



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
March 27, 2023**

A meeting of the Planning Commission was held on March 27, 2023 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Maggie Gillespie & Eric Bogue – States Attorney's Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:00 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and several members of the audience moved to speak before the commission.

Betty Strom, of 7504 W Loganberry Street, Sioux Falls, SD, stated her concerns to the commission regarding the proposed carbon dioxide pipelines within Minnehaha County. Mrs. Strom explained to the commission that it is the commission's responsibility to protect the health and safety of the residents within Minnehaha County. Finally, Mrs. Strom explained that the route for the proposed pipelines is close to many cities and residential acreages, and that the commission needs to think about the future residents that this will affect.

Carol Hoines, of 3112 W Auburn Hill Court, Sioux Falls, SD, expressed her concerns with the proposed carbon dioxide pipelines to the commission. Mrs. Hoines explained that she is not against ethanol plants but that she has two main concerns with the proposed carbon dioxide pipelines. These included the issue of the pipeline companies using eminent domain instead of voluntary easements, and that safety regulations need to be in place to protect the citizens. Additionally, Mrs. Hoines provided several pieces of information regarding the potential hazards that the carbon dioxide pipelines could create, and that the county planning commission needs to adopt the proper setbacks in order to protect people.

Gary Meyer, of 26154 466th Avenue, Hartford, SD, addressed the commission with his concerns regarding the carbon dioxide pipelines. Mr. Meyer explained that the new regulations being proposed by the federal government will not be in place for another year and a half, and that these new regulations, once adopted, will not apply to any existing pipelines. Also, Mr. Meyer stated that the carbon dioxide within the pipelines will travel farther in the cold South Dakota weather before dissipating if a rupture were to occur, and that he would like to know what kind of emergency alert system would be in place to notify the people affected by a potential pipeline rupture.



Joy Hohn, of 46178 263rd Street, Hartford, SD, explained her concerns with the carbon dioxide pipelines to the commission. Mrs. Hohn stated that she has concerns with the ability of the pipeline companies to adequately compensate the affected land owners if a pipeline were to rupture. Finally, Mrs. Hohn explained that the pipelines are directly affecting the land owner's future plans for their properties, and that she would like to see the proper regulations put in place.

CONSENT AGENDA

Commissioner Duffy read each item on the consent agenda, and no Items were moved to the regular agenda.

A motion was made to approve the consent agenda consisting of Items 1, 2, & 3 by Commissioner Ralston and seconded by Commissioner Randall. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

ITEM 1. Approval of Minutes – February 27, 2023

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner Randall to **approve** the meeting minutes from February 27, 2023. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



Consent Agenda

ITEM 2. REZONING #23-02 to rezone from the A-1 Agricultural District to the C Commercial District the property legally described as Tract 4 Oyen's Addition W½ NE¼ Section 1 T103N-R50W Lyons Township.

Petitioner: Lance Warne

Property Owner: Joanne Oyen

Location: Approximately 1.5 miles west of Baltic at the I-29 & 250th Street Intersection

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 4 Oyen's Addition W½ NE¼ Section 1 T103N-R50W Lyons Township.

Present Zoning – A-1 Agricultural

Existing Land Use – Farmland

Parcel Size – 12.91 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is proposing to rezone approximately 12.91 acres from the A-1 Agricultural District to the C Commercial District. The property is located directly south of existing commercial property that is owned by the petitioner, and this rezoning would allow an expansion of their existing storage unit operation. Additionally, the subject property is located at the intersection of 250th Street (County Highway 114) and Interstate 29, and is adjacent to property that has direct access onto the paved county highway. Finally, the properties to the north and west are existing commercial uses, with cropland to the south, and several residential homes to the east.

On March 14, 2023, staff conducted a site visit of the subject property and the surrounding area. There are existing tree groves on the north and east sides of the subject property, which will help screen any future commercial uses from the existing residential properties. The Envision 2035 Comprehensive Plan also designates the Baltic exit as a rural service area, and encourages the development of commercial/industrial uses at this intersection. Additionally, having direct access onto a paved county highway, adjacent to other commercial uses, will limit the traffic concerns that any new commercial use may cause. Finally, this corner of the intersection already consists of mostly commercial uses, so allowing the expansion of an existing commercial use onto this property will not overly impact the surrounding area.

