

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
May 19, 2014

A meeting of the Planning Commission was held on May 19, 2014 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mark Rogen, Bill Even, Jeff Barth, Becky Randall, Mike Cypher, and Bonnie Duffy.

STAFF PRESENT:

Scott Anderson and David Heinold - County Planning

The meeting was chaired by Mike Cypher.

CONSENT AGENDA

A motion was made by Commissioner Rogen and seconded by Commissioner Barth to **approve** the consent agenda. The motion passed unanimously.

ITEM 1. Approval of Minutes – April 28, 2014

A motion was made by Commissioner Rogen and seconded by Commissioner Barth to **approve** the meeting minutes from April 28, 2014. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #14-22 to allow mini-storage units on the property legally described as Lot 1, Block 3, Brower 2nd Addition SW1/4, Section 27-T102N-R51W.

Petitioner: Mark Schoenfelder

Property Owner: same

Location: Corner of Jeffrey Street and Jesse Street – approximately ¼ mile south of Hartford

Staff Report: Scott Anderson

General Information:

Legal Description – Lot 1, Block 3 of Brower’s 2nd Addition, SW ¼ of Section 27, T102N, R51W

Present Zoning – I-1 Light Industrial

Existing Land Use – vacant

Parcel Size – 1 acre

Staff Report: Scott Anderson

The applicant is requesting a conditional use permit to allow mini-storage units. There will be two buildings containing 18 units. The 55’ x 90’ structures is shown on the submitted site plan and meets all the required setbacks. The petitioner has not requested an allowance for any outside storage. Staff will recommend that in the future outside storage may be approved administratively, provided the proper screening is provided.

The property is located in the industrial zoned Brower Addition just south of Hartford. A variety of commercial and industrial uses exist in the development including contractor’s shops and storage yards, antique stores, trucking operations, and mini-storage units.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

This is an industrial area, so the proposed use blends in quite well and should not impact the use and enjoyment of the property in the area. This type of business will not impact property values.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

This expanded use is located in an existing commercial/industrial area. The proposed use should not impede future or existing industrial development in the area.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Jesse Street provides access to the site and is hard surfaced. Section 15.04 of the Minnehaha County Zoning Ordinance requires that the driving and parking surfaces of this property be hard surfaced:

(A). Any driveways, parking lots, or loading/unloading areas in a commercial or industrial zoning district shall be constructed with a hard surface when the property is accessed from a hard surface road. Hard surfacing shall consist of:

1. Concrete;
2. Asphalt; or
3. Crushed asphalt. Crushed asphalt shall be applied to the following specifications.

- 1) A minimum 3 inches packed gravel base.
- 2) Recycled asphalt packed to 4.5-5 inches.
- 3) Chip seal shall be applied two (2) times.
- 4) 2-4 inches of hot-mix asphalt shall be applied when the recycled asphalt material begins to break down.
(amended by MC16-109-10 on 3/16/10)

Staff will require that the driveway into the lot be a minimum of 24' in width. The parking area in front of the storage units should be hard surfaced for the length of the building and have a width of at least 20 feet.

4) That the off-street parking and loading requirements are met.
No additional off-street parking will be required.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.
The applicant is conducting a business that may periodically produce some noise. The area is located within an industrial area and should not be out of line with noises typically found in an industrial area.

Recommendation: Staff recommended **approval** of Conditional Use Permit #14-22 to allow for storage units with the following conditions:

- 1) The property is approved for mini-storage units.
- 2) Outside storage must be approved by the Planning Director. The outside storage area must meet the required setbacks and be screen by a 6 foot high, 90% opacity fence.
- 3) That the business operator obtains and maintains a South Dakota sales tax license.
- 4) Any new exterior lighting shall be shoe box style that directs the lighting downward.
- 5) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance and a building permit shall be obtained prior to the erection of any sign.
- 6) The driveway and parking area shall be hard surfaced by July 1, 2015. The driveway shall have a hard surfaced width of a minimum of 24 feet. The parking around the storage units shall be hard surfaced for the length of the buildings and shall have a minimum width of 20 feet.
- 7) A 15' landscape buffer shall be maintained along the property line on Jesse Street and Jeffrey Drive. No parking shall be allowed within the 15' landscape buffer.

