

October 17, 2022 BOARD OF ADJUSTMENT/ PLANNING COMMISSION
DEUEL COUNTY
STAFF REPORT

Monday – October 17, 2022 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1 SPECIAL EXCEPTION

Applicant: Invenergy (the application was inadvertently noticed under Invenergy though the intent is for their subsidiary, Dakota Harvest)

Owner: Clark & Kimberly Rogness

Property Description: E1/2NE1/4 of Section 2-113-48, Scandinavia Township, Deuel County, South Dakota

Action Items – Special Exception – (Section 1101.03.13 – Wireless Telecommunications)

Zoning Designation: A – Agricultural District

Request: Applicant/Owner requesting a Special Exception requesting to erect a meteorological tower which is used to collect wind data in an Ag Zoned District.

History/Issue(s):

Specifics of Request

1. Invenergy (the application was inadvertently noticed under Invenergy though the intent is for their subsidiary, Dakota Harvest) is requesting to to erect a meteorological tower which is used to collect wind data in an Ag Zoned District.

a) Currently they are working on putting up two met towers one in Scandinavia Township and one in Norden.

b) The information generated from these met towers be collected and study the wind conditions in the area of the Deuel Harvest South Wind Project.

c) The tower includes a steel tube construction and reinforces steel base plate so that no concrete foundation is required.

d) The tower heights ae below Federal Aviation Administration requirements and therefore no lighting is required, the height is 196.85’.

e) The towers are are temporary ad will only be up for 4 to 5 years.

f) The towers meet the setback regulations.

2. Deuel County Ordinance requires that a land owner go through the Special Exception Process to have storage in the “AG” District.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. Section 1101.03.13 – Wireless Telecommunications is listed use in the A – Agricultural District.

2. The Deuel County Comprehensive Land Use Plan states that the main goal is to accommodate growth and to minimize the disturbance of agricultural land.

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. ***The proposed MET towers will not impact entrance to and exit from the properties.***

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.

Inapplicable. The proposed MET towers will not require any off-street parking or loading areas.

c) Utilities, with reference to locations, availability, and compatibility. ***The MET towers are powered by small integrated solar panels and will not impact any existing utilities.***

d) Screening and buffering with reference to type, dimensions, and character. ***Inapplicable. No screening or buffering is required.***

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. ***The MET towers will not have any lighting.***

f) Required yards and other open spaces. ***Inapplicable.***

g) General compatibility with adjacent properties and other property. ***The MET towers an authorized Special Exception use in the Agricultural District, under the Wireless Telecommunications Towers and Facilities use category of Section 1101.03.13 of the Zoning Code.***

h) Refuse and service areas, with particular reference to the items in (a) and (b) above. ***Inapplicable. There will be no refuse or service area required by the MET towers.***

Staff Summary

Conditional Use Permit – Wireless Telecommunications: The application may be approved, postponed, or denied.

Staff recommendation:

Approval would be based on the applicant's ability to meet the requirements for a special exception described in ordinance - To grant the Special Exception to erect a meteorological tower which is used to collect wind data in an Ag Zoned 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. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM #1 SPECIAL EXCEPTION

Applicant: Invenergy (the application was inadvertently noticed under Invenergy though the intent is for their subsidiary, Dakota Harvest)

Owner: LC Olson LLP

Property Description: NE1/4 of Section 16-114-48, Norden Township, Deuel County, South Dakota

Action Items – Special Exception – (Section 1101.03.13 – Wireless Telecommunications)

Zoning Designation: A – Agricultural District

Request: Applicant/Owner requesting a Special Exception requesting to erect a meteorological tower which is used to collect wind data in an Ag Zoned District.

History/Issue(s):

Specifics of Request

1. Invenergy (the application was inadvertently noticed under Invenergy though the intent is for their subsidiary, Dakota Harvest) is requesting to erect a meteorological tower which is used to collect wind data in an Ag Zoned District.

- a) Currently they are working on putting up two met towers one in Scandinavia Township and one in Norden.
- b) The information generated from these met towers be collected and study the wind conditions in the area of the Deuel Harvest South Wind Project.
- c) The tower includes a steel tube construction and reinforces steel base plate so that no concrete foundation is required.
- d) The tower heights are below Federal Aviation Administration requirements and therefore no lighting is required, the height is 196.85'.
- e) The towers are temporary and will only be up for 4 to 5 years.
- f) The towers meet the setback regulations.

2. Deuel County Ordinance requires that a land owner go through the Special Exception Process to have storage in the "AG" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. Section 1101.03.13 – Wireless Telecommunications is listed use in the A – Agricultural District.

2. The Deuel County Comprehensive Land Use Plan states that the main goal is to accommodate growth and to minimize the disturbance of agricultural land.

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. ***The proposed MET towers will not impact entrance to and exit from the properties.***

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.

Inapplicable. The proposed MET towers will not require any off-street parking or loading areas.

c) Utilities, with reference to locations, availability, and compatibility. ***The MET towers are powered by small integrated solar panels and will not impact any existing utilities.***

d) Screening and buffering with reference to type, dimensions, and character. ***Inapplicable. No screening or buffering is required.***

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. ***The MET towers will not have any lighting.***

f) Required yards and other open spaces. ***Inapplicable.***

g) General compatibility with adjacent properties and other property. ***The MET towers are an authorized Special Exception use in the Agricultural District, under the Wireless Telecommunications Towers and Facilities use category of Section 1101.03.13 of the Zoning Code.***

h) Refuse and service areas, with particular reference to the items in (a) and (b) above. ***Inapplicable. There will be no refuse or service area required by the MET towers.***

Staff Summary

Conditional Use Permit – Wireless Telecommunications: The application may be approved, postponed, or denied.

Staff recommendation: Approval would be based on the applicant's ability to meet the requirements for a special exception described in ordinance - To grant the Special Exception to erect a meteorological tower which is used to collect wind data in an Ag Zoned 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. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM # 3

Applicants/Owners: Rusty Brandsrud Trust

Property Description: Brandsrud Addition in Section 18-113-50, Grange Township, Deuel County, South Dakota

Action Items – Variance – (Section 1101.04 Rear Yard)

Zoning Designation: AG – Agricultural

Request: Applicant requesting a Variance to have existing house less than 50' from the rear yard.

Specifics of Request:

1. Rusty Brandsrud Trust is requesting to have existing house less than 50' from the rear yard.
2. Moved in an older house less than 50' from the rear yard in 2014. How this was discovered was they applied this year to move in an older house on the land adjoining this parcel and the zoning officer noticed the existing house didn't meet the rear setbacks.
3. The Zoning Officer went out to the site to measure and the house is approximately 6' to 5' from the rear lot line. The Zoning officer found one pin in the pasture but couldn't find the other pins but used the KMZ file that the surveyor sent with the aerial to locate the approximate property lines.

Staff recommendation: If approved, staff recommendation - To grant the Variance to allow the existing house approximately 5' from the rear lot line. Please see Findings of Fact and Conclusions of Law on file with the application.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district.

ITEM # 4 PLAT

Applicant/Owner: Barbara Goens

Property Description: Goens and Hansen Addition in SE1/4 of the Section 22, Township 116 North, Range 50 West of the 5th P.M., Deuel County, South Dakota.

Request: Plat of 3.71 acres for transferring purposes, selling acreage to son.

Action Item –Plat approval.