Recommendation: Staff finds that the proposed rezoning conforms to the goals and policies of the Envision 2035 Comprehensive Plan and recommends **approval** of Rezoning #23-02 to rezone the subject property from the A-1 Agricultural District to the C Commercial District.



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Action

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner Randall to recommend **approval** of Rezoning #23-02. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Rezoning # 23-02 – Approval Recommended



ITEM 3. CONDITIONAL USE PERMIT #23-11 to allow a Telecommunications Tower on the property legally described as W½ NE¼ Lying North of RR & West of River & NW¼ (Ex. That Part E915' Lying North of RR ROW But Including N380' Thereof) Section 33 T102N-R48W Brandon Township.

Petitioner: Xcell Towers II, LLC

Property Owner: Daniel Risty

Location: 808 W. Holly Blvd; Approximately 1 mile west of Brandon

Staff Report: Kevin Hoekman

General Information:

Legal Description – W½ NE¼ Lying North of RR & West of River & NW¼ (Ex. That Part E915' Lying North of RR ROW But Including N380' Thereof) Section 33 T102N-R48W Brandon Township.

Present Zoning – RC Recreational/Conservation District

Existing Land Use – Pasture Land

Parcel Size – 43.90 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The site is located approximately 1/2 mile north of Holly Boulevard in between the main portion of the City of Brandon and the western development of the city west of the Big Sioux River. The property is serviced by a long gravel driveway that provides access to the farmstead of the property. It is located in an area primarily used for agricultural production, and a few single family dwellings are located nearby with many dwellings within Brandon city limits to the west and to the east. Industrial and commercial uses are quickly developing to the west of the site within Brandon city limits. The proposed site is near the Big Sioux River, but it is not within the floodplain.

The petitioner is requesting to construct a 190 foot tall monopole tower on the subject property. A Telecommunication tower is a permitted special use within the RC Recreational/Conservation zoning district; however, the proposed tower does not meet the requirement of section 12.12 (C) 3) to be located a minimum distance of 3 miles from the nearest tower. Since the setback distance has not been met, the proposed tower is required to obtain a conditional use permit. This request is the same as a request made in 2018 by the same applicant. The 2018 permit expired since work on the project was not started within two years of approval. Since 2018, the City of Brandon annexed the parcels south of the railroad tracks and to the County Highway 140. Some roads and dirt work are happening for developing the area further. Staff contacted the City of Brandon regarding the request and did not get a response in time for the staff report.

The tower is to be used primarily for telecommunication purposes with the opportunity to co-locate transmitters. It is designed to be a monopole with no need for guy wires to stabilize it. The tower will have to abide by all Federal Aviation Administration (FAA) regulations regarding painting and lighting, and it will have to be registered and maintained as such. County ordinance requires that illumination must not exceed the minimum necessary FAA requirement. If in the future a light is required, the light shall not exceed the minimum.



The location of the proposed property is currently on the same parcel as a farmstead and surrounding land. Plans show that the tower will be separated from the farmstead by a fence with easements for access and utilities. The tower location is located a short distance north of the City of Brandon, but the nearest dwellings, other than the property owner, are located approximately ½ mile away within the city. A support structure that houses electrical and utility items for the tower will also be located within the fence. There will be room for more utility houses if co-location communications are added to the structure.

Telecommunications towers are regulated by county ordinance in several ways in Article 12.13, Additional Use Regulations. The ordinance regulates the tower design, setbacks, illumination, maintenance, signage, co-location of multiple antenna, and abandonment process. The proposed tower is required to follow these regulations for construction and maintenance purposes.

The Minnehaha County Zoning Ordinance requires a setback of 1,300 feet from the property that has a residential dwelling. One dwelling is located within this setback, but the dwelling is owned by the property owner of the proposed tower site. No further waivers will be required of the proposed facility.

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 site is primarily composed of agricultural land with the City of Brandon nearby. The tower appears to not need any required safety lights or special markings because of its low height and elevation. The absence of a light should minimize negative impacts on surrounding properties. The stated goal of the petitioner is to provide a service in a coverage gap for telecommunications and 911 services. Increased coverage may be a positive change for nearby cellular phone users.

