

Codington County Planning Commission/Board of Adjustment Minutes

November 23, 2015

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on November 23, 2015 at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Bob Fox, Mark O'Neill, Myron Johnson, Charles Rossow, Rodney Klatt, Mel Ries, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer).

Codington County Commissioner Brenda Hanten filled the vacant seat on the board.

Others present were Chad Little, Craig Meidinger, Wes Wilkens, Justin Pietz, Jeff Roe, Jeff Deville, Tyler McElhany, Bob Boettcher, and Becky Goens.

Chairman Fox brought the meeting of the Board of Adjustment to order.

Motion by Johnson, second by Rossow, to approve the October meeting minutes. Motion passed unanimously.

Motion by Johnson, second by Ries, to approve the Existing Farmstead Exemption and Lot Width variance requests made by Roland E. Pester Estate. Property is located in NW1/4 of 14-118-52. To be known upon platting as Plat of Lot 1, Pester Addition in NW1/4, 14-118-52. Site visit and history review has determined this site was used as a farmstead prior to October 26, 1976. Staff recommends the applicant plat a parcel containing more than five acres and that the applicant sign and record a Letter of Assurance agreeing to the following conditions:

- 1) As a condition of obtaining a variance to establish an Existing Farmstead exemption on property described as Northwest Quarter, Section 14-T118N-R52W, Codington County, South Dakota, the Grantors, their heirs, successors, and assigns acknowledge that the existing farmstead, minimum five (5) acre, residential building right is assigned to the 5-acre parcel in Northeast Quarter, Section 14-T118N-R52W, Codington County, South Dakota, which upon platting, will be known as: Plat of Lot 1, Pester Addition in NW1/4, Section 14-T118N-R52W of the 5th P.M., in the County of Codington, South Dakota.
- 2) The Grantors, their heirs, successors, and assigns further hereby agree that subsequent residential development in Northwest Quarter, Section 14-T118N-R52W, Codington County, South Dakota, Codington County, South Dakota less Plat of Lot 1, Pester Addition, shall only be allowed upon parcels of thirty-five (35) acres unless and until changes are made to the Codington County Zoning Ordinance allowing for such residential development on less than thirty-five acres. Residential development to be defined as a "dwelling" per the Codington County Zoning Ordinance.

Motion passed unanimously.

Motion by Johnson, second by Ries, to approve Existing Farmstead Exemption and minimum

Lot Width variances by Brenda and Bob Boettcher. Boettcher's are requesting to retain residential building rights at the site of an existing farmstead located in S280' N1596' E1630', 20-118-53. Muller reviewed Staff Report (attached). Boettcher's would like to sell the farmland surrounding this site but would like to keep the building rights. Staff recommends approval with the condition that prior to obtaining any future building permits, the applicant must sign a Letter of Assurance agreeing to: 1) one parcel will contain a minimum of 5 acres to retain building rights and; 2) the remaining parcel must contain 35 acres in order to retain building rights. Motion passed unanimously.

Motion by Hanten, second by O'Neill, to approve the variance request by Don Roehrich to allow for more than one single-family, non-farm dwelling per quarter-quarter section. Property is located in NE1/4, 10-116-54 less the N660' of E660'; and less the W1391' & less H-2. Muller reviewed Staff Report (attached). Access to the property is proposed to be approximately 20' south of adjoining landowner Craig Meidinger's property. Meidinger indicated he built his home on the south end of his property because there would not be another home in that location and therefore he and his family would have privacy. This would no longer be the case if a driveway were placed along that property line. Dust would also be created with it. Meidinger's home is located approximately 75'-80' from the property line. Fox suggested trees may be planted between the driveway and Meidinger's property line. Roehrich proposes to move the driveway as far south as possible. It was recommended and emphasized to be good neighbors and work together on potential tree plantings and driveway placement. Motion passed unanimously.

