

Yankton County Planning Commission  
June 12, 2018

The monthly meeting of the Yankton County Planning Commission was called to order by Chairperson Michael Welsh at 7:00 p.m. on June 12, 2018.

Members present at call to order: Kettering, Koenigs, Kretsinger, Bodenstedt, Gudahl, Becker, Guthmiller and Welch.

Members absent: Williams

This was the time and place to review and approve the minutes from May 8, 2018.

Mrs. Pyron approached the commission about a statement in the minutes. The minutes state Mr. Swift has approximately four acres to place an accessory structure. Mr. Swift actually has the proposed structure on a 1.01 acre lot.

Action 61218A: Moved by Gudahl, second by Kretsinger to approve the May 8, 2018 as written. By voice vote, all members present voted aye. Motion carried.

This was the time and place for discussion regarding application from Don Swift. Applicant is requesting a Variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.

The following is the minutes from the May 8, 2018 hearing. *Mr. Swift stated his request to build an accessory structure for personal use. Mr. Swift stated his property is four acres, will use natural colors on the structure and will plant trees to screen the structure. Five neighboring landowners signed a statement to give permission to Mr. Swift to build the structure on the proposed site.*

*No proponents for variance request were present.*

*Opponents of the variance request were;*

*Jeanine Pyron, a neighbor in the 1,320 foot buffer area, stated disapproval of the variance. She stated the area is under covenants restricting accessory structure size. Patrick Garrity, Zoning Administrator, explained the authority of the Planning Commission and the authority of the Home Owners Association covenants.*

*Denny Breck, a neighbor in the 1,320 foot buffer area, stated disapproval of the variance. The Marina Dell development has not allowed any accessory structures constructed of metal and over 100% larger (actual size is 124% larger than regulation size) than the current zoning regulation. Mr. Breck reminded the Planning Commission that the covenants are not Yankton County responsibility. Mr. Breck stated the building is too large for the Marina Dell development.*

*Andrew Pyron, a neighbor in the 1,320 foot buffer area, is a new resident and the covenants were a serious consideration when the property was purchased. Mr. Pyron stated the Planning Commission meeting was properly conducted and he is hopeful for an appropriate conclusion.*

*Pat Garrity, Zoning Administrator, read into record letters from Jerry/Mary Dittrich and Dan/Deb Broders expressing disapproval of the variance request.*

*The Planning Commission discussed the application and stated the request has issues with the building materials and overall size. The Planning Commission emphasized Yankton County has*

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*no authority regarding property and development covenants. A continuance was requested to allow the applicant to evaluate the building size, building materials and building aesthetics. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.*

*Action 5818C: Moved by Gudahl, second by Williams for a continuance (June 12) to allow the applicant to evaluate the building size, building materials and building aesthetics for a variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.*

*By roll call vote, all members present voted aye.  
Motion carried.*

Mike Marlow, representing Don Swift, stated the proposed structure total cubic feet of the structure is less than the regulation building size in the ordinance. The Swifts have had plans to build the accessory structure for a number of years. The steel structures have better design, colors and materials than in the past. The proposed structure will have windows and siding can be an option if required. Mr. Marlow provided a power point presentation showing photographs of the topography, building site, proposed structure and other accessory structures in the area. Mr. Marlow stated the proposed accessory structure will not negatively affect the character of the neighborhood. (Exhibit #3)

Mr. Marlow stated the hardship is a consolidation of three separate storage locations to a single location at his primary residence. The Swift's have numerous antique and collector vehicles requiring proper storage. The adjacent property will have no impact or property value issues. The access is a private road and all the immediate neighbors have no objections. (Signed permission documents)

Mr. Marlow concluded with discussion about the accessory structure. The building will be a low profile (seventeen foot peak), it will be screened with evergreens and the viewshed will be protected.

Mr. Welch requested any proponents of the variance to present their statements. No proponents were present.

Mr. Welch requested any opponents of the variance to present their statements.

Jeanie Pyron stated her opposition to the variance and asked about the requirements of hardships to qualify for a variance. She also stated the proposed building site lot is 1.01 acre, not four (4) acres. Mrs. Pyron does not think the hardships are sufficient to allow the variance.

Jerry Dittrich stated he has new house across the street from the proposed building site. Mr. Dittrich stated he moved to this location because of protection from large accessory structures and steel buildings.

Deb Broders stated the zoning ordinance needs to be enforced to protect surrounding district neighbors. Mrs. Broders stated they are all neighbors and the entire Marina Dell development is Moderate Density Rural Residential District. The size of the proposed accessory structure is too large and will impact the character of the district.

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Don Engelgau stated the approval of this variance request will set a precedence and it will impact the district for future development.