ACTION

A motion was made to **approve** Conditional Use Permit #14-22 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-22 - Approved

ITEM 3. CONDITIONAL USE PERMIT #14-23 to exceed 1,200 square feet of total accessory building area – requesting 2,500 square feet on the property legally described as Lot 3 Aasen’s Sub. SW1/4 SW1/4, Section 31-T103N-R49W.

Petitioner: Neil P. Cordell

Property Owner: same

Location: Lot 3 Aasen’s Sub. approximately 1.5 miles northeast of Crooks

Staff Report: David Heinold

General Information

Legal Description – Lot 3 Aasen’s Sub. SW1/4 SW1/4 Section 31-T103N-R49W

Present Zoning – A-1 Agricultural

Existing Land Use – Agricultural

Parcel Size – 4.77 Acres

Staff Report: David Heinold

Staff Analysis:

The Zoning Ordinance for Minnehaha County regulates the size and location of accessory buildings in Section 12.07 (D). In regards to the A-1 zoning district, the Ordinance states:

In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use permit has been approved.

The petitioner has applied for a conditional use permit to exceed 1,200 square feet of accessory building area. The property is located about 1.5 miles northeast of Crooks on 472nd Ave. The parcel is located on Lot 3 of Aasen’s Subdivision SW1/4 SW1/4 Section 31-T103N-R49W. Mr. Cordell indicated that a single-family residence will be constructed sometime next month.

The petitioner would like to construct a 2,500 square foot accessory structure. The petitioner’s requested total building area, 2,500 square feet, is relatively comparable with other accessory buildings in the immediate area. A neighboring property owner, 47210 256th St., constructed a 1,890 square foot accessory structure in 2006. The neighboring property owner to the southeast of the petitioner’s property applied for a Conditional Use Permit to exceed 1200 square feet in accessory building area, requesting 3,060 square feet. Recently, the property owner south of the petitioner’s property applied for CUP #13-55 and was approved to allow 3,510 square feet of total accessory building area.

Two other properties within close proximity of the petitioner’s property have accessory structures that exceed 1,200 square feet and are relatively comparable to the petitioner’s requested accessory building area of 2,500 square feet. In 1999, the property owner at 47222 256th St. obtained a permit for a 1,800 square foot accessory structure. In 1978, the property owner at 25576 472nd Ave. constructed a 2,160 square foot accessory structure.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The construction of the proposed accessory building should have no impact on further construction or development within the general area. The building will only be used for the owner's personal storage, and no commercial or business activities will be allowed. This use will not affect the residential uses or agricultural land in the area.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The accessory structure may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory structures in the immediate vicinity of the petitioner's property, a 2,500 sq. ft. accessory structure would be congruent with the land composition.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Access will be provided off of 472nd Ave. on a shared driveway for the proposed single-family home and has been approved by the County Highway Department.

4) That the off-street parking and loading requirements are met.

No on-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure.

Recommendation

Staff found that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended **approval** of conditional use permit #14-23 with the following conditions:

- 1) That the total accessory building square footage shall not exceed 2,500 square feet.
- 2) That the accessory building shall not exceed 35 feet in height.
- 3) That a building inspection is required to determine that the building does not exceed 2,500 square feet measured from the outside perimeters.
- 4) That a building permit is required.
- 5) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 6) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
- 7) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 8) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

ACTION

A motion was made to **approve** Conditional Use Permit #14-23 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-23 - Approved

ITEM 4. CONDITIONAL USE PERMIT #14-24 – to exceed 1,200 square feet of total accessory building area – requesting 2,880 square feet on the property legally described as Tract 1, Jacobs Addition, W1/2 NW1/4, Section 25-T101N-R51W.

