

**Grant County Board Of Adjustment
April 15, 2024
Staff Report**

Monday – April 15, 2024 – 4:00 p.m.

ITEM #1 Conditional Use Permit Request

Owner/Applicant: Mark McCulloch DBA as McCulloch Cemetery Services

Property Description: Tract of Land Beginning at the SW Corner S ½ NW ¼ thence E 1324.95 N of Section 5, Township 120, Range 48

Zoning Designation: A - Agricultural

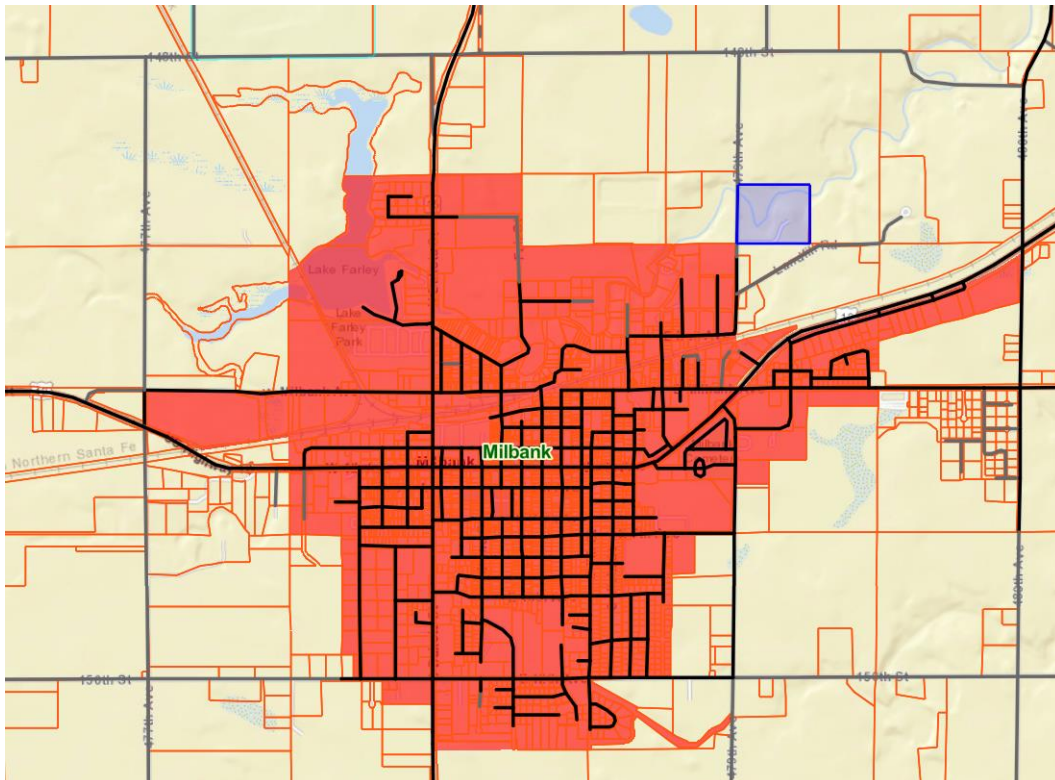
Request: Mr. McCulloch is requesting a conditional use permit for a home extended business to operate a home extended business “Cemetery Services”)

Specifics of Requests:

1. If approved, Mr. McCulloch proposes to conduct a cemetery services business that would include monument engraving, monument installation, cemetery restoration, and any other services required of the cemetery for granite monuments. All work will be done in the cemeteries. The office will be in the house and the equipment will be stored in the pole shed. He would operate (2) pickups trucks and (1) crane truck. Only employees would be family members. There will not be customers visiting the office

Action Item

Conditional Use Permit (1101.03: Conditional Uses in the “A” Agricultural Zoning District #18 – Home Extended Business)





Ordinance and Comprehensive Land Use Plan regarding this request:

The Comprehensive Land Use Plan provides guidance regarding Home Extended Businesses

- A home extended business consists of a business, profession, occupation, or trade conducted for profit and located entirely within the accessory building for a dwelling, which use is accessory, incidental, and secondary to the use of the dwelling for residential purposes and does not change the essential residential character or appearance of such dwelling.