Motion by Ries, second by Hanten, to approve the 75' shelterbelt setback variance for Allen Fannin. Property is located in Government Lots 6, 7, 8 and the N300' of Government Lot 5, 33-119-55. Fannin has requested this item be tabled until the December 21 meeting so that he may speak with the Highway Superintendent. Public Hearing opened. Seeing there was no one present to speak of this issue, public hearing closed. Motion to table this item by O'Neill, second by Johnson. Motion passed unanimously.

Motion by Hanten, second by Klatt, to approve the Conditional Use Permit for Dakota Range Wind to install a temporary meteorological tower to study wind characteristics as presented by Staff. Property is owned by Michael and Nancy Johnson and is located in Government Lots 1 and 2 and S1/2 of NE1/4 and Government Lots 3, 4, 5, and 6 and SE1/4 which has also been described as the E1/2 and Lots 3-6, 4-119-52. Muller reviewed Staff Report (attached). Conditions to be placed on this Permit would include:

- A. Standard Findings of Fact for Conditional Uses and Variances adopted March 17, 2014.
- B. The following use is listed in the A – Agricultural Zone of the Codington County Zoning Ordinance: Telecommunications Towers (Ref: Zon. Ord. 3.04.02.15).

- C. On or before November 9, 2015 Dakota Range Wind applied for a conditional use permit (Ref: Zon. Ord. 4.05.01.1) to construct a 196' guyed Meteorological Tower on property owned by Michael and Nancy Johnson described as:
- Government Lots 1 and 2 and S1/2 of NE1/4 and Government Lots 3, 4, 5 and 6 and SE1/4 which has also been described as the E1/2 and Lots 3 through 6, in Section 4-T119N-R52W, Codington County, South Dakota.
- D. That Telecommunications towers (Ref: Zon. Ord. 3.04.02.15) are allowable in the A – Agricultural District under certain conditions (Ref: Zon. Ord. 5.24). Therefore the Board of Adjustment finds that it is empowered under Section 3.04.02.15 of the Zoning Ordinance to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest. (Ref: Zon. Ord. 4.05.01.5)
- E. The proposed tower will be greater than 150' in height. (Ref. Zon. Ord. 5.24.02.1 & 5.24.03.1)
- F. The tower will be constructed greater than one thousand (1,000) feet from any existing off-site residences, businesses, and public buildings. No on-site residences are located on the above parcel. (Ref. Zon. Ord 5.24.03.2.a)
- G. The tower will be constructed greater than one hundred ninety-six (196) feet from the nearest right of way. (Ref. Zon. Ord 5.24.03.2.b)
- H. The tower will be constructed greater than one hundred ninety-six (196) feet from the nearest property line. (Ref. Zon. Ord 5.24.03.2.c)
- I. The tower will be designed and certified to be structurally sound and, at minimum, in conformance with the Building Code [as established by SDCL]. The tower shall be fixed to land. (Ref. Zon. Ord. 5.24.04.1)
- J. Since the tower is to be used by the owner to relay information specifically for the use of this business and not for any transmission of television, radio, or cellular (public) purposes, Sections 5.24.02.2. and 5.24.05 – 5.24.13 do not apply, except that Section 5.24.12 applies due to the height of the tower exceeding 150'.
- K. The sole purpose of the construction of this tower is to collect wind data and not otherwise to provide telecommunications signals it would be impractical to require collocation of this tower with another tower; and that the sole reason for requiring additional criteria for site plan development modifications per Section 5.24.2.1 is the height of the tower exceeding would lead yield the same result on any property meeting setbacks, Section 5.24.12.1.a.iv. is considered satisfied.
- L. Due to the ability of the applicant to exceed the required setbacks, the location of no “on-site residences”, and satisfaction of other conditions attached by the Board of Adjustment it has been determined by the Board that the proposed tower:

