit CAFO. It also appeared that animals were being kept on a farmstead about 1 mile to the south.

Staff conducted a site visit on May 6, 2019. The route used to access the site was traveling north from County Highway 122 on 471st Avenue. This is the shortest route to site from Sioux Falls. The public would be required to drive 1 ½ miles of gravel township road from County Highway 122 to the site. The entire route along 471st Avenue was in extremely poor condition. Pictures of the condition of the road will be presented at the Commission meeting. Ruts in excess of 10” deep were noted with water standing in the ruts. It is staff’s opinion that the road infrastructure to access the site is not suitable for the amount of anticipated traffic generated by the proposed use. There will be excessive dust and sustained traffic that will continue to degrade 471st Avenue.

In observing the existing land uses in the area, it is staff’s opinion that the existing CAFO directly to the north will be impacted by the proposed planned development. The events facility located next to an existing CAFO is a conflicting land use. The intent of the A-1 Agricultural



District is to promote agricultural uses. Locating an events facility in this location may impact any future expansion of the existing CAFO and will likely generate activities that would detract from the usability of the events venue.

Based on the poor road infrastructure leading to the proposed planned development and potential land use conflicts, staff does not support this rezoning request. The added new use to the area will not contribute to sustaining the agricultural uses and activities in the general vicinity. The proposed new use will tax the existing road infrastructure and lead to deteriorated road conditions for the township to maintain. The visitor traffic to the proposed planned development will produce dust, which will impact all of the existing residents along 471st Avenue. The denial of this rezoning request, still leaves the building eligibility available to be used on Tract 1, Hanson Addition, but would not allow the use of the wedding barn/events facility.

Recommendation: Staff recommends denial of Rezoning #19-05.

Public Testimony

Scott Anderson, County Planning Director, presented a brief summary of the staff report and recommendation for Rezoning #19-05.

Commissioner Duffy questioned who maintains the road lying adjacent to the subject property.

Commissioner Mohrhauser indicated that the road is the responsible of Lyons Township and is in bad conditions at this time.

Parth Patel, 1518 W. Havens Ave., Mitchell, SD, identified himself as the petitioner and asked for questions from the planning commission.

Commissioner Barth asked the petitioner his thoughts on the condition of the road.

Mr. Patel mentioned that the County highway is one mile west of the subject property.

Commissioner Mohrhauser questioned how much room there will be for parking if a house and building are built on the property.

Mr. Patel explained that he doesn't plan to build a house, but would like to build a house in the future. He continued to mention that there will be a gravel surface parking area next to building.

Commissioner Mohrhauser asked if the petitioner knew there was potentially a 1,500 head concentrated animal feeding operation (CAFO) located to the north of the shelterbelt.

Mr. Patel explained that it adds to the nostalgia of guests experiencing the country.

Jared Questad, 25176 471st Ave., identified himself as the operator of the CAFO to the north of the subject property and added that the facility would be within the setback for his operation. Mr. Questad stated concerns regarding the safety of both neighbors and Mr. Patel's guests. He continued to mention that this site is not the best place for the proposed use.



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

Commissioner Duffy closed the floor to public testimony.

Discussion

Commissioner Barth asked about the right to farm covenant. Mr. Anderson explained that the applicant would only be required to sign a right to farm notice covenant for a house.

Mr. Patel explained that they will not be selling any alcohol on the property, but guests can bring their own beverages.

Commissioner Barth questioned if the petitioner would be an obstacle to the neighbor's expansion plans for a concentrated animal feeding operation. Mr. Patel stated that he has told Mr. Questad that he would sign a waiver for any conditional use permit amendments.

Commissioner Barth asked the petitioner if he plans to pave the parking lot. Mr. Patel added that there will be a gravel parking area for 50 cars with a maximum of 250 guests at the facility.

Commissioner Mohrhauser stated that he understands the concern about the road and the proposed use brings a lot of extra traffic to already unsuitable road conditions.

Commissioner VanDerVliet added that this is not the right place for this type of use.

Commissioner Ode concurs with Commission Mohrhauser that safety is a big concern.

Action

A motion was made by Commissioner VanDerVliet to **recommend denial** of Rezoning #19-05 and seconded by Commissioner Mohrhauser. The motion passed 6-1, Commissioner Barth voted nay.

Rezoning #19-05 – Denial Recommended (6-1, Commissioner Barth voted nay)



ITEM 6. ZONING TEXT AMENDMENT #19-01 to amend regulations pertaining to signs in the 1990 Revised Zoning Ordinance for Minnehaha County.