Policies:

- Grant County encourages businesses operated by the owner or tenant of a property which are directly supportive of agricultural land uses.
- Grant County may permit businesses operated by the owner or tenant of a property which may be of a similar character to other uses allowed in the agricultural district including, but not limited to, gravel hauling, asphalt contracting, commercial hauling, general contracting/construction.
- Grant County shall establish a maximum number of non-family employees allowed to work for the business.
- Buildings for the operation of the business should be of similar construction to agricultural or residential structures.
- Businesses operated by the owner or tenant shall not disrupt normal agricultural operations.
- Appropriate screening or additional setbacks for business activities may be required to protect agricultural uses from commercial activities.
- On-premise sign area shall be limited.
- Off-premise signs shall be prohibited with the exception of SDDOT commercial, directional signs.
- Outdoor storage of materials, vehicles, or inventory shall be prohibited.
- Permits for extended home occupations will only be permitted upon assurance by the entity in charge of maintenance of the roads that the traffic generated by the proposed use can be accommodated by the roads serving the business.

- No equipment or process shall be used in extended home occupation which creates unreasonable noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.
 - In the case of noise: noise shall not exceed that expected of agricultural uses within the district.
 - In the case of electrical interference: no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
 - Grant County may assign appropriate conditions to mitigate noise, vibration, glare, fumes, odors, or electrical interference.

- Home Extended Businesses are allowed by conditional use in the Agricultural District and are further governed by Section 1209 and Section 243

Powers and Jurisdiction Relating to Conditional Uses		
504.1	Application Submitted	3/11/2024
504.2	Notice Published in a paper	Published 4/3/2024
504.3	Public hearing held	4/15/2024
504.4	Empowered to issue permit	Findings of Fact
504.5.a.b.c & d	Access/Parking and Internal Traffic/ Refuse & Utilities	By-Laws [Art. 12]; Findings of Fact
504.5. e	Screening, buffering, open space	By-Laws [Art. 12]; Findings of Fact
504.5. f	Signs	By-Laws [Art. 12]; Findings of Fact
504.5. g	Required Open Space	By-Laws [Art. 12]; Findings of Fact
504.5.h	General Compatibility	By-Laws [Art. 12]; Findings of Fact General compatibility is used to apply conditions to proposed permit (Section 243a of Zoning ordinance).
504.6	Permit Expiration	One year if no activity or construction has commenced
504.7	Voting Standard	Majority vote of those members present and voting
504.8	Prescription of Conditions	Based upon Hearing and policies of board
504.9	Reapplication	Six month waiting period if denied

Staff Summary and Recommendation

- The current 33-acre property is zoned agricultural and is utilized as a private residence.
- Property accesses 479th Avenue (paved road)
- There is adequate parking and loading area on site.
- As of the date of this report staff has received no objections regarding this request.
- While this specific home extended business use is not listed in Section 1209 of the ordinance. The ordinance allows the BOA to determine whether or not this type of business is compatible with the intent of the ordinance and would not conflict with adjoining land uses
- Regarding this conditional use request, a “yes” vote will authorize the use of the property as a home extended business Cemetery Services).

Conditional Use Permit -- the Board may postpone the request, deny the request, or approve the request with or without conditions. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

1. A home extended business may not be changed to another home extended business except by the issuance of a separate conditional use permit.

2. Individuals engaged in such occupation shall consist of family members residing on the premises.
3. Off-premise signage associated with the home extended business will be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as "Blue Signs".
4. There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one on-premise sign. On-premise signage may be permitted by the Zoning Officer subject to the following:
 - a. A maximum of 16 square feet of sign area will be allowed.
5. Outdoor storage of materials, vehicles, or inventory shall be prohibited.
6. No traffic shall be generated by such home extended business in greater volumes than would normally be expected in an agricultural neighborhood, and any need of parking generated by the conduct of such home extended business shall be provided off the street and other than in a required front yard.
7. No equipment or process shall be used in such home extended business which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
8. There will be no storage of junk on site.
9. The Conditional Use permit for the home extended business is not transferable.
10. This permit shall be valid as long as the operation of the Cemetery Services is in accordance with terms of the letter of assurance.
11. Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. The Grant County Zoning Officer will determine violations. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.



