

Monday November 20, 2017

The Deuel County Zoning Board met on Monday November 20, 2017, at 6:30 P.M., in the Commissioners' room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Mike Dahl, Gary Jaeger, Paul Brandt, and Kevin DeBoer. Also present were States Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order. The minutes from the October 10, 2017, were discussed.

Motion by Dahl, seconded by Brandt, to approve the October 10, 2017, minutes. All voted in favor and motion carried.

Motion by Brandt, seconded by DeBoer, to approve the November 20, 2017, Agenda. All voted in favor and motion carried.

- 1) Richard Nuytten and James Vlaminck came to the board to talk about a complaint the Zoning Board received about a gravel boat ramp and possible erosion into the lake. Nuytten stated that he has owned the property for 23 years and the gravel boat ramp has always been there. Brandt was wondering if they could come up with a solution to help stop the gravel being washed into the lake. The board suggested river rock or larger rock that would not wash down into the lake during a rain. The board suggested filling the rut that is going towards the lake as soon as possible to stop any more erosion. Nuytten and Vlaminck stated that they would work on the ramp in the spring and haul in some more aggregate rock to help stop the erosion.
- 2) Gary Nelson came and talked to the board about his campers at Lake Cochrane. Nelson stated that he was granted a Special Exception in 2008 for a private campground for three campers. He was under the understanding that this permit was good until he sold his lots because the Special Exception is non-transferrable. The board stated they have had a lot of questions and complaints about campers in the Lake Park District. This Special Exception was before the concerns and before the stated limited time frame for the private campgrounds. The board stated that this Special Exception is valid until they sell their lots. The Zoning Board also received a complaint about the refrigerator and other clutter that was left after the campers were removed for the fall. Nelson stated that, yes, he leaves the refrigerator on the lot in the winter. Nelson stated that he will remove the refrigerator and the clutter on the lots this fall.
- 3) Motion by Brandt, seconded by Jaeger, to table the Plat of Block 1 Streich Addition in the S1/2SW1/4 Section 19-113-49, Blom Township, until they

apply for a variance to allow existing buildings to have less than 150' front yard, existing buildings less than 50' from the side and back lot line in a Commercial Zoned District. The board also had concerns about the new plat line going through the middle of the existing bins. All voted in favor and motion carried.

- 4) Mickey Mix applied for a Special Exception Permit & Variance. The request, if granted, would permit the applicant to use the following property: Lots 12-13-17-15 & Lots 12A & 13A of Severson Bay in Gov Lot 5 in the NE1/4 of Section 5-114-47, Lake Cochrane, Norden Township to replace old storage shed with a new 12' x 12' storage that is within 10 feet of the side property line in a Lake Park District. Mix stated via phone that he forgot about getting a building permit and he didn't realize that he needed a Special Exception Permit and Variance Permit also. Mix stated that he was going to replace the siding, but later realized that he should replace the whole shed. The existing pad he used is 8 feet and 2 inches from the side property line and he is more than 50 feet from the high water mark and more than 30 feet from the edge of the road. The board asked Mix if the adjoining property owner was aware of the new shed and if they are ok with the construction and if Mix could get a letter from the adjoining neighbor. Mix stated that the neighbor is ok and will call them and get a letter. Motion DeBoer, seconded by Dahl to grant a Special Exception and Variance to replace old storage shed with a new 12' x 12' storage that is 8 feet and 2 inches from side property line with written permission from the adjoining property owner in a Lake Park District on Lots 12-13-17-15 & Lots 12A & 13A of Severson Bay in Gov Lot 5 in the NE1/4 of Section 5-114-47, Lake Cochrane, Norden Township. All voted in favor and motion carried. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance.
- a. Entrance to and exit from 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: Applicant has pre-existing access to the property and proposed structures, and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.
 - b. Off-street parking and loading areas where required, with particular attention to the items in (a) above, and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply.

- c. Utilities, with reference to locations, availability, and compatibility: Does not apply.
 - d. Screening and buffering with reference to type, dimensions, and character: Applicants have adequate screening and buffering.
 - e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
 - f. Required yards and other open spaces: Applicant has adequate yard and other open spaces.
 - g. General compatibility with adjacent properties and other property: The applicant's proposed use is generally compatible with the adjacent properties and other properties in the Lake Park District.
 - h. Refuse and service areas, with particular reference to the items in (a) and (b) above: Does not apply.
- 5) Jesse Bermel, a representative of Heartland Wind, LLC, applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property which is owned by Bryon & Sheila Monnier: the SE1/4 of Section 6-113-48, Scandinavia Township. To erect a wind anemometer tower which is used to collect wind data in an AG zoned district. Bermel, via phone, stated that the tower will be 180 feet tall and will be 221 feet from the road right-of-way which is more than the ordinance requires. The Board asked the time line of these anemometer towers. Bermel stated when production of the wind towers begin they will remove these anemometer towers; he is thinking 6 months up to 2 years. Motion Jaeger, seconded by Dahl, to grant a Special Exception to erect a wind anemometer tower which is used to collect wind data in an AG Zoned District on the following property which is owned by Bryon & Sheila Monnier: the SE1/4 of Section 6-113-48, Scandinavia Township. All voted in favor and motion carried. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance.
- a. Entrance to and exit from 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: Does not apply.
 - b. Off-street parking and loading areas where required, with particular attention to the items in (a) above, and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply.

- c. Utilities, with reference to locations, availability, and compatibility:
Applicant has adequate utilities.
 - d. Screening and buffering with reference to type, dimensions, and character: Does not apply.
 - e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
 - f. Required yards and other open spaces: Applicant has adequate yard and other open spaces.
 - g. General compatibility with adjacent properties and other property: The applicant's proposed use is generally compatible with the adjacent properties and other properties in the Ag Zoned District.
 - h. Refuse and service areas, with particular reference to the items in (a) and (b) above: Does not apply.
- 6) Stone's Conservation Acres LLP applied for a Special Exception. The request, if granted, would permit the applicant to use the following property: NE1/4 Less Block 1 Hunt Sub Section 34-116-48, Glenwood Township to build and operate an airplane landing strip for private use in an Ag Zoned District. William Stone stated he has run a hunting business for the last 32 years and he would like to have this airstrip for hunters to land on. Stone stated that this would be a convenience for him instead of running to Clear Lake, Canby, and sometimes they land on Lake Cochrane and he has to go and pick them up. This way the hunters could land and he would have a vehicle waiting for them and they could start hunting right away. Stone stated that H-D had overhead lines along his property and now they buried them so he thought about doing an airstrip. Stone stated that he applied for a permit through the FAA and has received approval. The airstrip would be 1100 feet long and they would need about 15 feet to above the airstrip to clear the road and the end of the airstrip. The Board questioned the distance from John Homan's airstrip. Stone stated that that airstrip is 4 miles away from this site. Wade Redlin asked why Stone couldn't use that airstrip. Stone stated that Homan usually has his gates locked and it would be an inconvenience for him to go and get the hunters and that is why he would like his own. Brandt stated that while the board is looking at the best interest of the area, he also stated that in order to get unrestricted access to the airspace over his neighbor's property he would have to secure those rights from the adjacent property owners.