- 1) will be compatible with and not adversely impact the character and integrity of surrounding properties (Ref. Zon. Ord 5.24.12.1.b.i.); and
 - 2) Off-site or on-site conditions exist which mitigate the only adverse impacts, created by the [height of the tower] (Ref. Zon. Ord 5.24.12.1.b.ii.); and
 - 3) In addition, the board may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts which arise in connection with the approval of the modification (Ref. Zon. Ord 5.24.12.1.b.iii.).
- M. The applicant is expected to comply with all applicable state and federal regulations regarding the construction of towers and transmission of radio signals.
- N. SDDOT and FAA may not have specific regulations regarding the construction and marking of towers less than 100' in height.
- O. The findings contained herein combined with the findings of the Board contained in the motion to approve the conditional use permit serve as the Official Findings of Fact referenced in Section 4.05.01.6. The zoning officer is hereby authorized to prepare and issue the conditional use permit and any letters of assurance, building permits or other items associated with said conditional use permit.
- P. In order to comply with the requirements of Section 4.05.01.6 and Chapter 5.24 of the Zoning Ordinance the Board of Adjustment prescribes the following conditions and safeguards in conformity with the Codington County Comprehensive Land Use Plan and Zoning Ordinance (Zon. Ord. 4.05.01.7) to be adhered to:
- 1) Grantor shall submit with building permit application a written statement from an Engineer(s) that the construction and placement of the Tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
 - 2) Grantor shall submit with building permit application a written statement from an Engineer(s) or the project architect that the construction of the proposed Meteorological Tower shall comply with the 2015 version of the International Building Code.
 - 3) The proposed Meteorological Tower shall meet or exceed all requirements of the Federal Aviation Administration (FAA) and South Dakota Department of Transportation- Aeronautics Commission with regard to transmission of signals, height, marking, and registration of the Tower. If compliance is not necessary, documentation from the applicable agency shall be provided to the Zoning Officer and kept with this application.

4) The Grantor further agrees to notify the following entities of the location (legal description) and height of the anemometer tower via certified mail:

- a. Wilbur-Ellis Air LLC
45149 152nd Street
Summit, SD 57266-5112
- b. Watertown Regional Airport
2416 Boeing Avenue
Watertown, SD 57201
- a. Scott Thompson
Thompson Farm Air
PO BOX 308
Estelline, SD 57234
- b. Douglas Hansen
Hilltop Aerial Inc
1531 425 Ave N
Clark, SD 57225

Motion passed 6-1.

Seeing no further business, the Board adjourned as the Board of Adjustment. Chairman Fox called the meeting of the Planning Commission.

Motion by Ries, second by Klatt, to recommend approval of the Roland E. Pester Estate plat to the Board of County Commissioners. This plat is the same as presented earlier in the meeting. It will be presented at the December 1 Commissioners meeting. Motion passed unanimously.

Muller reviewed the Conditional Use Permit granted for Mr. Boettcher on 2010.

Muller has been receiving requests for “shop” houses. His response has been pole foundation, vertical siding houses are not allowed because of decisions in the past. Variances have been granted when used as a temporary structure. The only exception was Myron Kemp as he was located where no one could see him and the variance contained many conditions. Builders are now able to construct pole-type structures with horizontal siding. Muller would like to review the concerns of “shop” houses. Ordinance indicates homes must be a site-built, single-family dwelling. Initially, these were not determined as site-built but rather accessory buildings whereas the landowner was residing in. There are some enforcement issues related to this issue and Muller would like direction. Fox recalls the opposition stated if there were four nice homes in a row, the neighbors did not want a pole shed adjacent to them. Many of these existing structures are currently in the Rural Residential District. The Board may need to set some guidelines or requirements for these homes for the future.

Motion by Hanten, second by Ries, to enter into Executive Session. Motion passed

unanimously.

Motion by O'Neill, second by Johnson, to return to regular session. Motion passed unanimously.

Motion to adjourn by Hanten, second by O'Neill. Motion passed unanimously.

Respectfully Submitted,

Becky Goens, Secretary

**NOVEMBER 2015
CODINGTON COUNTY PLANNING COMMISSION/BOARD OF ADJUSTMENT
STAFF REPORT**

MONDAY – November 23, 2015 – 9:00 a.m.