ITEM #2 CONDITIONAL USE PERMIT

Owner/Applicant: Evan Erickson

Property Description: : S1240' of the N 1475' of the W46'' of the W ½ SE ¼ Section 18, Township 118, Range 48

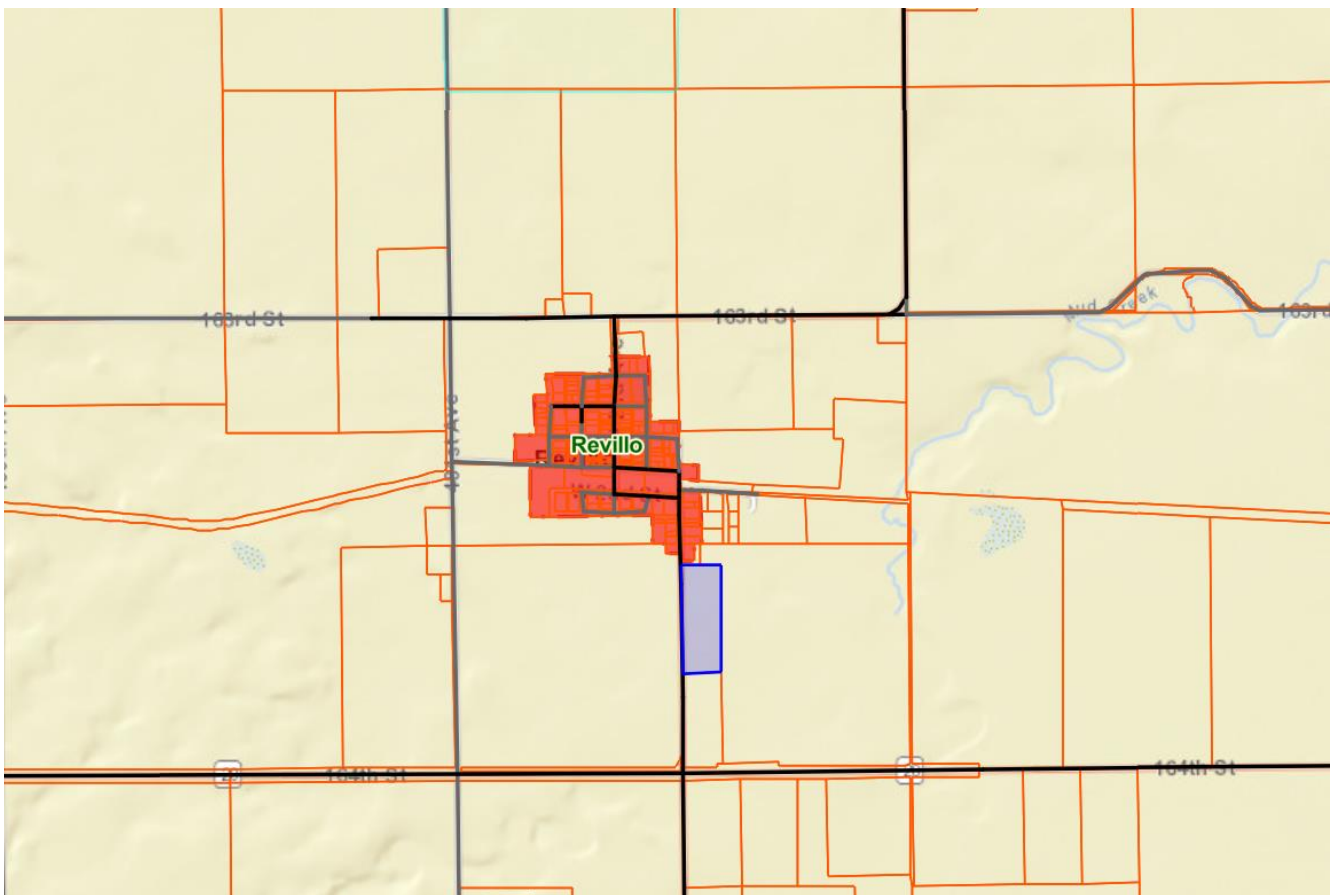
Zoning Designation: A - Agricultural

Request: Mr. Erickson is requesting a conditional use permit to operate a seasonal retail stand to sell fireworks.