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

The area around the proposed tower site is changing as the City of Brandon develops. The nearby development within the City of Brandon will likely not be impacted since no warning light is needed for the tower. Even without a flashing light the tower may create an unwanted visual impact for recreational users of the Big Sioux Rivers. However the visual impacts will be similar to the many high voltage power lines that travers the area. The visual aspect of the tower will have no effect on agricultural production that remains in the area.

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

The proposed tower is located within an existing farmstead. Access and utilities easements are shown in the provided plans. The drainage of the site will be minimally affected with only an addition of a concrete pad as an impervious surface.

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

The site will not have on site employees but will need to have parking for contracting and



maintenance vehicles. The distance from the road and the current gravel area around the support structure should be enough to support parking for the tower.

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

The proposed tower will not produce significant odor, fumes, dust, noise, or vibration during regular operations. The tower is not required by the FAA to have lighting. The Minnehaha County Zoning Ordinance requires that the tower uses the minimum FAA requirements, and that the night time safety lights cannot be white. If the FAA requires safety lights in the future, the lights must not exceed the minimum requirements.

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

The day to day operation of the proposed land use will have a minimal effect on the health, safety and general welfare of the public. The proposed structure is 190 feet tall with a 9 foot lightning rod and may pose a risk if excessive winds topple the tower. The nearest dwelling is over 600 feet away and separated by a grove of trees.

The property should include reasonable security from climbers and vandals. Many towers in the county include a 6 foot high security fence with barbed wire on the top. A fence such as this would help prevent climbers, vandals, and the like from causing harm to the facility or to themselves. The site plan includes a security fence around the facility.

The Zoning Ordinance requires that the property and/or facility owner must remove the tower if it is not in use for 365 consecutive days. If the tower is not removed the county may remove the tower at the property and/or facility owner's expense.

A commercial building permit is required by the county prior to the construction of the tower. This will require engineered plans, and a permit fee of 1% of the project cost.

Recommendation: Staff recommends **approval** of Conditional Use Permit #23-11 with the following conditions:

- 1.) The facility shall meet the requirements of Article 12.12 of the Minnehaha County Zoning Ordinance with the exception of Section 12.12 (C) 3).
- 2.) A letter of removal responsibility shall be submitted to the Planning Department prior to the issuance of a building permit.
- 3.) A building permit is required before the erection of the tower.
- 4.) A six (6) foot high security fence shall be placed around the tower to discourage climbers and vandals.
- 5.) All security lighting shall be of shoebox style that direct the light downward to prevent spillage of light onto neighboring properties.



Action

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner Randall to **approve** Conditional Use Permit #23-11. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #23-11 – Approved



Regular Agenda

ITEM 4. Review of CONDITIONAL USE PERMIT #21-16 to Expand Existing Rock Extraction Quarry on the property legally described as Lot 3 (Ex. H-1) SW1/4 NE1/4, W1534.04' (Ex. S1703.78') & N1875.55' E413.2' W1947.24' & N66' (Ex. W1947.24') SE1/4, W1534.04' S1703.78', SE1/4, Lots 1, 3, & 4 Royalwood Addition, SW1/4; all in Section 27-T101N-R48W.

Petitioner: L.G. Everist, Inc. (c/o Chris Klein)

Property Owner: L.G. Everist, Inc (c/o Rob Everist)

Location: 48175 Hwy 42 Located Approximately 3 miles east of Sioux Falls

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 3 (Ex. H-1) SW1/4 NE1/4, W1534.04' (Ex. S1703.78') & N1875.55' E413.2' W1947.24' & N66' (Ex. W1947.24') SE1/4, W1534.04' S1703.78', SE1/4, Lots 1, 3, & 4 Royalwood Addition, SW1/4; all in Section 27-T101N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Rock Extraction

Parcel Size – 246.73 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

This item is a partial review of Conditional Use Permit #21-09. In February 2021, the Planning Commission heard and approved an expansion of the existing quarry as described near Rowena. In addition to the larger mining area, several conditions of approval were also amended in 2021. One specific condition amended from 1997 permit changed from “there shall be no permanent concrete or asphalt mixing plant within the conditional use area,” to “that the ready-mix concrete and asphalt mixing plant shall be reviewed by the April 24, 2023 Planning Commission meeting.” This review will cover information only pertaining to the ready-mix concrete and asphalt plant as required by the conditional use permit.