Steve Overby stated that he was in favor of the airstrip and the board should not discriminate. Arnie Krause was wondering what the set back

distance a wind tower would have to be from an airstrip. The board stated that they couldn't find a set back; however in order to get unrestricted access to the airspace over his neighbor's property Stone would have to secure those rights from the adjacent property owners. There were some concerns from the public if the air rights of the adjacent neighbors are still available for Stone to secure them or not. Another concern from the public: does this limit the adjacent property owners from building a structure or a wind tower on their land. The board stated no, they could build a bin, grain leg, or wind tower on their property if they are within the ordinance setbacks and the pilots would have to adapt to the obstacles. Jaeger asked the width of the airstrip. Stone stated 318' in width but will only use about 75'. Kanengieter and DeBoer had concerns about the set back from the county road to the east. There is a hill to the north and the line of site is a concern. The airstrip will be sitting east and west, so the board suggested that the airplanes could only take off toward the west and this would help with the line of site with traffic. Motion by Dahl, seconded by Jaeger, to grant the Special Exception to build and operate an airplane landing strip for private use with the limitation that planes can only take off to the west in an Ag Zoned District located in the NE1/4 Less Block 1 Hunt Sub Section 34-116-48, Glenwood Township. Kanengieter called a roll call vote: Dahl-yes, Jaeger-yes, DeBoer-no, Brandt-yes, Kanengieter-yes. Motion carried. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance.

a. Entrance to and exit from 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: Applicant has preexisting access to the property and proposed structures, and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.

b. Off-street parking and loading areas where required, with particular attention to the items in (a) above, and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply.

c. Utilities, with reference to locations, availability, and compatibility: Does not apply.

- d. Screening and buffering with reference to type, dimensions, and character: Does not apply.
 - e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
 - f. Required yards and other open spaces: Applicant has adequate yard and other open spaces.
 - g. General compatibility with adjacent properties and other property: The applicant's proposed use is generally compatible with the adjacent properties and other properties in the Ag Zoned District.
 - h. Refuse and service areas, with particular reference to the items in (a) and (b) above: Does not apply.
- 7) William Bork & Jon Bork applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: S1/2 Section 6-117-47, Antelope Valley Township, Deuel County, South Dakota to move in an older 24D x 16H Bin within 150' from the road right-of-way in an AG Zoned District. Bork stated that he wanted the bin behind the existing bin to stay in line. Motion by DeBoer, seconded by Brandt, to approve the Variance to move in an older 24D x 16H Bin 127 feet from the road right-of-way in an AG Zoned District. All voted in favor and motion carried. The findings for this Variance are the bin will not cause a safety or snow problem. The existing bins are closer to the road right-of-way.
- 8) Michael Crinion, one of the owners of Sherman Dairy and Global Dairy, applied for a special exception on SW1/4 Less Shannon Addition in Section 21-113-50 for Class "A" CAFO which is 7486 animal units for 4850 head of mature cattle and 550 head of calves. In 2010 Sherman Dairy which is owned by Michael Crinion and Arjan Blok purchased the above described property. Sherman Dairy has part ownership in Global Dairy which is located right beside this parcel of land. The Deuel County Zoning Board previously suggested that they combine these two CAFO's because the dairies have asked for variances for buildings and one building is on land owned by both entities. Crinion stated their long term goal was to have these two entities combined at one point in time. They would like to increase the two existing CAFO's for future growth. Crinion stated that they take pride in having their dairies clean and tidy. Crinion stated he had talked to the surrounding neighbors within 1/2 mile and have letters of approval from them and Estelline business owners. He has 12 signed

letters of approval. Crinion stated that they have enough manure acres. Kanengieter asked about the manure application agreement and the period of time for these agreements. Crinion stated that they are usually good up to 5 years and they are automatically renewed unless the property owner sends a letter to be removed from the manure management plan. Crinion stated they currently apply 20 million gallons on their manure management acres.

Dahl mention in the application that there are plans for another dairy and freestall barn. This would take the place of the current dry cow barn on Sherman Dairies land. Dahl question why increase the application now and not down the line. Crinion stated that they will be at the max number of animal units in the spring of 2018 and would like some room to expand and not be over their limit. Crinion stated they would apply now and then come in for building permits in the future if they expand. They might not expand as it depends on milk prices. Crinion also stated they have their own private wells which are located south of the dairy on Nystrom's land.

The board went through the nutrient management plan, manure management and operation plan, fly and odor control. Crinion stated that they have a flume system for manure management and cross ventilation, so they don't have a lot of flies in the barn. They use a rendering truck for disposal.

Dale Roth stated his concerns about the expansion and opposes the expansion. Roth stated that more animals will produce more manure which means a potential danger for the lagoons leaking. Roth is concerned with the possibility of water quality and contamination of the creeks, rivers, and water table. He was concerned about Rusty Brandsrud who owns land near the dairy. Crinion stated that they follow the state permit requirements with the manure application. Crinion stated that water quality and contamination are very important to them also because they, too, need the water.

Ben Stout and Dan Endres who are involved in the Dairy Industry stated that they are in favor of the expansion for the economic growth this dairy would produce and does produce. Tim Thompson, Seth Evenson, and Thad Krause are local farmers and residents that are in favor of the expansion of the CAFO. They stated that it will help the economy of the local smaller farmers. Jody Kuper with Valley Queen states Crinion runs a tight ship and is a very a good manager. He is in favor of the expansion. Kuper stated that 35 years ago when he started at Valley Queen there were 450 producers and now there are only 45 producers. Mat Hotzler with H-D stated that they are in favor of the expansion. Hotzler stated that

the six largest dairies in the area provided 10% of the kilowatt hours usage toward H-D and they are in favor for the economic development.