Tom Posch stated the large accessory structure will affect the entire neighborhood. Mr. Posch also states the hardship requirement of the variance process has not been met.

Denny Breck stated the development is restrictive regarding large accessory structures and building materials. This proposed structure is too large and metal construction. The entire Marina Dell development is a neighborhood and everyone is impacted by this proposal. Mr. Breck is concerned about glare from the metal roof and the precedence the accessory structure will have on the district. Mr. Breck stated the Marina Dell development approximately \$15,000,000 valuation is a benefit to the county.

Exhibit #4: Five letters from neighbors in one quarter mile buffer zone.

Mr. Welch ended public comment and requested commission discussion.

Zoning Administrator, Patrick Garrity, discussed the application. Mr. Garrity presented an analysis of the maximum accessory structure size variances approved by the commission, the ordinance resolution amending Article 6, 7, & 8, Section 605, 705 & 805 and parcel information on “Rupiper” and “DeJager” accessory structures. (Exhibit #5)

Mr. Garrity stated the commission should adhere to the ordinance as written or amend the ordinance to the intended use of the property. It is recommended the commission move to amend the ordinance before any more variances are approved.

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Don Swift II

Parcel Number: 09.017.400.413

Legal description: Lot 13, Block 9, Kabeiseman’s Addition, N1/2, NW1/4, S17-T93N-R56W

Physical Address: 142 Katherine Way, Yankton, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
  - A. The strict application of the ordinance would produce undue hardship; The applicant is requesting the variance to properly provide storage space for antique and collectable vehicles. The applicant currently has three storage locations and wants to consolidate to one location at the residence.
  - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; The hardship can be shared by other properties in the district.

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- C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.
  - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. No convenience, profit or caprice was shown.
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. The requested variance is recurring sufficiently to provide remedy with a zoning amendment. The commission is requested to begin public hearings to address the frequency of the variances and intent of the regulations in Article 6, 7 & 8, Section 605, 705 & 805.
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
- A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property is providing screening of accessory structure, the building has a low profile (17 feet), located on a private road, other similar size buildings in the area and the property is a total of four (4) acres.
  - B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of maximum accessory structure size requirement have been granted in Yankton County.
  - C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are a result of the applicant to provide sufficient personal storage.
  - D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (maximum accessory structure size requirement) have been approved by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on April 28, 2018 (supported by affidavit), a legal notice was published on April 28, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on May 1, 2018.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 7:05 pm on June 12, 2018. This was a continuance from the May

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8, 2018 meeting. The following is the minutes from the May 8, 2018 hearing. Mr. Swift stated his request to build an accessory structure for personal use. Mr. Swift stated his property is four acres, will use natural colors on the structure and will plant trees to screen the structure. Five neighboring landowners signed a statement to give permission to Mr. Swift to build the structure on the proposed site.

No proponents for variance request were present.

Opponents of the variance request were;

Jeanine Pyron, a neighbor in the 1,320 foot buffer area, stated disapproval of the variance. She stated the area is under covenants restricting accessory structure size. Patrick Garrity, Zoning Administrator, explained the authority of the Planning Commission and the authority of the Home Owners Association covenants.

Denny Breck, a neighbor in the 1,320 foot buffer area, stated disapproval of the variance. The Marina Dell development has not allowed any accessory structures constructed of metal and over 100% larger (actual size is 124% larger than regulation size) than the current zoning regulation. Mr. Breck reminded the Planning Commission that the covenants are not Yankton County responsibility. Mr. Breck stated the building is too large for the Marina Dell development.

Andrew Pyron, a neighbor in the 1,320 foot buffer area, is a new resident and the covenants were a serious consideration when the property was purchased. Mr. Pyron stated the Planning Commission meeting was properly conducted and he is hopeful for an appropriate conclusion. Pat Garrity, Zoning Administrator, read into record letters from Jerry/Mary Dittrich and Dan/Deb Broders expressing disapproval of the variance request.