The narrative for 2021 conditional use permit for expansion of the quarry provided the following explanation for why the new owners were requesting the change regarding ready-mix concrete and asphalt production.

“Portable ready-mix concrete and asphalt mixing plants have historically been located on the site. To provide improved environmental controls, the applicant would like to have the option to make these plants permanent. The co-location of ready-mix and asphalt plants at the quarry decreases truck traffic as only the finished product (ready-mix concrete or asphalt) is trucked from the site, rather than the transportation of the aggregates to remote plant sites and then the dispatch of the finished product to the ultimate customer.”

Since the 2021 expansion was approved, neither the ready-mix concrete plant nor the asphalt plant have been constructed on the property. The petitioner, LG Everist (LGE), provided a narrative for



this review to explain what is happening with the project and to request that the review date be pushed back to 2029. Two factors are cited in the narrative which justify the review being pushed back to 2029. The two factors include inflation costs and the delayed reconstruction of SD Highway 42 east of Sioux Falls. The new construction date for the highway expansion is scheduled for the summer of 2025. The narrative for the request also includes an explanation that there is a need for ready-mix concrete and asphalt plants on the east side of Sioux Falls. The plan for construction of these plants is for 2027 and the applicant requests a new review date in 2029.

The applicant provided a site plan for two potential permanent locations for concrete ready-mix and asphalt production. The proposed locations for the plants are similar to what was proposed in 2021. Option 1 is shown on the north and central side of the property. Option 2 indicates that the plant will be located south of a proposed shop which is also south of the Red Rock Bar. Option 1 may be better suited to prevent prevailing winds from carrying fumes from the mixing plants into the residential houses on Kim Circle or the Red Rock Bar which often has outdoor events during summer; however option 1 places the potential mix plants closer and more visible to the highway. The Planning Commission may create a condition to determine the final location of the concrete ready-mix and asphalt plants.

Staff visited the site on March 8th, 2023. The applicant showed that the berms have been constructed on the west side of the quarry. The north side of the operation has not yet expanded, and questions regarding road work easements along the highway have delayed the berms on the north side of the property. these berms should be in place before construction of any concrete ready-mix or asphalt plant is constructed. Condition #11 already requires this to happen.

The previous 1997 conditional use permit for the quarry likely had the condition restricting permanent concrete and asphalt plants from the site because of the dust and fumes created by such uses. The staff report for the 2021 expansion request states the following:

The request for construction of a ready-mix concrete and asphalt plant on site will cause issues related to odor and fumes from operations. Staff suggests adding a condition requiring Planning Commission review of the ready-mix concrete and asphalt plant operations after a two-year period or if any complaints are received by the Planning Department. The result of this condition will allow the Planning Commission to review the request if any complaints arise during operation of the permanent ready-mix concrete and asphalt plant.

In other words, the quarry operation may test asphalt and concrete mixing on the site for two years. If neighbors do not complain, then the use may be able to continue. The applicants suggestion of building the mix plants in 2027 and reviewing the plants in 2029 conforms to the intent of the two year review. Staff suggests that condition #20 can be reworded to state that the proposed ready-mix concrete and asphalt mixing plant shall be reviewed within two years of construction of the plants, or by the April 2029 Planning Commission Meeting, whichever comes first.