ISSUE #1 (2) VARIANCES

Applicant/Owner: Roland E. Pester Estate

Property Description: NW1/4 of Section 14-T118N-R52W, Codington County, South Dakota, to be known upon platting as Plat of Lot 1, Pester Addition in NW1/4, Section 14-T118N-R52W, Codington County, South Dakota. (Rauville Township)

Zoning Designation: Agricultural

Request: The Pester Estate seeks variances from the minimum lot width, minimum lot area (by virtue of existing farmstead exemption) to create a minimum 5 acre lot at the site of an existing farmstead.

History/Issue(s):

1. The Pester's will be splitting off the buildings site on the above described property which was used as a base for farming operations prior to 1976.
2. The applicant seeks to plat a parcel greater than 5 acres but less than 35 acres.
3. Codington County's Zoning Ordinance does allow for variance from the 35 acre-minimum lot requirement if the lot is determined to be an existing farmstead which contains at least five acres and thereby affording building rights.
4. The parcel contains an existing farmstead as defined by the Codington County Zoning Ordinance.
5. Staff recommendation –***Existing Farmstead Exemption and variance to Minimum Lot Width***- Approve request because 1) The lot does contain at least five acres which meets the terms of the Ordinance. 2) The Zoning Officer after review of records and site-visit has determined that this parcel was used as an existing farmstead/residential site prior to October 26, 1976.
 - A. The applicant plat a parcel with a minimum 5-acre lot according to the County's subdivision regulations.
 - B. The applicant sign and record a letter of assurance agreeing to:
 - 1) As a condition of obtaining a variance to establish an Existing Farmstead exemption on property described as Northwest Quarter, Section 14-T118N-R52W, Codington County, South Dakota, the Grantors, their heirs, successors, and assigns acknowledge that the existing farmstead, minimum five (5) acre, residential building right is assigned to the 5-acre parcel in Northeast Quarter, Section 14-T118N-R52W, Codington County, South Dakota, which upon platting, will be known as: Plat of Lot 1, Pester Addition in NW1/4, Section 14-T118N-R52W of the 5th P.M., in the County of Codington, South Dakota.
 - 2) The Grantors, their heirs, successors, and assigns further hereby agree that subsequent residential development in Northwest Quarter, Section 14-T118N-R52W, Codington County, South Dakota, Codington County, South Dakota less Plat of Lot 1, Pester Addition, shall only be allowed upon parcels of thirty-five (35) acres unless and until changes are made to the Codington County Zoning Ordinance allowing for such residential development on less than thirty-five acres. Residential development to be defined as a "dwelling" per the Codington County Zoning Ordinance.

Action Item – Variances – Minimum lot size/Existing farmstead exemption (3.04.03.7.b), minimum lot width (3.04.03.2)

ISSUE #2 (2) VARIANCES

Applicant/Owner: Robert Boettcher

Property Description: S280' N1596' E1630', Section 20-T118N-R52W, Codington County, South Dakota. (Rauville Township)

Zoning Designation: Agricultural

Request: The Mr. Boettcher seeks variances from the minimum lot width, minimum lot area (by virtue of existing farmstead exemption) to recreate a minimum 10 acre lot associated with an existing farmstead.

History/Issue(s):