Specifics of Requests:

1. If approved, Evan Erickson proposes to utilize a shipping container outside the main building of the old Reville School to store fireworks and sale fireworks between the dates of May 1 to June 26 (out of State residents only) and between June 27th and July 5th per State and County regulations

Action Item - Conditional Use Permit (1101.03.17 - Seasonal Retail Stand including fireworks stand





Ordinance and Comprehensive Land Use Plan regarding this request:

The Comprehensive Land Use Plan provides guidance regarding fireworks sales and storage

Fireworks Sales and Storage

Fireworks sales and storage locations include any site which may be permitted in accordance with South Dakota Codified Law for the storage or retail sale of fireworks

Policies:

- Firework sales and storage operations are required to meet all applicable state and federal regulations regarding the sale and storage of fireworks.
- Applicants for sale of fireworks shall obtain a State Permit from the South Dakota State Fire Marshall’s Office prior to the sale of fireworks.
- Grant County shall review and require precautions be taken for the safety of patrons, employees, and adjacent land uses.
- Permits for the sale of fireworks shall be limited to a single season applied for and expire, or be suspended, until the next permitted season for a new operator or at a previously unpermitted location.
 - Following the expiration of an initial permit for the sale of fireworks, Grant County may authorize the sale of fireworks for more than one sales season with a single permit.
- Fireworks sales are required to be situated with access to a county road, paved road, or Board of Adjustment approved privately maintained road.
- On-site parking and loading will vary based upon the size of the operation and may require site specific consideration.
- Storage of fireworks may be required to be screened from adjacent landowners and/or rights-of-way.

Powers and Jurisdiction Relating to Conditional Uses		
504.1	Application Submitted	3/08/2024
504.2	Notice Published in a paper	Published 4/3/2024
504.3	Public hearing held	4/15/2024
504.4	Empowered to issue permit	Findings of Fact
504.5.a.b.c & d	Access/Parking and Internal Traffic/ Refuse & Utilities	By-Laws [Art. 12]; Findings of Fact
504.5. e	Screening, buffering, open space	By-Laws [Art. 12]; Findings of Fact
504.5. f	Signs	By-Laws [Art. 12]; Findings of Fact
504.5. g	Required Open Space	By-Laws [Art. 12]; Findings of Fact
504.5.h	General Compatibility	By-Laws [Art. 12]; Findings of Fact General compatibility is used to apply conditions to proposed permit (Section 243a of Zoning ordinance).
504.6	Permit Expiration	One year if no activity or construction has commenced
504.7	Voting Standard	Majority vote of those members present and voting
504.8	Prescription of Conditions	Based upon Hearing and policies of board
504.9	Reapplication	Six month waiting period if denied

Staff Summary and Recommendation

- Temporary stands for the sale of fireworks are allowed by conditional use.
- The current property is zoned agricultural and is the former location of the Revillo School
- Property accesses 482nd Street (Paved Road)
- Owner of the property has provided a written letter of permission to store and sell fireworks during prescribed times
- Adequate parking and loading will be provided for the fireworks sales site.
- The applicant will obtain a license for retail sale of fireworks from the state.
- As of the date of this report staff has received no objections regarding this request.

Regarding this conditional use request, a “yes” vote will authorize the operation of a seasonal retail stand for selling fireworks.

Conditional Use Permit – Seasonal Retail Stand/Fireworks - the Board may postpone the request, deny the request or approve the request with or without conditions. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

1. The applicant is required to meet all State laws regarding location and operation of fireworks stand (separation from other structures, hours of operation, etc).
2. The applicant may be required to present the Zoning Officer with a copy of the State Permit from the State Fire Marshall’s Office prior to opening for sales for any specific season.
3. Sales shall occur no closer than 65’ to the public right-of-way.
4. No parking shall be allowed in the public right-of-way.
5. Separate conditional use permit(s) are required for any off-premise advertising associated with the business.
6. Total on-premise signage, during periods of fireworks sales, shall not exceed eighty (80) square feet.
7. The conditional Use is valid only for the dates of June 27 through July 5, 2024.
8. All signs and structures are to be removed on or before July 12, 2024.
9. This conditional use permit expires on July 12, 2024. Following application, the Board of Adjustment may authorize future permits on this property after a review of the application and any complaints regarding sale from this or past seasons.
10. Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. The Grant County Zoning Officer will determine violations. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.
11. This Conditional Use permit is not transferable.