Recommendation:



Staff recommends **approval** of updating the conditions for Conditional Use Permit #21-16 with the following conditions:

- 1) The conditional use permit shall be reviewed in accordance with the requirements of Article 12.08 (F) of the zoning regulations.
- 2) An annual fee shall be paid in accordance with Article 12.08 (D) of the zoning regulations.
- 3) All operations with the exception of blasting shall be restricted to the hours of operation from 6:00 am to 7:00 pm, April 1 to September 30 on Monday thru Friday; 7:00 am to 7:00 pm, October 1 to March 31 on Monday thru Friday; and 7:00 am to 1:00 pm on Saturday. Operations shall not be conducted on the following legal holidays: New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, and Christmas. Activities such as office duties and maintenance activities which produce no adverse off-site impacts shall not be restricted by the hours of operation.
- 4) The maximum depth of excavation shall be to the 900-foot elevation measured from mean sea level, provided there is no adverse impact on groundwater elevations recorded by monitoring wells required in condition #5.
- 5) The seven monitoring wells shown on Drawing #5, Groundwater Monitoring Map, shall be used to routinely monitor groundwater conditions. Any monitoring well destroyed by extraction operations shall be replaced. Groundwater levels shall be measured in each well on a quarterly basis by an independent party. An annual report on monitoring activities shall be submitted to the Planning Department.
- 6) The blast control plan prepared by LG Everist, Inc. dated January 27, 2021 shall govern blasting activities. All blast records shall be available for inspection by the Planning Department upon request.
- 7) Ground vibration and over pressure shall be recorded for each blast by three seismographs. The site of the blast, distance to residential properties and atmospheric conditions shall determine the appropriate locations for the seismographs.
- 8) Ground vibration shall not exceed the guidelines established by the U.S. Bureau of Mines as shown in Attachment A of the Blast Control Plan.
- 9) The air blast shall not exceed 133 dB (linear peak) when measured by an instrument with a frequency response above 2 Hz.
- 10) All blasting shall be restricted to Monday through Friday, except legal holidays listed in condition #3. No blast shall occur before 9:00 am or after 3 :00 pm, except in an emergency situation. Upon request, residents within 1500 feet of the conditional use area shall be notified of the approximate time of each blast.
- 11) The berms and shelterbelt areas shall be completed prior to operation of ready mix plant, asphalt plant, and rock extraction. All trees shall be maintained in a live state.
- 12) A contract shall be executed with the Minnehaha County Conservation District to plant and maintain the shelterbelt for a minimum of five years.
- 13) Air quality shall be as follows:
 - a) No visible dust shall be emitted beyond the boundaries of the conditional use area resulting from production operations. stockpiles and haul roads.
 - b) 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



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- once per year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM 10 (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
- c) The Planning Department shall have the authority to require air quality monitoring to ensure compliance. Monitoring shall be conducted at the operator's expense.
- 14) The haul road from the quarry to Highway 42 shall be maintained as a hard surface.
- 15) The sound level from on-site operations, excluding blasting, shall not exceed the following limits:
- L10 (level exceeded for 6 minutes of an hour) - 65dBA
 - L50 (level exceeded for 30 minutes of an hour) - 60dBA
- Sound measurements shall be made at a point of human activity which is nearest to the noise source and conducted at the operator's expense. Off-site activities which contribute to background sound levels shall be disregarded when measuring sound.
- 16) All trucks shall use the haul road which connects directly to State Highway 42.
- 17) Fuel storage containment shall be in conformance with State and Federal requirements.
- 18) All stockpiles of material shall be located within the conditional use area.
- 19) Inoperable and discarded equipment and parts shall be screened from public view.
- 20) The proposed ready-mix concrete and asphalt mixing plant shall be reviewed within two years of construction of the plants, or by the April 2029 Planning Commission Meeting, whichever comes first.
- 21) Topsoil shall remain on site and be used in final reclamation.
- 22) Reclamation shall be in accordance with the plan filed with the State. The operator shall consult with the County Planning Department to ensure that final reclamation will result in the most appropriate future use of the area.
- 23) The operator shall file with the Planning Department a surety bond in favor of Minnehaha County in the face amount of \$20,000 to ensure compliance with all terms of the conditional use permit. Such surety bond shall ensure that the operator shall indemnify the County and hold it harmless from any and all liability, claims, damages and expenses which may arise as a result of the failure of the operator to abide by all terms of the conditional use permit, including but not limited to expenses, costs, and reasonable legal fees incurred as a result of any claim from an adversely impacted party. Such bond shall be held by Minnehaha County in trust for itself and the citizens of the County; and shall not be released until all reclamation activities have been completed and approved by the County Planning Department.
- 24) That the applicant shall maintain a minimum distance of 1,000 feet measured from the nearest residential single family dwellings to the edge of the sand & gravel and rock extraction pit.
- 25) The conditional use permit approved by resolution MC97-83 dated August 28, 1997 shall be superseded by the above conditions.
- 26) That the total sign area shall be 32 square feet and a maximum of 10 feet tall. A sign permit must be obtained from the County Planning Department prior to installation.