Petitioner: County Planning Staff & Planning Commission

Staff Report: Kevin Hoekman

Staff Analysis:

The 1990 Revised Zoning Ordinance for Minnehaha County includes regulations for when and where signs can be located within the County. Two full articles of the Zoning Ordinance are dedicated to on-premise signs and off-premise signs. In addition the Additional Use article has some specific situations where signs are regulated, and the Red Rock Corridor Overlay District article regulates signs for the area along SD Highway 42 from Sioux Falls to the Iowa Boarder. Finally, the Definitions article contains many sign related definitions which assist in providing a base of the terms used in the rest of the ordinance. Collectively, these Zoning Ordinance articles and sections will be referred to as the Sign Ordinance.

County planning staff has been reviewing the sign ordinance and researching potential alternatives. The Planning Commission was first introduced to the some ideas and direction for the sign ordinance in February 2019. Staff determined to largely keep the format and requirements of the existing ordinance, and make changes to address content based language and other proposed changes. At the April 22nd meeting, the on-premise sign ordinance was presented to the Planning Commission, and the Planning Commission directed staff to bring a final draft for a public hearing to the May 22, 2019 meeting. The State Attorney's Office has been reviewing the sign ordinance throughout this process.

Sign Changes Overview

Attached with this staff report are two copies of the proposed sign ordinance. One copy has changes highlighted for additional text, struck through for text to be removed, and in italics for comments regarding changes. Below is an overview of changes. More detail can be found within the comments on the attached draft sign ordinance.

The Red Rock Corridor Overlay District has special development standards which pertain to signs. The limitations on off-premise signs (currently not allowed) within the Corridor have been adjusted to match what is planned for off-premise signs within the A1-Agricultural zoning district elsewhere. Sign spacing and permitting requirements remain the same.

Within the Additional Use Regulations article the allowable sign area of home occupations were increases to reflect that many homes within the county are located far off fast paced roads, and the current 2 square feet area max for a minor home occupation and a 4 square feet area max for a major home occupation are too small to be effective in locating a business. In addition, the language for Agricultural Tourism signs is amended to make clear where and when signs can be placed on the property.

The on-premise sign article is proposed to have several changes. A couple significant changes



are made regarding what is allowed within the agricultural and residential zoning districts. These changes were made to remove content based regulation and to better reflect what is found existing in the county. A section is added to regulate electronic message signs. And changes are proposed for special situations and exemptions to remove content based regulations within the currently adopted sign ordinance. Finally, a new section is proposed to clarify when a building permit is required for a sign and when one is not requires.

The off-premise sign article is proposed to have changes to off premise signs which are allowed within the A1 Agricultural and RC Recreational/Conservation districts. Other minor changes in the off-premise sign article are also proposed.

The definitions article includes changes and additions of terms based on changes proposed to the ordinance. In addition many, terms pertaining to signs are proposed to be consolidated into one area of the definitions article around the definition of 'sign.'

Attached Materials:

Attached with this staff report is two copies of the proposed ordinance. One copy has proposed additions to the ordinance highlighted and proposed deletions to the ordinance marked with a strikethrough and highlighted. Comments are added throughout this copy and are visible with italics. The second copy has no marks on it, and includes all the new items as they are proposed to be written in the ordinance.

Recommendation:

Staff recommends **approval** of Zoning Text Amendment #19-01.

Public Testimony

Kevin Hoekman, County Planning Department, presented a brief summary and recommendation for zoning text amendment #19-01.

Commissioner Barth asked Kevin if the States' Attorney has reviewed the text amendment.

Mr. Hoekman mentioned that the States' Attorney has reviewed of the proposed sign ordinance revisions.

Commissioner Barth asked if Planning Staff sees any issues with how the text amendment is written.

Mr. Hoekman explained that the ordinance review has been ongoing through the staff for the past few years, and the Planning Commission discussion over the last few months were part of the review. He stated that he is not aware of any problems with the proposed ordinance after the long review.

The Planning Commission was generally in agreement with the staff recommendation.



As this is a public hearing, Commissioner Duffy called for public testimony.

Kevin Crisp asked Mr. Hoekman of one big change in the sign ordinance revision.

Mr. Hoekman shared that the requirements around special situation signs have been more standardized around a typical 32 square foot size. And there have been revisions to remove content based requirements out of the ordinance.

There was no other public testimony. Commissioner Duffy closed the floor to public testimony.

Discussion

Commissioner Barth mentioned that there are plenty of signs around the rural area that is an issue that the County needs to stay ahead of with the future growth.

Action

A motion was made by Commissioner Barth to **recommend approval** of Zoning Text Amendment #19-01 and seconded by Commissioner Ode. The motion passed unanimously.

Zoning Text Amendment #19-01 – Approval Recommended

ORDINANCE MCXX-XXX-XX

AN ORDINANCE AMENDING THE 1990 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY BY AMENDING ARTICLES 11.10 RRCO RED ROCK CORRIDOR OVERLAY DISTRICT, 12.00 ADDITIONAL USE REGULATIONS, 16.00 ON-PREMISE SIGNS, 17.00 OFF-PREMISE SIGNS, & 26.00 DEFINITIONS.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

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

Section 1: That the following sections within Article 11.10 RRCO Red Rock Corridor Overlay District are amended to read:

11.10.03 DEVELOPMENT STANDARDS. The requirements set forth in this section shall apply to any development or redevelopment of property located within the Red Rock Corridor:

(C). Signs

- (1). On-premise signage within the Red Rock Corridor shall be regulated in conformance with the provisions of Article 16.00, except for all signs shall have a maximum height of 10 feet or as regulated, whichever is less.