The Planning Commission discussed the application and stated the request has issues with the building materials and overall size. The Planning Commission emphasized Yankton County has no authority regarding property and development covenants. A continuance was requested to allow the applicant to evaluate the building size, building materials and building aesthetics. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

Action 5818C: Moved by Gudahl, second by Williams for a continuance (June 12) to allow the applicant to evaluate the building size, building materials and building aesthetics for a variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

On June 12, 2018, Mike Marlow, representing Don Swift, stated the proposed structure total cubic feet of the structure is less than the regulation building size in the ordinance. The Swifts have had plans to build the accessory structure for a number of years. The steel structures have better design, colors and materials than in the past. The proposed structure will have windows and siding can be an option if required. Mr. Marlow provided a power point presentation showing photographs of the topography, building site, proposed structure and

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other accessory structures in the area. Mr. Marlow stated the proposed accessory structure will not negatively affect the character of the neighborhood. (Exhibit #3)

Mr. Marlow stated the hardship is a consolidation of three separate storage locations to a single location at his primary residence. The Swift's have numerous antique and collector vehicles requiring proper storage. The adjacent property will have no impact or property value issues. The access is a private road and all the immediate neighbors have no objections. (Signed permission documents)

Mr. Marlow concluded with discussion about the accessory structure. The building will be a low profile (seventeen foot peak), it will be screened with evergreens and the viewshed will be protected.

Mr. Welch requested any proponents of the variance to present their statements. No proponents were present.

Mr. Welch requested any opponents of the variance to present their statements.

Jeanie Pyron stated her opposition to the variance and asked about the requirements of hardships to qualify for a variance. She also stated the proposed building site lot is 1.01 acre, not four (4) acres. Mrs. Pyron does not think the hardships are sufficient to allow the variance. Jerry Dittrich stated he has new house across the street from the proposed building site. Mr. Dittrich stated he moved to this location because of protection from large accessory structures and steel buildings.

Deb Broders stated the zoning ordinance needs to be enforced to protect surrounding district neighbors. Mrs. Broders stated they are all neighbors and the entire Marina Dell development is Moderate Density Rural Residential District. The size of the proposed accessory structure is too large and will impact the character of the district.

Don Engelgau stated the approval of this variance request will set a precedence and it will impact the district for future development.

Tom Posch stated the large accessory structure will affect the entire neighborhood. Mr. Posch also states the hardship requirement of the variance process has not been met.

Denny Breck stated the development is restrictive regarding large accessory structures and building materials. This proposed structure is too large and metal construction. The entire Marina Dell development is a neighborhood and everyone is impacted by this proposal. Mr. Breck is concerned about glare from the metal roof and the precedence the accessory structure will have on the district. Mr. Breck stated the Marina Dell development approximately \$15,000,000 valuation is a benefit to the county.

Exhibit #4: Five letters from neighbors in one quarter mile buffer zone.

Mr. Welch ended public comment and requested commission discussion.

Zoning Administrator, Patrick Garrity, discussed the application. Mr. Garrity presented an analysis of the maximum accessory structure size variances approved by the commission, the ordinance resolution amending Article 6, 7, & 8, Section 605, 705 & 805 and parcel information on "Rupiper" and "DeJager" accessory structures. (Exhibit #5)

Mr. Garrity stated the commission should adhere to the ordinance as written or amend the ordinance to the intended use of the property. It is recommended the commission move to amend the ordinance before any more variances are approved.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the

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reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request. To properly provide storage space for antique and collectable vehicles. The applicant currently has three storage locations and wants to consolidate to one location at the residence.

8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Maximum Accessory Structure Size Requirement is approved.

Action 61218B: Moved by Becker, second by Kretsinger to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated June 12, 2018, of Variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for discussion regarding application from Lakeside Fun Rentals. Applicant is requesting a Conditional Use Permit to provide indoor party/event facility/amusement in a Lakeside Commercial District (LC) in Yankton County. Said property is legally described as Tract A, Lot 2, Parcel D, NE1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 108 Marine Drive, Yankton, SD.

Scott Lindquist, representing Lakeside Fun Rentals, stated the Conditional Use Permit is a requirement for all amusement activity in a Lakeside Commercial District (LC). The facility will be 2,400 sq. ft. with hours of operation on weekends with occasional evening operation. The operation has two (2) hour time slots, 9:00 am to 11:00 am, 12:00 pm to 2:00 pm, 3:00 pm to 5:00 pm and 6:00 pm to 8:00 pm. The facility provides games, inflatables, tables and chairs. The parking area is planned for twenty (20) cars. The facility has sufficient septic systems capacity for the proposed activity.

The Planning Commission discussed the application and determined all requirements were met and safety factors were mitigated.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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CONDITIONAL USE  
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Lakeside Fun Rentals