Public Testimony & Discussion

Kevin Hoekman, of county planning staff, explained the staff report and recommendation to the commission.



The petitioner, Chris Klein of 1608 S Sunny View Drive, Sioux Falls, SD, was present and available for questions from the commission. Mr. Klein explained that the delay of the highway reconstruction along Highway 42 has delayed their plans for the ready-mix concrete plant, and that they will not be able to construct the plant until the highway reconstruction is complete.

Commissioner Kippley asked the petitioner for clarification on the timeline of events for this project because he was under the impression that the purpose of this concrete plant was to help with the reconstruction of Highway 42. Mr. Klein explained that the concrete mix plant that would assist in the construction of the highway would be a portable structure, and that this request is for a permanent structure that will not be built until the highway reconstruction is complete.

Commissioner Randall stated that the timeline was still confusing to her because she was also under the impression that the original intent behind this plant was to help reconstruct Highway 42.

The owner of the property, Rick Everist, of 350 S Main Avenue, Sioux Falls, SD, came to the podium to address the commission's questions. Mr. Everist explained that this proposal would be a L.G. Everist owned concrete plant that would permanently be placed on the property, and that a portable concrete plant moved in by a separate contractor would help with the highway reconstruction.

Commissioner Ralston asked Mr. Everist to clarify if L.G. Everist would only be providing aggregate to the portable concrete plant for the highway construction, or if they will also be providing the concrete. Mr. Everist explained that for the portable concrete plant they will only be providing the aggregate, and that at this proposed permanent location they would be providing the aggregate and producing the concrete.

Commissioner Duffy asked the property owner if they knew the timeline for the highway reconstruction because she is aware of the fact that the project has been delayed several times. Mr. Everist explained that as of now the project is supposed to start in 2025 and take two years to complete.

Action

A motion was made to **approve** Conditional Use Permit #21-16 with the updated conditions by Commissioner Ralston. The motion was seconded by Commissioner VanDerVliet. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Review of Conditional Use Permit #21-16 – Approved with the following conditions:

- 1) The conditional use permit shall be reviewed in accordance with the requirements of Article 12.08 (F) of the zoning regulations.
- 2) An annual fee shall be paid in accordance with Article 12.08 (D) of the zoning regulations.
- 3) All operations with the exception of blasting shall be restricted to the hours of operation from 6:00 am to 7:00 pm, April 1 to September 30 on Monday thru Friday; 7:00 am to 7:00 pm, October 1 to March 31 on Monday thru Friday; and 7:00 am to 1:00 pm on



Saturday. Operations shall not be conducted on the following legal holidays: New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, and Christmas. Activities such as office duties and maintenance activities which produce no adverse off-site impacts shall not be restricted by the hours of operation.