Amber & Rusty Brandsrud and their family live north of the dairy and have concerns about the shallow aquifer, the water table, and the possibility of contamination to the water source. They provided pictures of a manure pumping pipe lying across a creek near their house and a picture of runoff on top of a ridge that was about 300 feet from a creek. Crinion stated that he was also concerned about the pipe across the creek and has not hired that company again. The runoff was where they turn around in the field and it didn't get incorporated in; however, they were far enough away from the creek than DENR requires. Brandsruds stated that they would like to be good neighbors and they don't have any complaints about the dairy. They just want to make sure the water quality is protected for them and for the future. Tanya Svec had concerns also with the expansion with more traffic on Hwy 28, the water quality, and property values. Linda Svec showed concerns about the water table and the possibility of water pollution.

Dahl stated that the Town of Estelline had to test the water in town because of high nutrients. The high nitrates were caused by the elevator, so water pollution can be caused by numerous factors.

Motion Brandt, seconded by Dahl, to grant the combination of Sherman Dairy and Global Dairy to a Class "A" CAFO up to 7486 animal units with the conditions they apply and receive a State Class "A" CAFO Permit. Kanengieter called for roll call vote: Jaeger-yes, Dahl-yes, Brandt-yes, Kanengieter-yes and DeBoer-yes, and motion carried. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance.

a. Entrance to and exit from 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: Applicant has preexisting access to the property and proposed structures, and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.

b. Off-street parking and loading areas where required, with particular attention to the items in (a) above, and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and

properties generally in the district: Applicant has adequate off-street parking and loading areas.

c. Utilities, with reference to locations, availability, and compatibility: Applicant has adequate utilities.

d. Screening and buffering with reference to type, dimensions, and character: Applicant has adequate screening with trees planted to east and south, and the existing grove to the west.

e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.

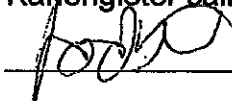
f. Required yards and other open spaces: Applicant has adequate yard and other open spaces.

g. General compatibility with adjacent properties and other property: The applicant's proposed use is generally compatible with the adjacent properties and other properties in the Ag Zoned District.

h. Refuse and service areas, with particular reference to the items in (a) and (b) above: Applicant uses a rendering service and have a nutrient management plan and manure management plan.

9) Board discuss the pending lawsuit.

Kanengieter called the meeting.



Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board

Monday January 22, 2017

The Deuel County Zoning Board met on Monday January 22, 2017 at 6:30 P.M., at the Clear Lake Community Center in Clear Lake. Those present were members Dennis Kanengieter, Steve Rhody, Kevin DeBoer, Paul Brandt, and Mike Dahl. Also present were Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order. The minutes from the December 18, 2017 meeting were discussed. Motion by Dahl, seconded by Rhody to approve the December 18, 2017 minutes. All voted in favor and motion carried.

Chairman Kanengieter asked for nominations for Chairman for 2018. Dahl made motion to elect Kanengieter as Chairman, that nominations cease, and a unanimous ballot be cast for Kanengieter, DeBoer seconded the motion. All present voting yes; motion carried.

Chairman Kanengieter asked for nominations for Vice Chairman for 2018. Dahl made motion to elect Brandt as Vice Chairman, that nominations cease, and a unanimous ballot be cast for Brandt, DeBoer seconded the motion. All present voting yes; motion carried.

Motion by DeBoer, seconded by Rhody, to approve the January 22, 2018 Agenda. All voted in favor and motion carried.

Motion by Rhody, seconded by Dahl, to approve the 2018 Zoning Board Fees Schedule. All voted in favor and motion carried

The chairman Kanengieter stated to the public that there have been some concerns about the current Zoning Board Members being biased. Keven DeBoer stated that he will receive no financial gain from the wind tower project good or bad. He does not have any wind agreements so he believes he can make a fair decision. Steve Rhody stated that he does not have a wind agreement and he will receive no financial gain from the wind tower project so he believes he can make a fair decision. Paul Brandt stated that he does not have a wind agreement and he will receive no financial gain from the wind tower project so he believes he can make a fair decision. Mike Dahl stated that he will receive no financial gain from the wind tower project. He does not have any wind agreements and wind towers are not in his area so he believes he can make a fair decision. Dennis Kanengieter stated that he does not have a wind agreement and he will receive no financial gain from the wind tower project so he believes he can make a fair decision.

Deuel Harvest Wind Energy LLC is applying for a Special Exception Permit. The request, if granted, would permit the applicant to construct and operate up to 300 MW Deuel Harvest North Wind Farm up to 150 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to three meteorological towers. The proposed Wind Energy System is located in the following sections and townships: Portland Township (T117N, R49W) in sections 3-10, 12-18, 21-28, 34-36, and in Lowe Township (T117N, R48W) in sections 19-22, 25-36, and in Altamont Township

Revised Ex. WS2

(T116N, R49W) in sections 1-2, 11-12, 13, 24, and in Glenwood Township (T116N, R48W) & (T116N, R47W) in sections 1-3, 10-29, 32, 25-36; 21, 22, 27-31, and in Herrick Township (T115N, R48W) & (T115N, R47W) in sections 1, 2; 6 all in Deuel County. And Deuel Harvest Wind Energy South LLC is applying for a Special Exception Permit. The request, if granted, would permit the applicant to construct and operate up to 200 MW Deuel Harvest South Wind Farm with up to 100 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to two meteorological towers. The proposed Wind Energy System is located in the following sections and townships: Brandt Township (T114N, R49W) in sections 2-5, 8-17, 20-28, 36, and in Norden Township (T114N, R48W) in sections 2-16, 20-36, and in Blom Township (T113N, R49W) in section 10, and in Scandinavia Township (T113N, R48W) in sections 2-4, 10-15 all in Deuel County.