Parcel Number: 09.017.100.146

Legal description: Tract A, Lot 2, Parcel D, NE1/4, S17-T93N-R56W

Physical Address: 108 Marine Drive, Yankton, SD

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; Applicant is requesting a Conditional Use Permit for all amusement activity in a Lakeside Commercial District (LC) Said property is legally described as Tract A, Lot 2, Parcel D, NE1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 108 Marine Drive, Yankton, SD.
2. Notice of public hearing was given, as in Section 1803 (3-5); The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed CUP on April 27, 2018 (supported by affidavit), a legal notice was published on June 2, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on May 1, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 7:20 pm on June 12, 2018 in the Yankton County Government Center County Commission chambers. Scott Lindquist, representing Lakeside Fun Rentals, stated the Conditional Use Permit is a requirement for all amusement activity in a Lakeside Commercial District (LC). The facility will be 2,400 sq. ft. with hours of operation on weekends with occasional evening operation. The operation has two (2) hour time slots, 9:00 am to 11:00 am, 12:00 pm to 2:00 pm, 3:00 pm to 5:00 pm and 6:00 pm to 8:00 pm. The facility provides games, inflatables, tables and chairs. The parking area is planned for twenty (20) cars. The facility has sufficient septic systems capacity for the proposed activity. The Planning Commission discussed the application and determined all requirements were met and safety factors were mitigated. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this Ordinance described in the application, to include:
  - A. Recommend granting of the conditional use;  
The commission recommends granting approval of the conditional use permit.



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- B. Recommend granting with conditions; or
  - C. Recommend denial of the conditional use.
5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
- A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; The applicant has shown sufficient access to property with established roadway (SD Hwy 52) and site plan turn around for emergency vehicles.
  - B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; All off right-of-way areas are designated in the detailed site plan.
  - C. Refuse and service areas, with particular reference to the items in (A) and (B) above; Refuse and service areas is in compliance with Article 11 as shown in applicant site plan.
  - D. Utilities, with reference to locations, availability, and compatibility; Utilities will be available and will be in operational condition, the security lights will be monitored for proper downcast illumination to provide sufficient security.
  - E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering met retail standards.
  - F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; All signage will conform to Article 14 and Article 27, Yankton County Zoning Ordinance
  - G. Required yards and other open spaces; Yards and open spaces requirements are compliant with current regulations for Lakeside Commercial District (LC).
  - H. General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest. The use is compatible with adjacent properties in the district and the granting of a Conditional Use Permit will not adversely affect the public interest.

Action 61218C: Moved by Bodenstedt, second by Guthmiller to recommend approval for a Conditional Use Permit pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, based on Finding of Facts dated June 12, 2018 to provide indoor party/event facility/amusement in a Lakeside Commercial District (LC) in Yankton County. Said property is legally described as Tract A, Lot 2, Parcel D, NE1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 108 Marine Drive, Yankton, SD.

By roll call vote, eight members present voted aye, one member present voted nay.

Motion carried

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This was the time and place for discussion with James Larson. Applicant is requesting a variance of Minimum Yard Requirement on a side yard from seventy-five (75) foot to twenty-five (25) foot to build an accessory structure in an Agriculture District (AG) in Yankton County. Said property is legally described as Tract 3, West Jim River Division, NW1/4, NW1/4, S33-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 3616 SW Jim River Road, Yankton, SD.

James Larson stated he has not decided the final site plan. Mr. Larson requested an option of the side yard variance or the front yard variance. The Planning Commission stated the site plan needs to be final to consider the variance request. Mr. Larson requested a continuance to decide the final site plan.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

Action 61218D: Moved by Kretsinger, second by Gudahl for a continuance (July 10) for a variance pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated June 12, 2018, of Minimum Yard Requirement on a side yard from seventy-five (75) foot to twenty-five (25) foot to build an accessory structure in an Agriculture District (AG) in Yankton County. Said property is legally described as Tract 3, West Jim River Division, NW1/4, NW1/4, S33-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 3616 SW Jim River Road, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for discussion regarding application from Great Bear Sand and Gravel, LLC. Applicant is requesting a Conditional Use Permit to operate a Quarry to mine gravel aggregate in an Agricultural District (AG) in Yankton County. Said property is legally described as W1/2, SE1/4, SE1/4, exc part NE James River Road & part SW Jim River Road, E1/2, SE1/4, SE1/4, S32-T95N-R55W, hereinafter referred to as Walshtown Township, County of Yankton, State of South Dakota. The E911 address is 30289 NE Jim River Road, Yankton, SD.

Harold Goeden, representing Great Bear Sand and Gravel, LLC, stated the request is to mine gravel from the parcel until depleted and reclaim as regulated by State of South Dakota. The haul route will be 303<sup>rd</sup> Street to US Hwy 81. Some local sales may result on local road usage. The work hours will daylight only with no lighting on the mining site. The operation will haul gravel during daylight hours with minimal weekend activity. All trucks will meet weight limit requirements.

The chairman opened the floor for public comment. Gary Schlaefli, a neighbor, stated his concern for truck traffic on 303<sup>rd</sup> Street and wants no (very limited) truck traffic on SW Jim River Road. The river road already has heavy traffic. Mr. Schlaefli suggests a speed limit posting (35 MPH) on SW Jim River Road to reduce the impact from continuous traffic.