ITEM #3 CONDITIONAL USE PERMIT

Owner/Applicant: Ottetail Power

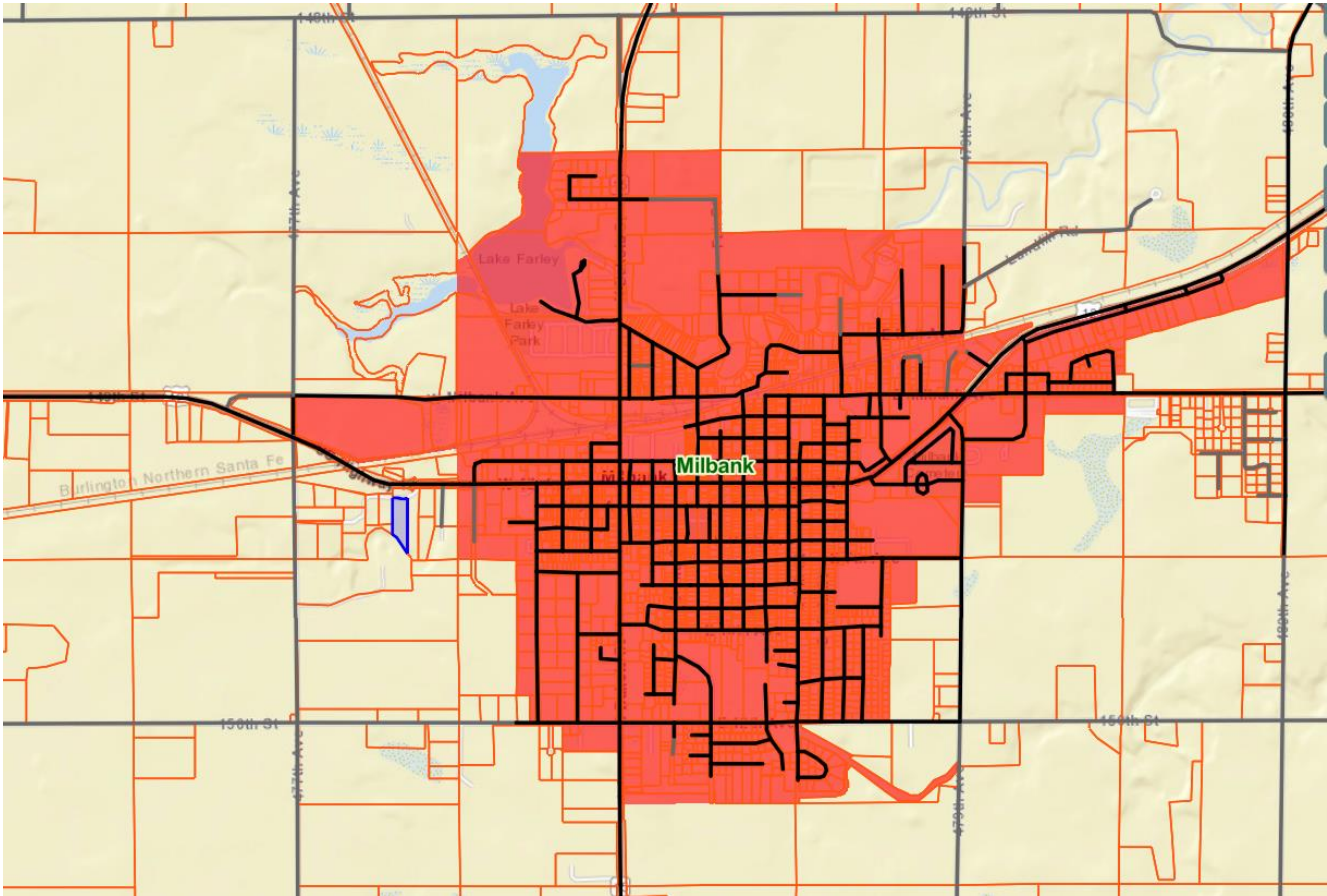
Property Description: Lot 5A Berkners Addition NW ¼ Section 12, Township 120, Range 49 of the 5th p.m. Grant County, South Dakota.

Action Items

Conditional Use Permit (1102.03.7– Public and Private Utilities)

Zoning Designation: CI – Commercial Industrial

Request: Ottetail is requesting a Conditional Use Permit to build and operate a 60 x 120 public utility warehouse/shop





The Comprehensive Land Use Plan does not provide guidance specific to public utilities but has policies relating to commercial uses and contractor shops and yards.

COMMERCIAL AND INDUSTRIAL DEVELOPMENT IN GENERAL

Policies

- Commercial and industrial development should take advantage of existing utility networks and transportation systems.
- The locations, capacities and relationships of public infrastructure systems should be reviewed as part of development proposals requiring county permission.
- Commercial and industrial development, such as value-added Agricultural industries, should be compatible with adjacent land uses.
- Commercial and Industrial development projects should take place in designated industrial parks or already developed highway locations.
- Municipal commercial districts should be protected and should not be diluted by a scattered pattern of commercial uses developed at random throughout the unincorporated areas of the county.