(2). Off-premise signage within the A1 Agricultural, RC Recreational, C Commercial, and Industrial zoning districts within the Red Rock Corridor shall be regulated in conformance with the following:

- (a). A maximum sign area of 32 square feet on County and State Highways, and 16 square feet on all other roads.
- (b). There shall be no more than one sign face per direction of facing.
- (c). Spacing requirements.
 - (i). A sign shall not be within a 500 foot radius of any other off-premise sign intended to be read from the same right-of-way.
 - (ii). The sign shall not be within a 300 foot radius of any other off-premise sign intended to be read from a different right-of-way.
 - (iii). No off-premise sign shall be located within 500 feet of a residential dwelling located on a different parcel.
 - (iv). All spacing measurements in this subsection shall refer to a measurement made along the edge of the right- of-way and shall apply only to structures located on the same side of the highway.
 - (v). These spacing provisions do not apply to signs separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the road right-of- way at any one time.
- (d). A maximum height of 10 feet.
- (e). A sign shall not be illuminated nor shall blinking or flashing lights be used.
- (f). Signs shall not have moving parts or have the illusion of motion as part of the sign.

(3). Maintenance and Removal. Every sign shall be maintained in good structural and aesthetic condition at all times. Any abandoned, unsafe or unsightly sign shall be removed or renovated within 60 days upon written notice. If the owner fails to remove or renovate the sign within the required time period the County may remove such sign at the owner's expense.

(4). Permit Fees. Every applicant, before being granted a permit, shall pay a fee. For any sign erected or placed without a permit, the fee shall be double the established fee.

Section 2: That the following sections within Article 12.00 Additional Use Regulations is amended to read:

12.0301 Minor Home Occupation. In all zoning districts permitting residential dwellings, minor home occupations in compliance with each of the following standards are permitted as accessory uses. Due to their incidental and residential nature, minor home occupations are relatively common accessory uses which are not easily detectable and are not reasonable or desirable to regulate through a conditional use permit.



- 1) The occupation shall be conducted entirely within a dwelling and clearly incidental to the use of the structure for residential purposes.
- 2) There shall be no change in the outside appearance of the dwelling or any visible evidence of the conduct of the occupation.
- 3) Only residents of the dwelling shall be employed by or participate in the occupation.
- 4) The storage of equipment, vehicles, or supplies associated with the occupation shall not occur outside the dwelling. Accessory buildings or structures shall not be used for storage.
- 5) There shall be no display of products visible in any manner when viewed from outside the dwelling.
- 6) No more than one freestanding and one wall sign is allowed per minor home occupation. The total sign area of all signs on the property is limited to 16 square feet.
- 7) The occupation shall not require internal alterations or involve construction features not customary in a dwelling. External alterations intended to create a separate entrance or other feature exclusively for the occupation is prohibited.
- 8) There shall be only limited and incidental sale of products conducted on the premise.
- 9) The occupation shall not generate more than four (4) visits per day from clients or customers averaged over a period of seven (7) consecutive days.
- 10) The occupation shall not result in additional off-street parking spaces for clients or customers.
- 11) Toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials are prohibited.
- 12) No equipment or process shall be used in the occupation which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the property.
- 13) No equipment or process shall be used in the occupation which creates visual or audible electrical interference in any radio or television receiver or causes fluctuations in line voltage off the property.
- 14) The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.
- 15) The structure shall meet the standards of the adopted building code. (*amended MC16-126-13 2/19/13*)

12.0302 Major Home Occupation. It is recognized that home occupations which exceed the requirements of Section 12.0301 may be appropriate in a low density residential setting or if associated with an agricultural use. For the purpose of this ordinance, such uses are classified as either a Class 1 or Class 2 major home occupation, and shall be evaluated giving consideration to the following criteria:

(A) Class 1:

- (1) The occupation shall be conducted entirely within a dwelling or accessory building and clearly incidental to the use of the structure for residential purposes.
- (2) The occupation shall be operated by a member of the family residing in the dwelling.