Michael Svedeman the project manager of Deuel Harvest Wind Farm project gave a power point presentation about the 2 projects. The Deuel Harvest North will have up to 300 MW comprised of up to 150 turbines and associated permanent and temporary facilities. The Deuel Harvest South will have up to 200 MW comprised of up to 100 turbines and associated permanent and temporary facilities. Invenergy chose Deuel County for the the high quality wind resource, the 345kV transmission line access, the compatibility with existing land use and the strong landowner partnerships. Invenergy Company established an office in Clear Lake in 2015 and since then they have been developing the projects. From 2016 thru 2017 they have conducted environmental surveys (wetlands and waterbodies) avian surveys (raptor, breeding bird, large bird, and small bird) and bat mist netting and acoustic studies. From 2016 through present they have been working with agency consultation (USFWS, SDGFP, SHPO, and SDPUC). They have participated in the WES zoning amendment process. In 2017 the conducted sound and shadow flicker studies and designed the projects to comply with Deuel County WES section 1215. They have analyzed multiple layouts and multiple turbines to ensure compliance with the Zoning Ordinance, including revised WES requirements. They developed three representative layouts using seven turbine models and completed acoustic and shadow flicker studies. They identified siting constraints based on WES requirements.

Svedeman stated that the Deuel Harvest North Wind Farm will have 300 megawatts and up to 150 wind turbines. This project is located in Portland, Lowe, Antelope Valley, Altamont, Glenwood, and Herrick townships. The project includes access road, underground collection lines, O & M Building, Project Substation, Interconnection Substation, and permanent MET Towers. They are targeting the fourth quarter of 2019 for the commercial operations date. They observed all necessary setback including Lake Alice, City of Altamont, and the City of Gary.

Svedeman stated that the Deuel Harvest South Wind Farm will have 200 megawatts and up to 100 wind turbines. This project is located in Clear Lake, Brandt, Norden, Blom, and

Scandinavia townships. The project includes access roads, underground collection lines, O & M Building, Project Substation, Interconnection Substation, and permanent MET Towers. They are targeting the fourth quarter of 2020 for the commercial operations date. They observed, all necessary including the setbacks Cochrane and the City of Brandt.

Svedeman stated that they meet the zoning requirements for the Ag District 1101, the special exceptions, the Wind Energy Systems Section 1215, the Special Exception Permits Section 504, and the Aquifer Protection Overlay Zone 1105.12. They stated that they are in compliance with the minimum setback of 4 times the turbine height from non-participating residence, the noise level will not exceed 45 dB from non-participating residences, shadow flicker will be less than 30 hours per year at any residence, the minimum setback of 1500 feet from any participating residence, and the minimum setback of 110% times turbine height from any non-participating property line. They stated that the distance setbacks from the Lake Park and the Cities were met and the project will comply with all applicable local, state, and federal requirements. The building permit will confirm compliance prior to construction and the final layout demonstrating all setbacks are satisfied. Invenenergy will update the noise and shadow flicker analyses as necessary to confirm compliance. They will supply a soil erosion and sediment control plan and a decommissioning plan to be filed within 120 days of completion.

Svedeman stated that they are in compliance with ordinance regarding access, off street parking and loading areas, utilities, screening and buffering, signage and proposed exterior lighting, required yards and open spaces, compatibility, and refuse and service areas.

They requested that the project have up to 3 years as provided in the WES section of the ordinance to satisfy the requirement substantial construction. They also would like to have the special exception to be transferrable to another entity provided that the PUC has approved the transfer to the Energy Facility Permit and the transferee agrees to comply with all the terms and conditions of the SEP for the WES granted to Deuel Harvest.

The board asked Svedeman about the layouts and the number of towers. Svedeman stated that on the layouts there are 11 alternative towers sites. They have these alternative towers sites in case a proposed site is not acceptable for instance the ground might not be suitable for a tower.

Dennis Kanengieter asked about the yellow areas on the easement map. Svedeman stated that those are the areas that have not signed a lease agreement or in the process of signing a easement and they have not updated the current map until the easements are finalized. And they will update any setbacks if necessary.

Paul Brandt asked about moving a turbine and why they would want the flexibility? Svedeman stated that they would need the flexibility because out in the field they might

have to adjust as long as they meet the setbacks and they are not in the gray areas (ordinance constraints area). The FAA will have to permit all the locations also.

Mike Dahl asked about the foundation and the footprint. Svedeman stated that when they build the tower they strip the topsoil with the land owner permission. They dig a hole and pour a concrete matt then they do a rebar cage this cage sticks about 6 inches out of the ground which is what they bolt the foundation to. Then they back fill the cage and restore the area and place gravel on the roads. So based on a 20 feet diameter tower 1 to 1 ½ acres are taken out of production.

Steve Rhody asked if the tower is larger if the footprint is larger. Svedeman state that the bigger the turbines the fewer number of turbines. Rhody also asked about the townships and the haul road agreements. Rhody stated that the townships should document their roads right now.

Mike Dahl asked if someone had a complaint where and who they contacted. Svedeman stated that they will have full teams in the area during construction and they will have a hotline for complaints. They will also have an office in Deuel County and there will be 15 jobs in the North Project and 10 jobs in the South Project.

Steve Rhody asked about the crane paths. Svedeman stated that the cranes have a less PSI feet than the average grain cart. It depends on the ground condition and they will use mats to dispense the weight.

Paul Brandt wondered how many acres will be used during construction. Svedeman stated they will have laydown yards and it depends on the location, delivery of the towers and supplies. Around the tower footprint 2 to 3 acres would be used.

Dennis Kanengieter talked about during the wind tower project south of Toronto they widened the intersections and approaches to fields. Some of those were left in for the township to use. Svedeman stated that they will work with the townships and are open to leaving some of the intersections or approaches.

Paul Brandt had questions about the wildlife surveys that they conducted. Svedeman stated that they have done environmental surveys (wetlands and waterbodies) avian surveys (raptor, breeding bird, large bird, and small bird) and bat mist netting and acoustic studies. From 2016 through present they have been working with SDGFP. They have to site the specific us of the land from cropland to grassland and etc. They have an employee go to the proposed sites to count the number of species and they report them back to the SDGFP to see the impacts.

Ron Tvedt a Deuel County resident that lives southeast of Clear Lake stated that he is favor of the wind towers and they are respectable company. These projects would bring economic development to the county.