1. Robert and Brenda (Boeder) Boettcher constructed a house on a 10 acre parcel. (Permit #1985, issued by Bud DeBerg on 11/14/02)
2. The 10 acre parcel was surrounded by land owned/farmed by the Boeder family, however no existing farmstead exemption was granted.
3. Codington County's Zoning Ordinance does allow for variance from the 35 acre-minimum lot requirement if the lot is determined to be an existing farmstead which contains at least five acres and thereby affording building rights.
4. At this time the Boettcher's own 127 acres of the NE1/4 of Section 20, and Mrs. Boettcher's brother (Bruce Boeder) owns and occupies the original farmsite on 33 acres.
5. The Boettcher's seek to sell approximately 110 acres of the surrounding farmland to a separate party.
 - A. After the sale the Boettchers will own two legal descriptions:
 - i. One where the house was initially issued building permit in 2002
 - ii. One with the remainder of the NE1/4
 - B. After the sale Bruce Boeder will continue to own a 33 acre parcel at the site of the existing farmstead.
6. Staff recommendation –***Existing Farmstead Exemption and variance to Minimum Lot Width***- Approve request because 1) The lot does contain at least five acres which meets the terms of the Ordinance. 2) The Zoning Officer after review of records and site-visit has determined that this lot was associated with an existing farmstead/residential site prior to October 26, 1976.
 - A. The applicant sign and record a letter of assurance agreeing to:
 - 1) As a condition of obtaining a variance to establish an Existing Farmstead exemption in the Northeast Quarter of Section 20-T118N-R52W, Codington County, South Dakota, the Grantors, their heirs, successors, and assigns acknowledge that the existing farmstead, minimum five (5) acre, residential building right is assigned to the 10-acre parcel legally described as: The South 280' of the North 1,596' of the East 1,630' in Section 20-T118N-R52W, Codington County, South Dakota.
 - 2) The Grantors, their heirs, successors, and assigns further hereby agree that subsequent residential development in Northeast Quarter of Section 20-T118N-R52W, Codington County, South Dakota, less the South 1,175' of the East 931' and less the South 255' of the West 1,709' and less the South 280' of the North 1,596' of the East 1,630' shall only be allowed upon parcels of thirty-five (35) acres unless and until changes are made to the Codington County Zoning Ordinance allowing for such residential development on less

than thirty-five acres. Residential development to be defined as a “dwelling” per the Codington County Zoning Ordinance.

B. Bruce Boeder sign and record a letter of assurance agreeing to:

- 1) As a condition of obtaining a variance to establish an Existing Farmstead exemption in the Northeast Quarter of Section 20-T118N-R52W, Codington County, South Dakota, the Grantors, their heirs, successors, and assigns acknowledge that the existing farmstead, minimum five (5) acre, residential building right is assigned to the 10-acre parcel legally described as: The South 280’ of the North 1,596’ of the East 1,630’ in Section 20-T118N-R52W, Codington County, South Dakota.
- 2) The Grantors, their heirs, successors, and assigns further hereby agree that subsequent building permits in the South 1,175’ of the East 931’ and less the South 255’ of the West 1,709’ of the Northeast Quarter of Section 20-T118N-R52W, Codington County, South Dakota, shall only be allowed upon parcels of thirty-five (35) acres unless and until changes are made to the Codington County Zoning Ordinance allowing for such residential development on less than thirty-five acres; or unless otherwise approved by the Codington County Board of Adjustment.

Action Item – Variances – Minimum lot size/Existing farmstead exemption (3.04.03.7.b), minimum lot width (3.04.03.2)

ISSUE #3 VARIANCE

Applicant/Property Owner: Don Roehrich

Property Description: NE1/4 of Section 10-T116N-R54W less the N660’ of the E660’; and less the W1391’ & less H-2, Codington County, South Dakota. (Kampeska Township)

Zoning Designation: A – Agricultural District

Request: Mr. Roehrich seeks to build a second house in a single ¼ ¼ Section.

History/Issue(s):

1. Mr. Roehrich owns the above described 65 acre parcel and seeks to build a home on it.
2. Codington County Zoning Ordinance limits the number of houses on the same quarter-quarter section (based on original US Survey) to 1.
3. Craig Meidinger built a house on a 10 acre parcel (N660 of E660) for which he was granted variance by the Board of Adjustment on 9/15/03. (Granted because the lot contained a portion of railroad right-of-way. It was determined the RR ROW for the ¼ section contained a building right.)
 - a. At the time, no mention was made regarding whether the remainder of the quarter-quarter section could have a home built on it.
4. The SE1/4 of the NE1/4 of Section 10 would not need variance to build a house, however it is subject to inundation.
5. The Board has a history of allowing second residences on the same quarter-quarter section in similar instances if the approval of the variance:
 - a. Ensures at least one of the lots will contain 35 acres; and
 - b. The variance will not allow a density greater than what existed in the same quarter-quarter in 1976.
6. Both of the above criteria are satisfied. (These criteria are used for existing farmstead exemptions, variances to minimum lot width to allow ½ mile long “40’s” for houses, and in cases with non-conforming lots.)