- (3) Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
- (4) Accessory Building Square Footage
 - i. For land located in a residential zoning district; or a parcel of 5 acres or less; up to 1,200 square feet of accessory building area may be used for the home occupation.
 - ii. For a parcel of 5.01 acres -10.00 acres size up to 1,800 square feet of accessory building area may be used for the home occupation.
 - iii. For a parcel of 10.01 acres or larger in size up to 2,400 square feet of accessory building area may be used for the home occupation.. (*amended MC16-126-13 2/19/13*)
- (5) The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
- (6) The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
- (7) No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
- (8) Signs shall be placed according to article 16.05 SPECIAL SITUATIONS. (I). SPECIAL USE SIGNS.
- (9) The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
- (10) There shall be only limited and incidental sale of products conducted on the premise.
- (11) The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.
- (12) The structure shall meet the standards of the adopted building code. (*amended MC16-126-13 2/19/13*)

(B) Class 2:

- (1) The occupation shall be conducted in a dwelling or agricultural building accessory to the dwelling which comprise the headquarters for the agricultural use, and such agricultural use is conducted on one or more parcels of land with a total area of at least one-half of a quarter section or equivalent area which must be contiguous to or in close proximity to the headquarters.
- (2) The occupation shall be clearly secondary to the principal use of the land for agricultural purposes.
- (3) The owner or occupant of the dwelling shall be engaged in the occupation.
- (4) The occupation shall have no more than five (5) employees, including residents of the property.



- (5) The occupation shall be conducted within a completely enclosed building typical of farm buildings. Such building shall be located behind the dwelling, or shall be located at least 200 feet from the nearest road right-of-way.
- (6) All materials, supplies and products associated with the occupation shall be stored within a building or if open storage of materials or equipment is required it shall be concealed with appropriate screening or landscaping.
- (7) Signs shall be placed according to article 16.05 SPECIAL SITUATIONS. (I). SPECIAL USE SIGNS.
- (8) The use shall cease operating when the property is no longer in conformance with Section 12.03.02 (B) (1).
- (9) The structure shall meet the standards of the adopted building code. (*amended MC16-126-13 2/19/13*)

12.13 AGRICULTURAL TOURISM. (*amended by MC16-105-09 6/16/09*)

(E) Agricultural Tourism Sign- Temporary

One temporary sign may be placed on a property with an active agricultural tourism permit at any time.

- 1) Sign shall not exceed 32 square feet in area.
- 2) Sign must be maintained in good structural and aesthetic condition.

(F) Agricultural Tourism Sign- Permanent

Permanent signs may be erected on the site of an approved agricultural tourism use.

- 1) Each sign shall not exceed 32 square feet in area.
- 2) Only one freestanding sign shall be allowed not to exceed 10 feet in height.
- 3) Only one wall, roof, or projecting sign shall be allowed for each building.
- 4) A building permit is required for each permanent agricultural tourism sign.

Section 3: That the following sections within Article 16.00 On-Premise Signs is amended to read:

16.01 INTENT. These regulations provide standards for the erection and maintenance of private signs. The principal feature of this section is the restriction on the total sign area permissible per site. All private signs shall be erected and maintained in accordance with the following standards. The general objectives of these standards are to promote health, safety, welfare and in part to achieve the following:

- (A). SAFETY: To promote the safety of persons and property by providing that signs:
 - (1). Do not create a hazard due to collapse, fire, collision, decay, or abandonment;
 - (2). Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to see and interpret any official traffic sign, signal or device.



(3). Aid the traveling public in navigation to the locations of businesses and services.

(B). COMMUNICATIONS EFFICIENCY: To promote the efficient transfer of information by providing that:

- (1). Businesses and services may identify themselves;
- (2). Customers and persons may locate a business or service;
- (3). No person or group is arbitrarily denied the use of the sight line from public rights-of-way for communication purposes.

(C). LANDSCAPE QUALITY AND PRESERVATION: To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:

- (1). Do not create a nuisance to persons using the public rights-of-way;
- (2). Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement.
- (3). Protect and preserve the aesthetic quality and physical appearance of the county.

16.02 PERMITTED SIGNS AND SIGN AREA. In the following districts, the sign area and height set forth shall apply to all signs on the premises except as provided in Section 16.05:

(A). A-1 AGRICULTURAL AND RC RECREATION/CONSERVATION DISTRICTS:
(*amended by MC16-53-00*)

- (1). Freestanding signs: one or more freestanding signs with the total combined area of one square foot for every 100 linear feet of road frontage.
 - (a). The total area of any one sign shall not exceed 16 square feet.
 - (b). The maximum height shall not exceed 10 feet.
- (2). Wall signs: On buildings or structures not used as a single family dwelling, a wall sign with the area of one square foot for every 2 linear feet of building frontage with a maximum of 16 square feet of sign area.
- (3). Reserved

(B). RR RURAL RESIDENTIAL AND R-1 RESIDENTIAL:

- (1). Wall signs:
 - (a). On buildings or structures not used as a single family dwelling, a wall sign with the area of one square foot for every 2 linear feet of building frontage with a maximum of 16 square feet of sign area.
 - (b). As allowed by section 16.05 Special Use Signs
- (2). Freestanding signs:
 - (a). Multi family structures and apartments may have one freestanding sign per street frontage not to exceed 16 square feet in size per sign.