Jon Henslin, a Deuel County resident by Lake Alice, showed concerns about the decommission plan and that the plan shall include the permittee post a bond or other adequate security sufficient to the entire cost of the decommissioning process.

Nancy Henslin, a Deuel County resident by Lake Alice, showed concerns about the zoning ordinance 504.5.b section about the economic, noise, glare, odor, or other effects of the special exception on the adjoining properties and properties in general in the district. She is mostly concerned with the economic effect. She also showed concerns about the lighting. And if they could use the Aircraft Detection Lighting System.

Christina Kilby, a Minnesota resident, stated that she is a lawyer and daughter of John Homan who owns land in section 32 in Glenwood Township. Kilby stated she is opposed to the Deuel Harvest Wind Project and that her main concern is that the Board of Adjustment will follow all the required, rules, statutes, ordinances and laws to ensure the right of the all members of the county are protected. The Board only has the power that has been specifically granted to it by the Ordinance. The Board also has the duty to ensure all requirements of the Ordinance are met before granting a permit for a Special Exception. She stated the Ordinance Section 104 purpose, states, "the regulations are intended to preserve and protect existing property uses and values against adverse or unharmonious adjacent uses..." She also stated that the application is incomplete and premature. That they should be applying for one layout instead of 3 layouts. She was also concerned about the decommissioning plan, aquifer zone, the spacing of the towers, and the sound studies.

Gina Engelking stated that she is the daughter of John Homan who owns land and she lives near the Twins Cities. She stated that she is concerned about the many aspects of the possible wind turbine project, its incomplete application, and how it will affect her family land a couple miles northwest of Gary for the decades to come. She stated that she comes out to the family land to enjoy the property. It is beautiful land and pristine nature. She has concerns about the wildlife. She also showed concerns about the decommission plan they should have a 3 mile set back also, and that the wind is not a crop.

John Homan, a resident of Codington County, and owns parcels in Deuel County, questioned the County Officials about the extent of their research. They have not lived among the wind towers. The local citizens shouldn't have to show the burden of proof, they shouldn't have to defend their property rights. He showed concerns about fire and ice throws and the setbacks should be greater. He stated concerns about the zone B aquifer and creeks, birds, and wildlife.

Garret Homan stated that he is the son of John Homan and lives By Duluth. Stated that the board approved an air strip for John Homan and they are going to start construction in the spring of 2018. Public use will be allowed with prior approval from the the airport owner. The construction and operation of the Homan Field Airport provides a

benefit to South Dakota and the general aviation community in the form of charted navigational aid and a safe landing site in the event of an emergency. Notice of approval to establish a private use airport from the FAA was signed on June 12, 2017 for Homan Field. The zoning board must respect and preserve the landowner's property rights in the permitted runway, the safety of flight operations, and utility of the airport.

Dennis Kanengieter stated at the special exception meeting for the airstrip that John Homan had acknowledged that if he needs unrestricted access to the air space over the neighbor's property, he is required to secure those rights from the adjacent property owners.

Garret Homan read a letter from Ashley Conner a Lake Cochrane resident. The letter stated that she moved to Lake Cochrane from Lincoln County, Minnesota to get away from the wind energy nuisance. Now she has to fight to regain her property value and rights against the wind. Towers ruin the landscape, it ruins the people, friendships, and communities. Ivanhoe will soon be a ghost town. The wind towers don't bring in jobs and people it drives them away.

Ron Ruud stated he lives at Lake Cochrane. The county should not except any wind projects because he has concerns about shadow flicker and keeping it below 30 hours. Different proposals stated on average that the max hours of shadow flicker was 52 hours and another model showed 201 hours of shadow flicker. He stated if they have concerns or complaints where do they go to state their concerns. Do they go to the zoning officer, the zoning board, or the wind company?

Joe Blastick stated he lives near Clear Lake in section 6 and he is opposed to the wind projects. He is concerned about the native prairie. The survey's that the wind companies do is not enough info for 2 years. The Prairie Grouse don't like the wind towers the reality is they don't move, they simple go away forever. He also showed concerns about health issues and property values. He was wondering if there is a compromise that the towers could be shut down after sunset. And he stated concerns about the flashing lights.

Jack Hoeke is a resident from Milbank and he stated wildlife is a great thing and he work at the Big Stone Power Plant. They used to say that coal was the only answer for power. Now there is wind and coal might not be the answer. He is in favor of renewable energy.

Brenda Taylor stated she lives by Gary. She had concerns about the permit expiration. The Deuel County Ordinance states that the Wind Energy System Special Exception Permit shall become void if no substantial construction has been completed within 3 years of issuance. The Deuel Harvest Wind has requested that they substantial construction be defined as pouring a single foundation with the project footprint. This definition is the definition used in SD Codified Law to define the development of potential to produce energy. She stated to leave the wording as it currently read in the zoning, this retains control in the county and requires the permittee to show substantial progress. The county

can always extend the permit if necessary. Invenergy schedule provided they will complete for the North Project in less than 2 years and the South Project in less than 3 years.

Ruby Holborn stated she lives in Glenwood Township. She expressed concerns from David Janes from prior meetings for the Wind Ordinance changes in 2016 and concerns in 2009 for the Buffalo 2 Project. She stated after one of the commissioner meeting in 2017 there were some wind developers laughing about future lawsuits. Holborn stated this is not a laughing matter and some residents are being forced to live in a wind farm.

Will Stone a resident by Gary and a hunting business owner in Glenwood Township stated that he is concerned about the setbacks from his property line. He feels he should be considered a business with his hunting. They have to pay extra taxes and his clients have to pay extra taxes. He talked about the different safety zones for the different towers and his land and hunters would be in the the no safely zone.

George Holborn stated he lives in Glenwood Township and was wondering if the wind developers could eliminate all turbines in section 1 & 6 in Herrick Township. This would mitigate the negative effects on roughly 20 to 25 residents. The wind developers stated during the changing of the ordinance that they would offer cooperation. Holborn stated that it should not be any problem accommodating the Homan & Stone Airports. Holborn stated he had concerns about the distance setbacks. Holborn stated he would also like to eliminate all turbines in section 29 of Glenwood Township this would mitigate the negative effects on 20 non-participants.

Dennis Evenson a landowner in Deuel County within 2 miles of Lake Alice stated he is in favor of the wind development. They have met the setbacks. Let them harvest the wind.