- Developers should be encouraged to reserve "buffer" areas between different land uses to minimize the potential for conflict.
- Discourage commercial and industrial development in the rural area unless the uses are directly supportive of agricultural operations.
- Prior to construction, each commercial/industrial development project should be subject to a specific site design, review, and approval process. The arrangement of the on-site buildings should provide for efficient and viable long-term usage. Further, appropriately locating and designing the development's service areas should discourage disruption to on-site circulation or adjacent land use. Vehicular access to highway commercial and industrial areas should be sufficiently set back from intersecting streets with appropriate sight distance maintained at all entry points. Also, to enhance vehicular traffic flow, strict controls affecting the number and location of access points to commercial/ industrial areas should be established.
- Discourage the rezoning of property to allow for Commercial/Industrial uses unless the following general commercial/industrial criteria are met:
 - Adjacent to county and state highways
 - Rail access for industrial uses
 - Controlled access onto major highways
 - Adequate buffering from neighboring uses
 - Hard surfaced driveways and parking areas
 - Uses which may be accommodated within municipal city limits are encouraged to be located in city limits.
 - Proposed development adjacent to municipal boundaries is encouraged to be annexed by the municipality prior to development

Contractor Shops and Yards

Contractor shops and yards include structures and land areas where the outdoor storage of equipment and supplies used for various types of off-site construction are stored. Examples of equipment and supplies include, but are not limited to, the following – road construction, building construction, gravel operations, and general contracting services.

Policies:

1. Applications for contractor shops and yards may be required to include detailed site and operation plans to describe the nature of the business, number and type of equipment, hours of operation, potential traffic generated, means of securing the site, and other information which may be requested.
2. Contractor shops and yards may be required to provide buffering and screening to limit potential land use conflicts.
3. Junk shall not be stored at contractor shops and yards
4. On-site parking and loading will vary upon the size of the operation and require site specific consideration
5. Contractor shops and yards are recommended to be situated with access to a county road, paved road, or Board of Adjustment approved privately maintained road.

6. Contractor shops and yards not situated with access to a county road, paved road, or Board of Adjustment approved privately maintained road, may be expected to be financially responsible for road improvements, and maintenance necessitated by traffic from the operation. Any conditions including, but not limited to, bonds, insurance, haul road agreements, maintenance agreements, private roads, and dust control measures may be utilized to meet this policy.
7. Use or storage of any petroleum-based products shall comply with Grant County Aquifer Protection regulations and all other applicable regulatory agencies.

Powers and Jurisdiction Relating to Conditional Uses		
504.1	Application Submitted	3/12/2024
504.2	Notice Published in a paper	Published 4/3/2024
504.3	Public hearing held	4/15/2024
504.4	Empowered to issue permit	Findings of Fact
504.5.a.b.c & d	Access/Parking and Internal Traffic/ Refuse & Utilities	By-Laws [Art. 12]; Findings of Fact
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504.6	Permit Expiration	One year if no activity or construction has commenced
504.7	Voting Standard	Majority vote of those members present and voting
504.8	Prescription of Conditions	Based upon Hearing and policies of board
504.9	Reapplication	Six month waiting period if denied

Staff Summary and Recommendation

- The current 4-acre property is zoned commercial/Industrial;
- The property is situated over the shallow aquifer
- The property is located in the 100-year flood plain.
- Property will access US Hwy 12 via a private road – Berkner Construction has provided permission to use private road
- As of the date of this report staff has received no objections regarding this request.

Conditional Use Permit – the Board may postpone the request, deny the request, or approve the request with or without conditions. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s)

1. Garbage and rubbish storage and disposal shall be handled in such a manner so as not to create a health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.
2. Junk shall not be stored on-site
3. Use or storage of any petroleum-based products shall comply with Grant County Aquifer Protection regulations and all other applicable regulatory agencies.
4. All structures shall be constructed in accordance with flood plain regulations

5. Maximum on-site signate shall be limited to eighty (80) square feet and shall observe all yard and height requirements.
6. Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. The Grant County Zoning Officer will determine violations. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.
7. This Conditional Use permit is issued solely for a public utility warehouse/shop and associated accessory uses and is transferable.