(b). Single family dwellings may have one freestanding sign in conjunction with a Home Occupation or Conditional Use Permit as allowed by section 16.05 (I) Special Use Signs.

(C). C COMMERCIAL, I-1 AND I-2 INDUSTRIAL:

(1). Wall, roof, or projecting signs: *(amended by MC16-19-94)*

(a). The total sign area on structures which are two stories or less in height shall not exceed two square feet for each linear foot of building frontage.

(b). The total sign area on structures which are greater than two stories in height shall not exceed either two square feet for each linear foot of building frontage, or 15% of the area of the frontage wall, whichever is greater.

(2). Freestanding signs having a total sign area not to exceed one square foot for each linear foot of road frontage or 200 square feet, whichever is less.

(a). The maximum sign height shall be 30 feet. *(amended by MC16-69-04)*

16.03 REGULATIONS AND LIMITATIONS OF PERMITTED SIGNS.

(A). WALL SIGNS. Wall signs may be located anywhere on the wall of a building.

(B). PROJECTING SIGNS.

(1). Projecting signs may project no more than five feet from the building face.

(2). Projecting signs shall have a minimum clearance of ten feet above grade level about any yard or sidewalk and 16 feet above any road or drive.

(3). Projecting signs may project no more than five feet above the top of a parapet or roof line including the framework or support.

(C). ROOF SIGNS. Roof signs shall rise no higher than five feet above the top of a parapet or roof line and shall not exceed the height limits for the zoning district.

(D). FREESTANDING SIGNS.

(1). Freestanding signs within C Commercial, I-1, and I-2 Industrial zoning districts shall be limited to one sign structure per street frontage except that businesses on frontages of 300 feet or more may erect two freestanding signs; however, the total sign area for both signs may not exceed that allowed for the street frontage.

(2). Freestanding signs shall be located only in the front or side yard.

(3). Freestanding signs shall not project over public property.

(4). Freestanding signs shall not be erected within the intersection safety zone triangle of two intersecting streets or a street and railroad. The intersection safety zone triangle, in this case, shall be the triangular area formed by measuring 40 feet from the intersection along both roads and connecting these two points with a straight line.



Exceptions: Freestanding signs may be located in the intersection safety zone triangle when the sign and sign structure comply with the following:

- (a). The sign face is located 12 feet above the grade level of the street; and
- (b). The sign structure is of such a size and spacing as to not obstruct the view of said intersection.

(E). ELECTRONIC MESSAGE SIGNS.

(1). Electronic message signs placement:

- (a). Any permitted sign within a commercial or industrial zoning district may be an electronic message sign.
- (b). In the A1 Agricultural and RC Recreational Zoning Districts, electronic message signs are allowed for signs which require a building permit.
- (c). Electronic message signs must be setback a minimum 300 feet from any residential structure.

(2). Message hold time: Electronic message signs shall display a static message which may not change or be changed for a period of 6 seconds.

(3). Message transitions: The transition from one static display message to the next shall be limited to gradual movements including, but not limited to, dissolve, fade, or traveling; however, sudden movement is prohibited, including, but not limited to blinking and flashing.

16.04 SPECIAL SITUATIONS. The following signs may be allowed in addition to the signs permitted in Section 16.02, but signs must be in conformance with all other state and local laws.

(A). AUTOMOBILE SERVICE STATION. Gasoline dispensing stations may have, in addition to other signs, one 12 square foot sign on each street frontage.

(B). INTERSTATE HIGHWAY INTERCHANGE. In the C, I-1 and I-2 Districts, businesses which are adjacent to both the interstate and the intersecting cross street may by conditional use erect one additional on-premise freestanding sign not to exceed 200 square feet or 60 feet in height.

(C). CONSTRUCTION SIGNS. Additional signage may be placed on a property during the time a property has an active building permit. The total sign area shall not exceed 100 square feet or 20 feet in height and shall be removed within one week after final inspection or upon the expiration of the building permit, whichever comes first.

(D). NEIGHBORHOOD IDENTIFICATION SIGNS. In any zone, a masonry wall, landscaping and other similar material or feature may be combined to form a display for neighborhood or tract identification, provided that the legend of such signs or display shall consist only of the neighborhood or tract name, and the sign area shall not exceed 32 square feet.



(E). **INSTITUTIONAL SIGNS.** Churches, cemeteries, schools, day care centers, institutional and public uses in the agricultural and residential districts may have an on-premise sign not exceeding 32 square feet in area per frontage. Institutional signs require a building permit prior to construction/placement of the sign.

(F). **INTEGRAL SIGNS.** Names of buildings, dates of erection, monumental citations, commemorable tablets, and the like, of permanent type construction and made an integral part of the building structure shall be permitted not to exceed 16 square feet per building.