Fay Stone stated that they own land in sections 34, 26, and 28 in Glenwood Township and that this land is involved in their business. Flicker would cause problems for their hunting business they get to hunt from 8 a.m. to dark. Fay was wondering if the final approval of the towers were set tonight. The board told her no the company would have to come in with a building permit for every tower with the permanent location.

Martin Wilson stated that he is a land owner in Portland Township and he lives in Ivanhoe, Minnesota. Ivanhoe has a lot of wind towers located around them and he believes that wind development and wind energy is a good thing. The commissioners were stricter and they set a more restrictive setbacks than the zoning board.

Mark Schmidt stated he lives northwest of Gary and he supports the wind towers. The county is lucky to have this opportunity come into this county. If the community would have to vote on building an airplane, interstate, or railroad tonight none of those proposals would get passed. If we want to chase away the opportunity then maybe the county

governments need to combine. For instance, Deuel and Codington should combine and then we wouldn't have a local courthouse.

Cody Kenyon stated he lives in the North Project and is in favor of it. They meet the new requirements. They are within the guidelines. Kenyon stated that he likes wildlife too, he helps feed them and sometimes hits them with his vehicle on the road they will learn to adapt to the development.

Cody Krause stated he lives south of Clear Lake 3 miles and is a main street business owner. Main Street is getting smaller and smaller. The business owners are always getting asked to donate and that is fine but it is nice when different groups like Invenenergy would like to help and donate to the local community. Don't let this opportunity slip by.

Steve Hansen stated he lives northwest of Clear Lake and is in favor of the wind project. It will generate more tax revenue. The 24 towers located in southern part of this county provide \$162,000 in taxes. The Deubrook School get \$80,000 and the 2 townships get \$15,000.

Kristianna Gehant Siddens stated she lives in Scandinavia Township and that she is concerned with the lights at night time. It has a negative impact, during the daylight you don't notice the towers but at night they are noticeable. She was wondering if they could install the Aircraft Detection Lighting System.

Jeff Collins stated he has lived in Glenwood Township for the last 15 years. He stated that he is concerned with the health of his family and the setback of the towers. He would like the developer to remove 1 or 2 towers from section 29 in Glenwood Township. Tower 141 or 142, tower 126, 96, and 97.

Jim Dailey stated he lives in Altamont Township in the North Project. At first he was not for the wind towers and decided not to have them on his land. But then Invenenergy stated that they would donate \$15,000 to the youth foundation. He encourages the public to express to Invenenergy to donate locally and to this foundation. Dailey questioned if the project transfers to another company if this donation still be honored. Svedeman stated yes it will be upheld.

Svedeman stated that in section 504 5. b glare, smell, noise, and parking are all addressed in the application and they meet the proper requirements.

Svedeman stated that the Wind Energy Systems are allowed in the Aquifer Zone B as identified on the map and in the permit application.

Svedeman stated that they will have a hotline for complaints and for resolution.

Paul Brandt brought up the decommission plan. The timeline of submittal is 120 days of completion of construction.

Steve Rhody had a question on the Aircraft Detection Lighting System. Svedeman stated that minimum requirement by FAA does not require them and it is new technology. When the Aircraft Detection Lighting System is required by FAA they will install them.

Paul Brandt asked Svedeman to explain Beacon Lighting. Svedeman stated they attended a FAA Conference and they do not know what is meant by Beacon Lighting and they will not use Beacon Lighting.

Steve Rhody asked about fire control. Dan Litchfield with Invenergy stated they will help the local emergency responders in training and how to respond to a high angle fire.

Joann Black stated that she did the shadow flicker and that in the worst scenario you could not get 50 hours or 201 hours of shadow flicker even if the sun was shining for everyday for every hour it is unattainable.

Paul Brandt asked Svedeman if they could address removal of the towers in section 29 and in sections 1 & 6 in Herrick. Svedeman stated the people who own the property have the right to have them on their property and they must meet the setback requirements.

Svedeman was discussed a compromise with William Stone about the setback requirements but then left it up to the board to define a business.

Jon Henslin stated his concerns about the economic effect on the adjoining land and the compatibility of wind towers. Svedeman stated that they meet those requirements and they are compatible with adjoining land use.


The board had discussion and determined that the applicant has fulfilled the Wind Energy System requirements and they will have to get the PUC and FAA approvals and meet all Federal, County, and State requirements.

Motion by Brandt, seconded by Dahl, to grant the Special Exception permit to construct and operate up to 300 MW Deuel Harvest North Wind Farm up to 150 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to three meteorological towers. The proposed Wind Energy System is located in the following sections and townships: Portland Township (T117N, R49W) in sections 3-10, 12-18, 21-28, 34-36, and in Lowe Township (T117N, R48W) in sections 19-22, 25-36, and in Altamont Township (T116N, R49W) in sections 1-2, 11-12, 13, 24, and in Glenwood Township (T116N, R48W) & (T116N, R47W) in sections 1-3, 10-29, 32, 25-36; 21, 22, 27-31, and in Herrick Township (T115N, R48W) & (T115N, R47W) in sections 1, 2; 6 all in Deuel County.

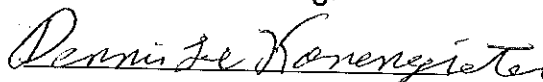
Upon issuance of applicant permit by the South Dakota Public Utilities Commission. Applicant is required to meet requirements of Section 1215 of the Deuel County Ordinance in reference to remaining obligations including but not limited to: submittal of Haul Road Agreements, sign the letter of Assurance, Submittal of Decommissioning Plan,

Final site location of towers, building permit application, meeting applicable federal and state requirements, and consideration of bond for abandonment/decommissioning. The permit shall expire if no substantial construction described within the application has occurred within three (3) years of issuance of a permit by South Dakota Public Utilities Commission. The project will need to be at least 25% complete to meet the substantial completion requirement. The applicant may apply for an extension the requirements above are not met. The Special Exception permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, Brandt-yes Kanengieter-yes. Motion carried.