The Planning Commission discussed the application and stated the required information is documented, the South Dakota Department of Environment and Natural Resources mining permit is issued, the haul route is identified and the floodplain requirements will be monitored by the Floodplain Administrator.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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CONDITIONAL USE  
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Great Bear Sand & Gravel, LLC

Parcel Number: 07.032.200.300

Legal description: W1/2, SE1/4, SE1/4, exc part NE James River Road & part SW Jim River Road, E1/2, SE1/4, SE1/4, S32-T95N-R55W

Physical Address: 30289 NE Jim River Road, Yankton, SD

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; Applicant requested CUP under Article 15, Section 1515 requirements to operate a quarry in an Agriculture District (AG) in Yankton County.
2. Notice of public hearing was given according to state and county law; The applicant mailed notifications letters to all owners of real property one-half mile buffer on May 30, 2018, 10 days prior to the PC hearing as supported by the affidavit. Legal notification was published on June 2, 2018 10 days before the Planning Commission meeting. The property was posted on June 4, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public hearing was held at 7:45 pm on June 12, 2018. Harold Goeden, representing Great Bear Sand and Gravel, LLC, stated the request is to mine gravel from the parcel until depleted and reclaim as regulated by State of South Dakota. The haul route will be 303<sup>rd</sup> Street to US Hwy 81. Some local sales may result on local road usage. The work hours will daylight only with no lighting on the mining site. The operation will haul gravel during daylight hours with minimal weekend activity. All trucks will meet weight limit requirements. The chairman opened the floor for public comment. Gary Schlaefli, a neighbor, stated his concern for truck traffic on 303<sup>rd</sup> Street and wants no (very limited) truck traffic on SW Jim River Road. The river road already has heavy traffic. Mr. Schlaefli suggests a speed limit posting (35 MPH) on SW Jim River Road to reduce the impact from continuous traffic. The Planning Commission discussed the application and stated the required information is documented, the South Dakota Department of Environment and Natural Resources mining permit is issued, the haul route is identified and the floodplain requirements will be monitored by the Floodplain Administrator. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this ordinance described in the application to include:
  - A. Recommend granting of the conditional use;
  - B. Recommend granting with conditions; The Planning Commission recommends approval of the conditional use permit with conditions as stated in the findings.
  - C. Recommend denial of the conditional use.
5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - A. Ingress and egress to property and structures thereon will not be negatively impacted; The ingress and egress is established with 303<sup>rd</sup> Street to US Hwy 81.
  - B. Off right-of-way parking and loading areas are not required nor will noise, glare or odor affect adjoining properties in the district; The applicant will provide sufficient dust control, operate in daylight hours and manage noise levels during operation.
  - C. Refuse and service areas are required; The applicant will provide sufficient refuse containers during the CUP time period
  - D. Utilities are available and compatible; All utilities are available and compatible
  - E. Screening and buffering are required; The area is large enough and sufficient buffers are present to be compatible in the neighborhood.
  - F. Exterior lighting will not cause glare nor affect traffic safety and is compatible with properties in the district; The hours of operation will be daylight only, no exterior lighting permitted.
  - G. Yards and open spaces have been met or exceeded; The area is large enough and sufficient buffers are present to be compatible in the neighborhood.
  - H. The use is compatible with adjacent properties and the granting of a conditional use will not adversely affect the public interest; The quarry will begin operation in summer 2018 and operate under the conditions until mining materials are depleted. The Conditional Use Permit includes the following conditions:
    1. The quarry mining license #05-817 is current until 1-1-2031.
    2. The quarry will only haul and conduct business with materials from this quarry. No storage or off-site storage of any other materials will be allowed under this Conditional Use Permit.
    3. All future expansion of the mining operation will be monitored by the Floodplain Administrator to assure compliance with all regulations.

Action 61218E: Moved by Kettering, second by Gudahl to recommend approval of a Conditional Use Permit, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, based on Finding of Facts dated June 12, 2018, to operate a Quarry (gravel) in an Agriculture District (AG) in Yankton County. Said property is legally described as W1/2, SE1/4, SE1/4, exc part NE James River Road & part SW Jim River Road, E1/2, SE1/4, SE1/4, S32-T95N-R55W, hereinafter

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referred to as Walshtown Township, County of Yankton, State of South Dakota. The E911 address is 30289 NE Jim River Road, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Delos Warriner. Applicant is requesting a variance of Minimum Yard Requirement on a side yard from seventy-five (75) foot to fifty-two (52) foot to build an accessory structure in an Agriculture District (AG) in Yankton County. Said property is legally described as E1/2, NW1/4, S29-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 44147 307<sup>th</sup> Street, Yankton, SD.