7. Staff recommendation – **Variance to allow more than one residence in the same quarter-quarter section:** Staff recommends approval be based upon the following findings:
 - a. Approval of the Variance to Meidinger on 9/15/03 utilized the building right associated with the RR ROW, and was not intended to affect the status of building rights on the remainder of the quarter-quarter section.
 - b. The approval of the variance will allow for a residential density equal to what existed on October 26, 1976.
 - c. The proposed residence will be on a lot of greater than 35.0 acres.
 - d. The SE1/4 of the NE1/4 is subject to periodic inundation.
 - e. Therefore approval will be consistent with the intent of the Zoning Ordinance and Comprehensive Land Use Plan.

Action Item – Variance - Number of residences per quarter-quarter (3.04.01.2)

ISSUE #4 VARIANCE

Owner/Applicant: Allen Fannin

Property Description: Government Lots 6, 7, 8 & the N300' of Government Lot 5, all in Section 33-T119N-R55W, Codington County, South Dakota. (Eden Township)

Zoning Designation: A – Agricultural

Request: Mr. Fannin requests to plant a shelterbelt parallel to and 75' from the 439th Avenue Right-of-Way.

History/Issue(s):

1. Mr. Fannin plans to plant an additional shelterbelt which would connect two perpendicular shelterbelts on his property and run parallel to 439th Avenue.
2. The applicant proposes to place the closest row 75' west of the 439th Avenue Right-of-Way.
3. Codington County Ordinance requires shelterbelts on the west side of a road to be at least 150' from the right-of-way; however variance may be granted if the following conditions are met:
 - a. An established treebelt is located within ½ mile to the (west)
 - b. Approval is granted from the (Township Supervisors)
 - c. No trees are planted closer than 75' south of the right-of-way.
4. For reference, some scattered trees are located in the shoreline of Kings Lake less than ½ mile west.
5. The Eden Township Supervisors have been contacted. They have not determined whether they object to the placement at the time of this report.
6. Staff recommendation – Variance – **Shelterbelt setback** - Staff recommends approval of the request based upon the following findings:
 - a. An established shelterbelt is located parallel to and north of the proposed shelterbelt.
 - b. *Eden Township Supervisors do not object to the placing of these trees 75' west of the right-of-way.*
 - c. The closest row will be planted no closer to the right-of-way than 75'.
 - d. Future requests for variance will have to meet the same unique requirements as are met by this application.

Action Item: Variance – Minimum Required Setback for Shelterbelts (5.08.01)

ISSUE #5 CONDITIONAL USE PERMIT

Applicant: Dakota Range Wind, LLC (DRW)

Property Owner: Michael and Nancy Johnson

Property Description: Government Lots 1 and 2 and S1/2 of NE1/4 and Government Lots 3, 4, 5 and 6 and SE1/4 which has also been described as the E1/2 and Lots 3 through 6, in Section 4-T119N-R52W, Codington County, South Dakota. (Germantown Township)

Zoning Designation: A - Agricultural

Request: DRW proposes to erect a 198' guyed wire meteorological tower.

History/Issue(s):

Specifics of Request:

1. DRW is working to secure permitting for the 198' guyed meteorological tower to record wind data.
2. The applicant has obtained an easement from the property owner for the construction of this and larger wind towers. (Larger wind towers are not a part of this request.)

Ordinance, Comprehensive Land Use Plan and other regulations regarding this request:

1. Most of the regulations in Section 5.24 are written for television, radio, and cell towers. Sections 5.24.02.2. and 5.24.05 – 5.24.11 do not apply.
2. Since the Tower is greater than 100' in height, the following setbacks apply (which are met with this application):
 - a. Distance from existing off-site residences, business and public buildings **is greater than** one thousand (1,000) feet. Distance from on-site or lessor's residence **is greater than** five hundred (500) feet.
 - b. Distance from public right-of-way **is greater than** the height of the tower.
 - c. Distance from any property line **is greater than** the height of the tower.
3. Since the Tower is greater than 150' in height, consistent with 5.24.02.1 and 5.24.12 the Board needs to determine that:
 - a. That the Tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.
 - b. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.
 - c. In addition, the board may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts which arise in connection with the approval of the modification.