Motion by Rhody, seconded by DeBoer, to grant the Special Exception permit to construct and operate up to 200 MW Deuel Harvest South Wind Farm with up to 100 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to two meteorological towers. The proposed Wind Energy System is located in the following sections and townships: Brandt Township (T114N, R49W) in sections 2-5, 8-17, 20-28, 36, and in Norden Township (T114N, R48W) in sections 2-16, 20-36, and in Blom Township (T113N, R49W) in section 10, and in Scandinavia Township (T113N, R48W) in sections 2-4, 10-15 all in Deuel County. Upon issuance of applicant permit by the South Dakota Public Utilities Commission. Applicant agrees to meet requirements of Section 1215 of the Deuel County Ordinance in reference to remaining obligations including but not limited to: submittal of Haul Road Agreements, sign the letter of Assurance, Submittal of Decommissioning Plan, Final site location of towers, building permit application, meeting applicable federal and state requirements, and consideration of bond for abandonment/decommissioning. This permit shall expire if no substantial construction described within the application has occurred within three (3) years of issuance of a permit by South Dakota Public Utilities Commission. The project will need to be at least 25% complete to meet the substantial completion requirement. The applicant may apply for an extension if the requirements of above are not met. The Special Exception permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, Brandt-yes Kanengieter-yes. Motion carried. Kanengieter called the meeting.


Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board

Monday August 13, 2018

The Deuel County Zoning Board met on Monday, August 13, 2018, at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Mike Dahl, Steve Rhody, Paul Brandt, and Kevin DeBoer. Also present were States Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order.

Motion by Dahl, seconded by DeBoer, to approve the Agenda for August 13, 2018. All voted in favor and motion carried.

Motion by Dahl, seconded by Rhody, to approve the July 9, 2018, minutes. All voted in favor and motion carried.

Will Stone applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lots 19 & 20 Grabow 2nd Addition in Gov Lot 2 in NE1/4 & SW1/4NE1/4, Lake Cochrane, in Section 5-114-47, Norden Township, Deuel County, South Dakota, to operate a resort or a specialty lodge in an Ag Zoned District. Stone stated that he would live in the upper floor and rent out the basement to interested parties. The board discussed permitted uses and the special exceptions in the AG Zoned District and a resort was not a special exception. However, a bed and breakfast is a special exception in the Ag Zoning District. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance. Motion by Rhody, seconded by Dahl, to grant the Special Exception to operate a bed and breakfast in an AG Zoned District. All voted in favor and motion carried.

a) Entrance to and exit from 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: Applicant has preexisting access to the property and proposed structures and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control or access in case of fire or catastrophe.

b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Applicant has sufficient off-street parking. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.

c) Utilities, with reference to locations, availability, and compatibility: Applicant has adequate utilities.

d) Screening and buffering with reference to type, dimensions, and character: Does not apply.

e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.

f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.

g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Agricultural District.

h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Applicants has met the Lake Cochrane Sanitary District requirements and there are no concerns regarding refuse or service areas.

City of Clear Lake applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lots 1-23 in Blocks 1-2 Ulvens Summer Resort & Outlot 2 & Lots 1-26 Sunset beach in replat Outlot 1 Ulvens Summer Resort in Gov Lots 2-3 in Section 24-115-49, Clear Lake Township, Deuel County, South Dakota, to make improvements to existing campground with a bathhouse in a Natural Resource District. Ellen Schmahl & Don Ebbers discussed that they the city would like to build a 7' x 12' vaulted bathroom near the south picnic area, using the current structure for storage. The new bathroom would not have any water and the waste would be pumped out regularly. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance. Motion by Dahl, seconded by DeBoer, to grant the Special Exception to make improvements to existing campground with a new bathroom in a Natural Resource District. All voted in favor and motion carried.

a) Entrance to and exit from 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: Applicant has preexisting access to the property and proposed structures and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control or access in case of fire or catastrophe. The speed limit is 5 mph in the campground.

b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply.

- c) Utilities, with reference to locations, availability, and compatibility: Does not apply.
- d) Screening and buffering with reference to type, dimensions, and character: Applicant has adequate screening and buffering.
- e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
- f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.
- g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Natural Resource District.
- h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Applicants has a sealed tank that will be pumped and there are no concerns regarding refuse or service areas.

Motion by Brandt, seconded by Dahl to waive the \$200 Special Exception fee for another governmental entity. All voted in favor and motion carried.

Neal Ruhd applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: NW1/4 in Section 12-114-49 & SE1/4SW1/4 & S1/2SE1/4 in Section 1-114-49, Brandt Township, Deuel County, South Dakota and S1/2 in Section 6-114-48, Norden Township, Deuel County, South Dakota, to operate a private shooting preserve in an AG Zoned District. Ruhd stated that he has hunters come and hunt on his land and having a shooting preserve they would be able to hunt earlier and later in the season. This gives Ruhd more opportunities for hunting. Ruhd stated that he has applied and was granted a permit with the South Dakota Game and Fish and there are many regulations that he has to conform to. Ruhd stated that he rents some of the land that is in the application, and he has permission from the land owner. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance. Motion by Rhody, seconded by Brandt, to grant the Special Exception to operate a private shooting preserve in an AG Zoned District. All voted in favor and motion carried.

- a) Entrance to and exit from 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: Does not apply.
- b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Applicant has

sufficient off-street parking. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.

c) Utilities, with reference to locations, availability, and compatibility: Does not apply.

d) Screening and buffering with reference to type, dimensions, and character: Does not apply.

e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.

f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.

g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Agricultural District.

h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Does not apply.

Case Wiarda representing Donald & Helen Hardy Living Trust applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lots 16-17 Severson Bay in Gov Lot 5 in NE1/4 in Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to replace stairs within the 35' from the high water mark in a Lake Park District. Travis Trupe representing Case Wirarda stated that they would like to remove the old wooden stairs and replace them with 4' x 18" stone steps. They would cut the existing wood posts at ground level, remove some of the existing rock and dirt and replace it with fabric and stones steps. The slope of the land will not cause a lot of dirt removal. They will be placing 25 steps and approximately 3 yards of dirt excavation. Trupe stated that they will be setting these steps by hand. Motion by Dahl, seconded by DeBoer, to grant the Special Exception to replace stairs within the 35' from the high water mark in a Lake Park District and to use a silt fence during construction. All voted in favor of and the motion carried.