Jacob Warriner stated his request for a variance to build an accessory structure fifty (50) foot x twenty-eight (28) foot to store hay. The proposed structure is located with other farm operation structures and is buffered by evergreen trees. The proposed location is appropriate for the site and will not cause undue hardship for other property owners. The farm is an active production agriculture operation.

The Planning Commission discussed the application. The location is in close proximity of existing tree belts for screening. The farm is an active operation and the proposed building site is a logical location

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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Meeting date: June 12, 2018

VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Delos Warriner

Parcel Number: 06.029.400.150

Legal description: E1/2, NW1/4, S29-T94N-R55W

Physical Address: 44147 307<sup>th</sup> Street, Yankton, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
  - A. The strict application of the ordinance would produce undue hardship; The *applicant is requesting the variance to properly provide storage space for agriculture commodities.*

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- B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; The hardship is not shared by other properties in the district.
- C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.
- D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice. No convenience, profit or caprice was shown.
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. The requested variance is not recurring sufficiently to provide remedy with a zoning amendment.
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
  - A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property is demonstrating special conditions or circumstances with size and location and is not applicable to other lands, structures, or buildings in the same district.
  - B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of minimum yard requirement have been granted in Yankton County.
  - C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are not a result of the applicant.
  - D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (minimum yard requirement) have been approved by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-half mile radius of the proposed variance on May 30, 2018 (supported by affidavit), a legal notice was published on June 2, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on June 4, 2018.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 7:55 pm on June 12, 2018. Jacob Warriner stated his request for a variance to build an accessory structure fifty (50) foot x twenty-eight (28) foot to store hay. The proposed structure is located with other farm operation structures and is buffered by

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evergreen trees. The proposed location is appropriate for the site and will not cause undue hardship for other property owners. The farm is an active production agriculture operation. The Planning Commission discussed the application. The location is in close proximity of existing tree belts for screening. The farm is an active operation and the proposed building site is a logical location

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request.
8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Minimum Yard Requirement is approved.

Action 61218F: Moved by Becker, second by Kretsinger to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated June 12, 2018, of Minimum Yard Requirement on a side yard from seventy-five (75) foot to fifty-two (52) foot to build an accessory structure in an Agriculture District (AG) in Yankton County. Said property is legally described as E1/2, NW1/4, S29-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 44147 307<sup>th</sup> Street, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for discussion with Yankton County, Public Hearing: Amendment Resolution - Yankton County Zoning Ordinance #16 – Article 27, Corridor Overlay Districts – Highway 52 Corridor Overlay District, Section 2709, (E) Signs.

#### (E) SIGNS

All permanent signs shall be designed, constructed and maintained in accordance with the following standards:

1. Attached signs shall be located above the building entrance, storefront opening, or at other locations that are compatible with the architectural features of the building. All signs shall

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- be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame or structure. All signs shall be maintained in a safe and legible condition at all times, including the replacement of defective or damaged parts, painting, repainting, cleaning and other services required for maintenance of the signs. All signs with an electronic message display capability shall have internal ambient light monitors installed which automatically adjust brightness to the level defined in this chapter. If a sign is not so maintained, then the owner shall be notified in writing and required to remove the sign or to immediately bring the sign into compliance.
2. All lots abutting Highway 52 shall use monument or ground signs, shall not exceed ~~ten (10) feet~~ fifteen feet (15) in height and ~~twelve (12) feet in length~~ and shall not exceed 120 square feet on each side and / or pole signs which shall not exceed ~~thirty (30) feet in height~~. Each pole sign shall not exceed thirty (30) feet in height and sixty (60) one hundred twenty (120) square feet on each side for electronic signs and / or sixty (60) one hundred twenty (120) square feet for traditional text / graphics signs. Multi-tenant business sign shall not exceed two (2) square feet / one (1) linear foot of street frontage with maximum of four hundred (400) square feet on each side.
  3. All lots abutting Highway 52 exterior building on-site signs shall not exceed two (2) square feet / one (1) linear foot of structure frontage with maximum total of two hundred (200) square feet of signage for each structure.
  4. Illuminated signs shall be so shielded, shaded or directed so that the light intensity shall not adversely affect the surrounding or facing premises nor adversely affect the safe vision of operators of vehicles on private or public roads. No illumination, including traditionally illuminated signs, shall exceed a brightness level of 0.3 foot candles above ambient light at the nearest property line of abutting property.
  5. A landscaped base area shall be provided for all signs appropriate to the mass and height of the sign. All areas within 5 feet of the base of any sign shall be landscaped. The landscaped area may include trees, shrubs, flowering perennials, ornamental tall grass, fountains, water features, decorative stonework, planters, sculpture, decorative paving, turf grass, loose stone, and mulch.
  6. All banner signs will require a special permit for a period not exceeding sixty (60) days in a calendar year for a fee of \$50.00 for each sign permit. A banner sign permit for a period not exceeding three (3) days in a calendar year for a fee of \$25.00 for each sign permit.
  7. All property in the Hwy 52 Corridor Overlay District in existence as of the date of this amended Overlay Ordinance which is not in compliance with the requirements of Article 27, Section E: Signs, #6, shall be made to comply with all such regulations within twelve (12) months of the date of this amendment to the Corridor Overlay District.
  8. Lots not abutting the designated highway are allowed signs as regulated by Article 14 of the Yankton County Zoning Ordinance.