- 4) The maximum depth of excavation shall be to the 900-foot elevation measured from mean sea level, provided there is no adverse impact on groundwater elevations recorded by monitoring wells required in condition #5.
- 5) The seven monitoring wells shown on Drawing #5, Groundwater Monitoring Map, shall be used to routinely monitor groundwater conditions. Any monitoring well destroyed by extraction operations shall be replaced. Groundwater levels shall be measured in each well on a quarterly basis by an independent party. An annual report on monitoring activities shall be submitted to the Planning Department.
- 6) The blast control plan prepared by LG Everist, Inc. dated January 27, 2021 shall govern blasting activities. All blast records shall be available for inspection by the Planning Department upon request.
- 7) Ground vibration and over pressure shall be recorded for each blast by three seismographs. The site of the blast, distance to residential properties and atmospheric conditions shall determine the appropriate locations for the seismographs.
- 8) Ground vibration shall not exceed the guidelines established by the U.S. Bureau of Mines as shown in Attachment A of the Blast Control Plan.
- 9) The air blast shall not exceed 133 dB (linear peak) when measured by an instrument with a frequency response above 2 Hz.
- 10) All blasting shall be restricted to Monday through Friday, except legal holidays listed in condition #3. No blast shall occur before 9:00 am or after 3 :00 pm, except in an emergency situation. Upon request, residents within 1500 feet of the conditional use area shall be notified of the approximate time of each blast.
- 11) The berms and shelterbelt areas shall be completed prior to operation of ready mix plant, asphalt plant, and rock extraction. All trees shall be maintained in a live state.
- 12) A contract shall be executed with the Minnehaha County Conservation District to plant and maintain the shelterbelt for a minimum of five years.
- 13) Air quality shall be as follows:
 - a) No visible dust shall be emitted beyond the boundaries of the conditional use area resulting from production operations. stockpiles and haul roads.
 - b) 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 per year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM 10 (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
 - c) The Planning Department shall have the authority to require air quality monitoring to ensure compliance. Monitoring shall be conducted at the operator's expense.
- 14) The haul road from the quarry to Highway 42 shall be maintained as a hard surface.
- 15) The sound level from on-site operations, excluding blasting, shall not exceed the following limits:
 - L10 (level exceeded for 6 minutes of an hour) - 65dBA
 - L50 (level exceeded for 30 minutes of an hour) - 60dBA



Sound measurements shall be made at a point of human activity which is nearest to the noise source and conducted at the operator's expense. Off-site activities which contribute to background sound levels shall be disregarded when measuring sound.

- 16) All trucks shall use the haul road which connects directly to State Highway 42.
- 17) Fuel storage containment shall be in conformance with State and Federal requirements.
- 18) All stockpiles of material shall be located within the conditional use area.
- 19) Inoperable and discarded equipment and parts shall be screened from public view.
- 20) The proposed ready-mix concrete and asphalt mixing plant shall be reviewed within two years of construction of the plants, or by the April 2029 Planning Commission Meeting, whichever comes first.
- 21) Topsoil shall remain on site and be used in final reclamation.
- 22) Reclamation shall be in accordance with the plan filed with the State. The operator shall consult with the County Planning Department to ensure that final reclamation will result in the most appropriate future use of the area.
- 23) The operator shall file with the Planning Department a surety bond in favor of Minnehaha County in the face amount of \$20,000 to ensure compliance with all terms of the conditional use permit. Such surety bond shall ensure that the operator shall indemnify the County and hold it harmless from any and all liability, claims, damages and expenses which may arise as a result of the failure of the operator to abide by all terms of the conditional use permit, including but not limited to expenses, costs, and reasonable legal fees incurred as a result of any claim from an adversely impacted party. Such bond shall be held by Minnehaha County in trust for itself and the citizens of the County; and shall not be released until all reclamation activities have been completed and approved by the County Planning Department.
- 24) That the applicant shall maintain a minimum distance of 1,000 feet measured from the nearest residential single family dwellings to the edge of the sand & gravel and rock extraction pit.
- 25) The conditional use permit approved by resolution MC97-83 dated August 28, 1997 shall be superseded by the above conditions.
- 26) That the total sign area shall be 32 square feet and a maximum of 10 feet tall. A sign permit must be obtained from the County Planning Department prior to installation.



Old Business

Scott Anderson, the County Planning Director, explained to the commission that two items that were on the agenda at the last planning commission meeting would be having public hearings before the Minnehaha County Commission the following morning. Scott stated that the Zoning Text Amendment Ordinance to adopt vacation home/short term rental regulations within the county, which the planning commission approved in February, would be one of these items. The other item would be Rezoning #23-01, which the planning commission denied, and is a request to allow residential development by Grant Park Capital LLC.

New Business

None.

Executive Session

Commissioner Duffy requested a motion to **enter** the planning commission into executive session. A motion was made by Commissioner VanDerVliet and seconded by Commissioner Mohrhauser to enter the planning commission into executive session pursuant to SDCL 1-25-2(3). The motion was approved with 6 votes in favor and 0 votes against the motion.

Adjourn

A motion was made to **adjourn** by Commissioner Kippley and seconded by Commissioner Mohrhauser. The motion was approved unanimously. The meeting was adjourned at 8:54 p.m.