Ronald Golden from East River Electric Coop., Inc. and H-D Electric Cooperative, Inc. applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Block 3 of Ridgeview Estates Addition in W1/2 of the NW1/4 in Section 26-115-49, Clear Lake Township, Deuel County, South Dakota, for a public & private utilities to construct a 60' self-supporting lattice tower to provide H-D Electric with communication with their electrical system in a Commercial District. Golden stated that they would like to build a 60' tower for H-D Electric for voice communications for H-D Electric. This tower will be built by East River Electric Coop Inc. but will be owned by H-D Electric. The Board determined that it is empowered

under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance. Motion by Rhody, seconded by Brandt, to grant the Special Exception for public & private utilities to construct a 60' self-supporting lattice tower to provide H-D Electric with communication with their electrical system in a Commercial District. Kevin DeBoer abstained from the voting. All voted in favor and motion carried.

- a) Entrance to and exit from 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: Does not apply.
- b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Applicant has sufficient off-street parking. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.
- c) Utilities, with reference to locations, availability, and compatibility: Applicant has adequate utilities.
- d) Screening and buffering with reference to type, dimensions, and character: Applicant has adequate screening with the location near the existing building.
- e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
- f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.
- g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Commercial District.
- h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Does not apply.

Golden talked to the board about a tower located south of Clear Lake in their substation located along South Dakota State Hwy 22. The tower is currently 40' and the signal going to Bemis is getting interrupted by trees. Golden stated that they would like to add 20' to the existing tower to help stop the interruption. This tower is a data tower that communicates between the substations; if this tower went down it would be a safety issue. The board stated that they could do the construction as long as they apply for a special exception, a variance at the next meeting, and they talk to the neighbors.

Andy Schmitt applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lots 17 & 18 Lake Alice Shores in Section 7-116-48, Altamont Township, Deuel County, South Dakota, to put a drain tile and add sand within 35 feet of the high water mark and to move in a storage shed in a Lake Park District. Jane Schmitt stated that they are getting seepage into their basement and that they are getting erosion along their house. They would like to place tile along their retaining wall and their house to go underground toward the lake and have it discharge above the high water mark. They also would like to move in a 14' x 24' storage shed that will be more than 10' from the side lot line, more than 50' from the high water mark, and more than 30' from the edge of the road. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance. Motion by Dahl, seconded by Brandt, to put a drain tile within 35 feet of the high water mark, to use a silt fence during construction and to move in storage shed in a Lake Park District. All voted in favor and motion carried.

a) Entrance to and exit from 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: Applicant has preexisting access to the property and proposed structures and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control or access in case of fire or catastrophe.

b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply.

c) Utilities, with reference to locations, availability, and compatibility: Does not apply.

d) Screening and buffering with reference to type, dimensions, and character: Applicant has adequate screening and buffering with the existing trees.

e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.

f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.

g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Lake Park District.

h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Does not apply.

Schmitt talked about having some sand between their house and the lake. The board asked where the sand would be located and what is the distance from the lake. Schmitt stated that they didn't have exact plans for the sand. Motion by Dahl, seconded by DeBoer to table the request to add sand within 35 feet of the high water mark until they have a more defined plan. All voted in favor and motion carried.

David & Donna Miller applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 44 & E1/2 Lot 45 of Thokola Beach in Gov Lot 2 in Section 8-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to remove existing grass and replace with sod within the 35' from the high water mark in a Lake Park District. Shane Mack, the Miller's landscaper, couldn't attend the meeting however, he sent an email explaining the project. They would like to remove ½ to 1 inch of old weeds and sod to make room for the new sod to put down. They will not be removing any loose soil. The new sod will also be better for runoff. Motion by Dahl, seconded by DeBoer, to grant the Special Exception to remove existing grass and replace with sod within the 35' from the high water mark in a Lake Park District and to use a silt fence during construction. All voted in favor of and the motion carried.

Kenneth Tekrony applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 20 Bostic Beach Gov Lots 3-5 in NW1/4 in Section 4-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to replace stairs within the 35' from the high water mark in a Lake Park District. Tekrony stated that his shoreline was being washed away by the lake. Tekrony stated that he would like to lay fabric and field rock along the shoreline to help stop the erosion. Tekrony stated that he would be doing the work himself. Tekrony stated that he won't be removing any dirt, just squaring up the shoreline. Motion by Dahl, seconded by Rhody to grant the Special Exception to alter the shoreline within the 35' from the high water mark with fabric and field rock to help stop erosion in a Lake Park District. All voted in favor of and the motion carried.

Tom Flicek came and talked to the board about his property at Lake Cochrane. They have 3 lots and they would like to split the lots into 2 lots. Flicek stated that they could sell the 2 lots instead of the 3 lots because of the campers next door. Jon Gorder, his realtor, stated that he has been trying to sell the 3 lots together the last year and have not gotten them sold. The board stated that Tom could apply for a variance to split the lots in the future meetings.

Jason Toben came and talked to the board about the variance that was granted at the March meeting. The variance that was granted was for 67' from the road right-of-way, however Toben stated that there is an old house foundation behind the location of the new structure. Toben stated his father, Greg, thought the road right-of-way was 27' instead of 33' so when they set the stakes they were off 6'. Motion by Deboer, seconded by Brandt, to amend the Variance to build a shed with living quarters that is 80' x 60' and approximately 61' from the road right-of-way in an AG Zoned District.

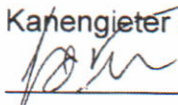
The Deuel County Board of Adjustment recessed and convened as the Deuel County Planning Commission.

Motion by DeBoer, seconded by Rhody, to approve the Plat of Gabrielson Second Addition in Section 27-115-47, Herrick Township. All voted in favor and motion carried.

Motion by DeBoer, seconded by Brandt, to approve the Plat of Lot 1C & lot 7 of Outlot 3 in the NE1/4 of the SE1/4 in Section 4-114-47, Norden Township. All voted in favor and motion carried.

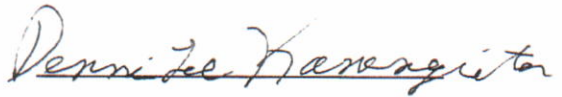
Jim Moes and Jacob Moes came and talked to the board about building a CAFO in Deuel County. They would like to build a 2000 to 3000 head barn that would contain calves to heifers. The board looked at the 2 proposed sites and listened to the Moes.

Kanengieter called the meeting.



Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board