Yankton County Planning Commission



**Yankton County, South Dakota  
Resolution**

Date: June 12, 2018

Department: Planning and Zoning

Motion by Commissioner: Gudahl

Second by Commissioner: Kretsinger

A Resolution Recommending the Amendment of Article 27  
Yankton County Overlay Districts  
SD Hwy 52 Corridor Overlay District, Section 2709, (E), Signs  
Yankton County Zoning Ordinance #16

WHEREAS, South Dakota Codified Law 11-2-13 allows Yankton County to establish zoning regulations; and,

WHEREAS, The Yankton County Zoning Ordinance (Ordinance #16) establishes zoning regulations in Yankton County, South Dakota; and,

WHEREAS, Section 1809 of The Yankton County Zoning Ordinance (Ordinance #16) gives the Yankton County Planning Commission powers to recommend amendments to The Yankton County Zoning Ordinance (Ordinance #16); and,

The Yankton County Planning Commission hereby agrees Yankton County offers one of the most scenic drives in South Dakota. The view from Chalkstone Hill is spectacular and the corridor ends at beautiful Lewis and Clark Lake. This rich natural environment should be complemented by a vibrant built environment. The Highway 52 Corridor Overlay District (HC) provides basic guidelines that promote quality design along the most visible and heavily traveled road corridor in the Yankton County zoning jurisdiction: Highway 52 from the City of Yankton to Lewis and Clark Lake. The Highway 52 Corridor Overlay District is intended to: Encourage development design that strengthens the physical character and image of Yankton County; Support the value of property and quality of development in the major highway corridor; set basic requirements for good site design and development, building design, landscaping, and signage without discouraging creativity and flexibility in design; permit safe and convenient transportation access and circulation for motorized and non-motorized vehicles, and for pedestrians; manage the impact of commercial and industrial development on adjacent residential neighborhoods.

WHEREAS, the Highway Corridor Overlay District (HC) applies to the following areas:

- Land within 650 feet south and north side of the centerline of Highway 52 within the planning jurisdiction of Yankton County.
- The eastern terminus of the Corridor Overlay District is the intersection of Highway 52 and lower Chalkstone Road.
- The western terminus of the Corridor Overlay District is the intersection of Highway 52 and Welkom Avenue. This area shall include all property zoned Lakeside Commercial on the north side of Highway 52.

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NOW, THEREFORE, BE IT RESOLVED, that the Yankton County Planning Commission, hereby recommends in order to establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of the impact of all Hwy 52 corridor activity, and to protect the health, safety and welfare of the County of Yankton, recommend amendment adoption of Article 27, Corridor Overlay Districts, Highway 52 Corridor Overlay District, Section 2709, (E), Signs, to amending Yankton County Zoning Ordinance (Ordinance #16).

Yankton County Planning Commission

Meeting Date: June 12, 2018

Article 18, Section 1809

AMENDMENTS AND REZONING

Amendment of Article 27

Yankton County Overlay Districts

SD Hwy 52 Corridor Overlay District, Section 2709, (E), Signs

Yankton County Zoning Ordinance #16

FINDINGS OF FACT

1. All documents required for application for said request have been satisfactorily completed and all required fees have been paid in full. All documents have been properly filed and resolution to recommend amending Article 27 of the Yankton County Zoning Ordinance have been read at the June 12, 2018 Planning Commission meeting
2. The individual petitioner provides a completed amendment or change in zone request. Said request must clearly state:
  - A. Special conditions and circumstances which require the land to be rezoned; Not applicable
  - B. The special conditions and circumstances do not result from the actions of the applicant; The conditions or circumstances are not the result of any applicants
  - C. The granting of the amendment or change in zoning will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the area. The amendment will not confer any special privilege for any applicants
3. Notice of public hearing shall be given, as I Section 1803 (3-5). A legal notice was published on June 2, 2018 in the Yankton Daily Press and Dakotan, paragraph #4 & #5 are not applicable
4. The public hearing shall be held. Any party may appear in person or by agent or attorney. A public hearing was held on June 12, 2018, no public comment, positive or negative, was made
5. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for an amendment or change in zoning, to include:
  - A. The reasons set forth in the application justify a recommendation to approve the amendment or change in zone; The Highway 52 Corridor Overlay District (HC)