(G). **PRIVATE TRAFFIC DIRECTIONAL SIGNS.** Signs directing traffic movement into, out of or within the commercial premise. Such signs shall not exceed an area of four square feet per sign face and four feet in height. Only two private directional signs are allowed per legal driveway.

(H). **REAL ESTATE SIGNS.** Temporary signs shall be permitted while a property is actively listed for sale. The total sign area of such signs shall not exceed 32 square feet for each street frontage.

(I). **SPECIAL USE SIGNS:** In the A-1 Agricultural, RC Recreation/Conservation, RR Rural Residential, and R-1 Residential zoning districts, uses which are governed by a Conditional Use Permit, Major Home Occupation, or Agricultural Tourism Permit may have freestanding, wall, roof, or projecting signs on the premise in accordance with the stipulations of the permit. The total sign area of each sign shall not exceed 32 square feet. Special use signs require a building permit prior to construction/placement

(J). **BANNERS.** Each commercial and industrial zoned property may have one banner no larger than 32 square feet at all times. Additional banners within commercial or industrial zoned property can be placed for a maximum of 21 days during any calendar year. Banners shall be securely mounted or affixed with rigid posts, frame, structure, or building.

16.05 EXEMPTIONS. The following signs and devices are exempt from all aspects of this article, including permit requirements and limitations on size, location, and number:

(A). **PUBLIC SIGNS.** Signs of a noncommercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of his duty shall be permitted.

(B). **PROPERTY RIGHTS SIGNS.** A property owner may post a sign that indicates a property owner's right of exclusion. These signs include no hunting, no trespassing, no soliciting, and similar signs.



(C). **SPECTATOR SIGNS.** A sign that is physically oriented toward spectators of an event and not physically oriented so as to attract the motoring public, such as a sign located on the fence of a baseball field, football field, racetrack, or outdoor stadium.

(D). **WINDOW SIGNS.** A sing affixed to a window of an enclosed building, including the window or glass area of a door.

(E). **ART.** Art as defined as an artistic painting, image, or sculpture created on an individual basis which contains no commercial message, image, trademark, or logo can be created within any zoning district.

16.06 ILLUMINATION. Regulations regarding the illumination of signs shall be as follows:

(A). **SHADING.** The light from any illuminated sign or billboard shall be so shielded, shaded, or directed so that the light intensity shall not adversely affect surrounding or facing premises or safe vision of operators of vehicles on public or private roads.

(B). **BLINKING AND FLASHING.** Blinking, flashing, pulsating, or fluttering lights are prohibited.

(C). **RESIDENTIAL DISTRICTS.** No illuminated sign or electronic message sign is allowed within any residential zoning district, unless the sign is classified as an institutional sign or neighborhood identification sign.

(D). **SIGN BRIGHTNESS:** No illuminated or electronic message sign shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on sign area, measured as follows:

Area of Sign (sq. ft.)	Measurement Distance (ft.)
10-14	32
15-19	39
20-24	45
25-29	50
30-34	55
35-39	59
40-44	63
45-49	67
50-54	71
55-59	74
60-64	77
65-69	81
70-74	84
75-79	87
80-84	89



85-89	92
90-94	95
95-99	97
100-150	100
More than 150	150

16.07 TEMPORARY AND PORTABLE SIGNS. Temporary and portable signs shall not exceed 32 square feet and may be displayed for 60 days per calendar year. It shall be the duty of the user of the sign to:

- (A). Notify in writing and obtain approval from the Planning Director prior to placement of said sign.
- (B). Notify in writing the Planning Director upon removal of said sign. The Planning Director shall continue to deduct one day from the 60 days allowed per calendar year until notice of removal is received or a total of 60 days has elapsed.
- (C). Place the signs in locations so that the provisions of this article and all other applicable codes and ordinances are complied with.

16.08 PROHIBITED SIGNS. The following signs are prohibited: *(amended by MC16-19-94)*

- (A). **PARKING OF ADVERTISING VEHICLES PROHIBITED.** No person shall park any vehicle or trailer on a public right-of-way, or public property, or on private property so as to be visible from a public right-of-way, which has attached thereto or located thereon, any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same premises or any other premise. This is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettering on a motor vehicle.
- (B). **NUISANCE SIGNS.** Signs which imitate an official traffic sign or signal or which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic, street sign or signal shall be removed upon notice.
- (C). **BEACONS, SEARCHLIGHTS, AND FLASHING SIGNS.** Beacons, searchlights, and flashing signs shall be prohibited.
- (D). **SIGNS ON PUBLIC PROPERTY.** Except where required by law or permitted by the County, any sign installed or placed within any right-of-way or public property shall be deemed illegal and shall be forfeited to the public and subject to immediate confiscation.



(E). MOVEMENT. Signs shall not have moving parts or have the illusion of motion as part of the sign, except banner, pennants and similar lightweight signs which move with the atmosphere.