For reference, Section 5.24.12.1 describes multiple items for a contractor to provide for consideration of "site plan development modifications." The only portion not specifically outlined by the applicant is 5.24.12.1.a.iv which would require the applicant to identify "all other parcels that the tower could be located, attempts by the applicant to... [collocate]" Since the only limiting factor is the actual height being 196' no difference between this or any other property (aside from setbacks) would be relevant, nor would it be practical to collocate an anemometer tower on an existing telecommunications tower.

Given that the applicant exceeds the required setbacks and the proposed structure is located on an otherwise vacant quarter section it appears most adverse impacts are

mitigated by the property's relative "remoteness".

4. It should be noted that South Dakota Codified Law 50-9-13 regulates the marking of anemometer towers such as this. The law is enforced by the South Dakota Department of Transportation – Aeronautics Commission. It requires (for reference only)
 - a. alternating orange and white painting
 - b. orange "balls" to be placed on the guyed wires
5. Towers less than 200' in height do not require lights per FAA regulations.
6. Since towers less than 200' in height do not require specific markings from FAA and SDDOT, in the past, the Board has required those constructing towers to notify, via certified mail, certain airports of the construction of such towers.
 - a. It should be noted that the last 4 similar towers were constructed, voluntarily, to the above standards.
7. Non commercial structures, according to state law are required to meet the latest edition of the International Building Code. The Codington County Zoning Ordinance also requires written confirmation from the project engineer that the structure will be structurally sound.
8. As of the date of this report staff has received no objections regarding this request.

Staff recommendation:

Conditional Use Permit: Telecommunications Tower (Meteorological Tower). The Board may table the request, deny the request, or approve the Conditional Use Permit(s). The Zoning officer recommends approval based upon based upon the comprehensive land use plan, zoning ordinance and testimony heard at this meeting:

- A. Standard Findings of Fact for Conditional Uses and Variances adopted March 17, 2014.
- B. The following use is listed in the A – Agricultural Zone of the Codington County Zoning Ordinance:

Telecommunications Towers (Ref: Zon. Ord. 3.04.02.15).
- C. On or before November 9, 2015 Dakota Range Wind applied for a conditional use permit (Ref: Zon. Ord. 4.05.01.1) to construct a 196' guyed Meteorological Tower on property owned by Michael and Nancy Johnson described as:

Government Lots 1 and 2 and S1/2 of NE1/4 and Government Lots 3, 4, 5 and 6 and SE1/4 which has also been described as the E1/2 and Lots 3 through 6, in Section 4-T119N-R52W, Codington County, South Dakota.
- D. That Telecommunications towers (Ref: Zon. Ord. 3.04.02.15) are allowable in the A – Agricultural District under certain conditions (Ref: Zon. Ord. 5.24). Therefore The Board of Adjustment finds that it is empowered under Section 3.04.02.15 of the Zoning Ordinance to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest. (Ref: Zon. Ord. 4.05.01.5)
- E. The proposed tower will be greater than 150' in height. (Ref. Zon. Ord. 5.24.02.1 & 5.24.03.1)
- F. The tower will be constructed greater than one thousand (1,000) feet from any existing off-site residences, businesses, and public buildings. No on-site residences are located on the above parcel. (Ref. Zon. Ord 5.24.03.2.a)
- G. The tower will be constructed greater than one hundred ninety-six (196) feet from the nearest right of way. (Ref. Zon. Ord 5.24.03.2.b)
- H. The tower will be constructed greater than one hundred ninety-six (196) feet from the nearest property line. (Ref. Zon. Ord 5.24.03.2.c)
- I. The tower will be designed and certified to be structurally sound and, at minimum, in conformance with the Building Code [as established by SDCL]. The tower shall be fixed to land. (Ref. Zon. Ord. 5.24.04.1)