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- provides basic guidelines that promote quality design along the most visible and heavily traveled road corridor in the Yankton County zoning jurisdiction: Highway 52 from the City of Yankton to Lewis and Clark Lake. The Highway 52 Corridor Overlay District is intended to: Encourage development design that strengthens the physical character and image of Yankton County; Support the value of property and quality of development in the major highway corridor; set basic requirements for good site design and development, building design, landscaping, and signage without discouraging creativity and flexibility in design; permit safe and convenient transportation access and circulation for motorized and non-motorized vehicles, and for pedestrians; manage the impact of commercial and industrial development on adjacent residential neighborhoods.
- B. The amendment or change in zone will make possible the reasonable use of the land, building, or structure; Amendment will allow specific Highway Corridor development regulations to manage the impact of commercial and industrial development and adjacent residential neighborhoods.
  - C. A recommendation to grant the amendment or change in zone will be in harmony with the general purpose and intent of this ordinance; The amendment will be in harmony with the general purpose and intent of the ordinance
  - D. A recommendation of approval will not be injurious to the neighborhood, or otherwise detrimental to the public welfare as presented and testified to by the applicant. Approval of the amendment will not be injurious or otherwise detrimental to the public welfare
6. No petition for amendment or change in zone shall be recommended for approval unless the Planning Commission finds that the condition, situation or the intended use of the property concerned is unique, required, or necessary as to make reasonably practicable the amendment or change in zone. The changes in this amendment are necessary to establish a fair and efficient process to make a fair and good faith effort in to manage the impact of commercial and industrial development and adjacent residential neighborhoods.
7. Before any amendment or petition for rezoning is recommended for approval, the Planning Commission shall make written findings certifying compliance with:
- A. The Comprehensive Plan; The amendment creates a fair and good faith effort to manage the impact of commercial and industrial development and adjacent residential neighborhoods meeting the intentions of the Yankton County Comprehensive Plan
  - B. Specific rules governing land uses; The amendment follows all land use rules and provides clarification of applicable regulations
  - C. Zoning regulations; The amendment provides clarification and efficient process to apply zoning regulations
  - D. Satisfactory provision and arrangement has been made concerning the following, where applicable:
    1. Certification of compliance with all ordinances and regulations regarding licensing and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations; All considerations for compliance are completed
    2. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; All considerations for compliance are completed

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3. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and the economic, noise, glare or odor effects of the amendment or rezone on adjoining properties and properties generally in the district; All considerations for compliance are completed
4. Refuse and service areas, with particular reference to items in (A) and (B) above; All considerations for compliance is completed
5. Utilities, with reference to locations, availability, and compatibility; All considerations for compliance are completed
6. Screening and buffering with reference to type, dimensions, and character; All considerations for compliance are completed
7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; All considerations for compliance are completed
8. Required yards and other open spaces; All considerations for compliance are completed
9. General compatibility with adjacent properties and other properties in the district. All considerations for compliance are completed

In recommending approval of any petition for amendment or changes in zone, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. NOW, THEREFORE, BE IT RESOLVED, that the Yankton County Planning Commission, hereby recommends in order to establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of the impact of all Hwy 52 corridor activity, and to protect the health, safety and welfare of the County of Yankton, recommend the adoption of Article 27, Corridor Overlay Districts, SD Hwy 52 Corridor Overlay District, Section 2709, (E), Signs, Yankton County Zoning Ordinance #16

Action 61218G: Moved by Gudahl, second by Kretsinger, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Resolution dated June 12, 2018, to recommend amendment adoption for Article 27, Corridor Overlay Districts, Highway 52 Corridor Overlay District, Section 2709, (E), Signs, to amending Yankton County Zoning Ordinance (Ordinance #16)

By roll call vote, all members present voted aye.  
Motion carried.

Action 61218H: Moved by Gudahl, seconded by Kretsinger for adjournment.  
By voice vote, all members present voted aye.  
Motion carried.

**The next meeting of the Yankton County Planning Commission will be held at 7:00 P.M. Tuesday, July 12, 2018.**

Respectfully submitted:  
Patrick Garrity AICP  
Zoning Administrator