16.09 MAINTENANCE AND REMOVAL. Every on-premise sign, including any exempt from this code in respect to permits and permit fees, shall be maintained in good structural and aesthetic condition at all times. Any abandoned, unsafe or unsightly sign shall be removed or renovated within 60 days upon written notice. If the owner fails to remove or renovate the sign within the required time period the County may remove such sign at the owner's expense.

(amended by MC16-19-94)

16.10 PERMIT REQUIREMENTS.

(A). PERMITTED SIGNS. The following on-premise sign types require a separate building permit to be obtained prior to the construction or placement of a sign.

- (1). All permanent signs within a Commercial or Industrial zoning district.
- (2). All permanent signs allowed with a Major Home Occupation, Conditional Use Permit, or Agricultural Tourism Permit.
- (3). All projecting signs and roof signs that extend beyond the face of the wall or roof.

(B). PERMISSIVE SIGNS. All on-premise signs types which are not listed in Section 16.10 (A). may be placed when all other requirements are met for this ordinance.

Section 4: That the following sections within Article 17.00 Off-Premise Signs are amended to change:

17.01 PURPOSE AND INTENT. The purpose of this article is to prevent the uncontrolled use of off-premise signs so as to promote the health, safety and general welfare of those persons using the public rights-of-way. These regulations are intended to preserve the overall landscape quality of the county while allowing the reasonable use of signs to inform the traveling public. This is accomplished through the application of standards for size, illumination and separation. This article is not intended to regulate objects that traditionally are not considered signs for purposes of governmental regulations.

17.02 GENERAL REGULATIONS.

(A). In the A-1 and RC Districts, off-premise signs shall be limited to those which provide direction to a business or use and shall be constructed in accordance with the following:

- (1). A maximum sign area of 32 square feet on County and State Highways, and 16 square feet on all other roads.
- (2). Reserved.
- (3). There shall be no more than one sign face per direction of facing.
- (4). Spacing requirements. *(amended by MC16-19-94)*



- (a). A sign shall not be within a 500 foot radius of any other off-premise sign intended to be read from the same right-of-way.
 - (b). The sign shall not be within a 300 foot radius of any other off-premise sign intended to be read from a different right-of-way.
 - (c). No off-premise sign shall be located within 500 feet of a residential dwelling located on a different parcel.
 - (d). All spacing measurements in this subsection shall refer to a measurement made along the edge of the right- of-way and shall apply only to structures located on the same side of the highway.
 - (e). These spacing provisions do not apply to signs separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the road right-of- way at any one time.
 - (f). No off-premise signs are allowed within 500 feet of a public park, school, church, or designated historic site.
- (5). A sign shall not be illuminated nor shall blinking or flashing lights be used.
 - (6). A maximum height of 16 feet.
 - (7). Off-premise electronic message signs are prohibited.

(B). The following regulations shall apply to off-premise signs in the C, I-1 and I-2 Districts:

- (1). A maximum sign area of 288 square feet.
- (2). There shall be no more than one sign face per direction of facing.
- (3). The maximum height shall be 40 feet. *(amended by MC16-69-04)*
- (4). No part of the sign face or structure shall be located in or overlap into the required side or rear yard setbacks or public right-of-way.
- (5). Spacing requirements. *(amended by MC16-19-94)*
 - (a). A sign shall not be within a 500 foot radius of any other off-premise sign intended to be read from the same right-of-way.
 - (b). The sign shall not be within a 300 foot radius of any other off-premise sign intended to be read from a different right-of-way.
 - (c). No off-premise sign shall be located within 500 feet of a residential dwelling located on a different parcel.
 - (d). All spacing measurements in this subsection shall refer to a measurement made along the edge of the right- of-way and shall apply only to structures located on the same side of the highway.
 - (e). These spacing provisions do not apply to signs separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the road right-of- way at any one time.
 - (f). No off-premise signs are allowed within 500 feet of a public park, school, church, or designated historic site.



(6). The light from any illuminated sign shall be so shielded, shaded or directed so that the light intensity shall not adversely affect surrounding or facing premises or the safe vision of operators of vehicles on public roads.

(7). Electronic message signs.

(a). All new permitted off-premise signs may be an electronic message sign subject to requirements listed in Article 16.01 (E). **ELECTRONIC MESSAGE SIGNS.**

(b). All existing off-premise signs within the C, I-1, and I-2 zoning districts may obtain a permit to become an electronic message sign subject to requirements listed in Article 16.01 (E). **ELECTRONIC MESSAGE SIGNS.**

17.03 Reserved.

(A). Reserved. (amended by MC16-69-04 and MC16-73-05)

(B). Reserved.

17.04 EXCEPTIONS.

(A). Reserved.

(B). Political campaign signs provided the signs are removed within five days after the election.

(C). Directional signs, street name signs, or other signs which have been authorized and directed by a governmental unit.