- J. Since the tower is to be used by the owner to relay information specifically for the use of this business and not for any transmission of television, radio, or cellular (public) purposes, Sections 5.24.02.2. and 5.24.05 – 5.24.13 do not apply, except that Section 5.24.12 applies due to the height of the tower exceeding 150’.
- K. The sole purpose of the construction of this tower is to collect wind data and not otherwise to provide telecommunications signals it would be impractical to require collocation of this tower with another tower; and that the sole reason for requiring additional criteria for site plan development modifications per Section 5.24.2.1 is the height of the tower exceeding would lead yield the same result on any property meeting setbacks, Section 5.24.12.1.a.iv. is considered satisfied.
- L. Due to the ability of the applicant to exceed the required setbacks, the location of no “on-site residences”, and satisfaction of other conditions attached by the Board of Adjustment it has been determined by the Board that the proposed tower:
 - 1) will be compatible with and not adversely impact the character and integrity of surrounding properties (Ref. Zon. Ord 5.24.12.1.b.i.); and
 - 2) Off-site or on-site conditions exist which mitigate the only adverse impacts, created by the [height of the tower] (Ref. Zon. Ord 5.24.12.1.b.ii.); and
 - 3) In addition, the board may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts which arise in connection with the approval of the modification (Ref. Zon. Ord 5.24.12.1.b.iii.).
- M. The applicant is expected to comply with all applicable state and federal regulations regarding the construction of towers and transmission of radio signals.
- N. SDDOT and FAA may not have specific regulations regarding the construction and marking of towers less than 100’ in height.
- O. The findings contained herein combined with the findings of the Board contained in the motion to approve the conditional use permit serve as the Official Findings of Fact referenced in Section 4.05.01.6. The zoning officer is hereby authorized to prepare and issue the conditional use permit and any letters of assurance, building permits or other items associated with said conditional use permit.
- P. In order to comply with the requirements of Section 4.05.01.6 and Chapter 5.24 of the Zoning Ordinance the Board of Adjustment prescribes the following conditions and safeguards in conformity with the Codington County Comprehensive Land Use Plan and Zoning Ordinance (Zon. Ord. 4.05.01.7) to be adhered to:
 - 1) Grantor shall submit with building permit application a written statement from an Engineer(s) that the construction and placement of the Tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
 - 2) Grantor shall submit with building permit application a written statement from an Engineer(s) or the project architect that the construction of the proposed Meteorological Tower shall comply with the 2015 version of the International Building Code.
 - 3) The proposed Meteorological Tower shall meet or exceed all requirements of the Federal Aviation Administration (FAA) and South Dakota Department of Transportation- Aeronautics Commission with regard to transmission of signals, height, marking, and registration of the Tower. If compliance is not necessary, documentation from the applicable agency shall be provided to the Zoning Officer and kept with this application.
 - 4) The Grantor further agrees to notify the following entities of the location (legal description) and height of the anemometer tower via certified mail:
 - c. Wilbur-Ellis Air LLC
45149 152nd Street
Summit, SD 57266-5112

- d. Watertown Regional Airport
2416 Boeing Avenue
Watertown, SD 57201
- c. Scott Thompson
Thompson Farm Air
PO BOX 308
Estelline, SD 57234
- d. Douglas Hansen
Hilltop Aerial Inc
1531 425 Ave N
Clark, SD 57225

Action Item – Conditional Use Permit – Telecommunications Tower (3.04.02.15).

CODINGTON COUNTY PLANNING COMMISSION

ISSUE #6 Plat

Applicant/Property Owner: Roland E. Pester Estate

Property Description: a portion of NW1/4 of Section 14-T118N-R52W, Codington County, South Dakota, to be known upon platting as Plat of Lot 1, Pester Addition in NW1/4, Section 14-T118N-R52W, Codington County, South Dakota. (Rauville Township)

Zoning Designation: A-Agricultural

Request: Create a 13 acre lot required Board of Adjustment.

Action Item – Recommendation of Plat approval to County Commissioners.

ISSUE #7 Staff Report/Open

Shop Houses
Shelter belt extension/widening

ISSUE #8 Executive Session