17.05 PROHIBITED SIGNS. The following signs are prohibited:

(A). **PARKING OF ADVERTISING VEHICLES PROHIBITED.** No person shall park any vehicle or trailer on a public right-of-way, or public property, or on private property so as to be visible from a public right-of-way, which has attached thereto or located thereon, any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same premises or any other premise. This is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettering on a motor vehicle.

(B). **NUISANCE SIGNS.** Signs which imitate an official traffic sign or signal or which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic, street sign or signal shall be removed upon notice.



(C). BEACONS, SEARCHLIGHTS, AND FLASHING SIGNS. Beacons, searchlights, and flashing signs shall be prohibited.

(D). SIGNS ON PUBLIC PROPERTY. Except where required by law or permitted by the County, any sign installed or placed within any right-of-way or public property shall be deemed illegal and shall be forfeited to the public and subject to immediate confiscation.

(E). MOVEMENT. Signs shall not have moving parts or have the illusion of motion as part of the sign, except banner, pennants and similar lightweight signs which move with the atmosphere.

17.06. MAINTENANCE AND REMOVAL. Every off-premise sign shall be maintained in good structural and aesthetic condition at all times. Any abandoned, unsafe or unsightly sign shall be removed or renovated within 60 days upon written notice. If the owner fails to remove or renovate the sign within the required time period the County may remove such sign at the owner's expense. *(amended by MC16-19-94)*

17.07 PERMIT REQUIREMENTS. All off-premise signs require a building permit to be obtained prior to the construction or placement of each sign, except temporary political campaign signs and signs which were authorized and directed by a governmental unit.

Section 5: That the following sections within Article 26.00 Definitions is amended to read:

26.02 DEFINITIONS.

1. Reserved

13.A Reserved

13.B Reserved

285. Reserved

290 A. FRONTAGE, BUILDING. The full area of exterior walls of a building which can be visible at one time excluding projections such as eaves, canopies, and awnings and excluding any visible roof above the eaves or parapet.

540. Reserved

605 A. SIGN. Any object, device, or structure, or part thereof, visible from the right-of-way or public property, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors,



illumination, or projected images. This definition does not include national or state flags or their emblem or insignia, or the official announcements or signs of government.

- 605 B. SIGN, ABANDONED. A sign or sign structure which contains no sign copy, contains obliterated or obsolete sign copy, or is maintained in an unsafe or unsightly condition for a period of three months shall be considered an abandoned sign. (amended by MC16-19-94)
- 605 C. SIGN, ELECTRONIC MESSAGE. Signs containing a computer or digital software generated message or other automated or remote method of changing copy.
- 605 D. SIGN, FREESTANDING (Ground Sign). A sign supported by one or more uprights, poles, or braces in or upon the ground and not attached to any building.
- 605 E. SIGN, MONUMENT. A ground-mounted, freestanding sign which is attached to the ground or to its base on grade by a solid structure and which structure extends from the ground or base to the sign face at the same or greater width as the sign face and no taller than 10 feet.
- 605 F. SIGN, PERMANENT AGRICULTURAL TOURISM. A sign erected for an approved agricultural tourism use. (amended by MC16-144-15 12/1/15)
- 605 G. SIGN, PORTABLE. Any sign not permanently attached to the ground or building.
- 605 H. SIGN, SEASONAL AGRICULTURAL TOURISM. A sign erected for a limited period of time during the year when retailing activities for an approved agricultural tourism use are available to the public. (amended by MC16-144-15 12/1/15)
- 605 I. SIGN, TEMPORARY. A device, display, structure, or pennant that acts as a sign and is intended to be displayed for a limited time period.
- 605 J. SIGN, UNSAFE. A sign on which the display area or structure has deteriorated due to rust, rotting, or physical damage to the point where any portion of the sign has the potential to fall shall be considered unsafe. (amended by MC16-19-94)
- 605 K. SIGN, UNSIGHTLY. A sign which has deteriorated to the point where at least one-fourth of the display area is no longer clearly recognizable at a distance of twenty feet; or where the paint is peeling, chipping or flaking from the structure shall be considered an unsightly sign. (amended by MC16-19-94)
610. SIGN AREA. The area of the largest single face of the sign within the perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled. Sign faces that



are erected back to back and do not exceed a forty-five degree (45°) angle are considered one sign for calculating the area. Sign faces which exceed a forty-five-degree (45°) angle are considered two signs for calculating the area.

- 611. SIGN FACE. The portion of a sign structure upon which advertising is affixed or painted and visible in one direction of a time.
- 621. SIGN STRUCTURE. Any structure which supports or has supported a sign.
- 677. Reserved
- 678. Reserved



Old Business

Scott Anderson mentioned to the planning commission about an upcoming training opportunity on running planning commission meetings that the Planning Department would like hold prior to upcoming meeting.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Ralston. The motion passed unanimously.

The meeting was **adjourned** at 8:45 pm.