Petitioner: Norm Steuck

Property Owner: Denise R. Seaman & Norm Steuck

Location: 46378 257th Street approximately 4 miles west of Sioux Falls

Staff Report: Scott Anderson

General Information

Legal Description – Tract 1, Jacob’s Addn, Section 25, T101N, R51W

Present Zoning – A-1 Agricultural

Existing Land Use – Residential

Parcel Size – 10 acres

Staff Report: Scott Anderson

Staff Analysis: This subject property is located in Section 25 of Wall Lake Township. The petitioner has applied for a conditional use permit to exceed 1,200 square feet of accessory building area at 46378 257th Street. The property owner is requesting this conditional use permit for 2,880 square feet of accessory building area. The owner would like to construct a 40 x 72’ pole barn with 14’ high side walls.

A conditional use permit application is required by Section 12.07 (D) of the Minnehaha County Zoning Ordinance which states: *In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.*

Larger accessory building areas can be found within the general vicinity and range in size from 280 sq. ft. to 10,964 square feet. (See attached accessory building area map)

The property owner shall meet all regulations regarding accessory buildings. These regulations are found in *Article 12.07 Accessory Buildings and Uses*. Minimum setbacks required for accessory buildings in the A-1 Zoning District that are located within 10 feet of the main building are front yard 30’, side yard 7’, and rear yard 30’. Accessory building that are not considered part of the main building shall be no closer than three feet to the side and rear property lines. There is a minimum setback of 50’ from any section line road or major arterial street.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

There are larger accessory buildings located in the general vicinity of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure will not impact the neighboring properties. The construction of this accessory building should not impede on the enjoyment or use of the surrounding properties or affect property values.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The construction of the proposed accessory building should have no impact on further construction or development within the general area. The building will only be used for the owner's personal storage, residential related items, and no commercial or business activities will be allowed. This use will not affect the residential uses or agricultural land in the area.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Access to the proposed accessory building will be through a driveway located on 257th Street. This driveway also provides access to the residential dwelling unit on the property.

No other infrastructure improvements are required at this time.

4) That the off-street parking and loading requirements are met.

The property has sufficient parking for all residential activities.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

There should be no uses in the building which should constitute these types of nuisances.

Recommendation

Staff found that the proposed accessory building size conforms to the general sizes of other accessory building areas and recommended **approval** of Conditional Use Permit #14-24 with the following conditions:

- 1) That the accessory building area shall not exceed 2,880 square feet on the property.
- 2) That a building inspection is required to measure the outside dimensions of the building.
- 3) That a building permit is required.
- 4) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 5) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
- 6) That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect accessory buildings at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

ACTION

A motion was made to **approve** Conditional Use Permit #14-24 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-24 - Approved

ITEM 5. CONDITIONAL USE PERMIT #14-25 to transfer a building eligibility from the S1/2 NW1/4 in Section 24-T101N-R51W to the N1/2 NW1/4 (Ex N751 W433) & (Ex H-1) in Section 24-T101N-R51W.

Petitioner: John Boll

Property Owner: same

Location: 1/2 mile west of Hwy. 17 on Hwy 42 (265th St.)

Staff Report: David Heinold

General Information

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 72.48 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to transfer one building eligibility from the S1/2 NW1/4 in Section 24-T101N-R51W to the N1/2 NW1/4 (Ex. N751 W433) & (Ex. H-1) in Section 24-T101N-R51W. The building eligibility will be taken from productive agricultural land to hay ground that is located east of the present farmstead site.

On May 8, 2014, staff conducted a site visit and determined that there are no confined animal feeding operations near the location of the transfer. There are approximately 5 houses and/or farmsteads located within a 1/2 mile of the subject property. The remaining property surrounding the petitioner's property to the north and south within a 1/2 mile is either farmland or pasture.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

A right-to-farm notice covenant should be required to notify potential buyers about the realities of locating in an agricultural area.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The transfer of the building eligibility will not increase the number of dwelling units allowed in this section.

3) That utilities, access roads, drainage, and/or other necessary facilities are provided.

The transfer of building eligibility will result in the construction of single-family dwelling with a new driveway off of 265th St. that requires approval from the South Dakota Department of Transportation.

4) That the off-street parking and loading requirements are met.

The off-street parking requirements will be accounted for once a single-family dwelling is constructed on the subject property.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed conditional use will not cause any odor, fumes, dust, noise, vibrations, or lighting in a way that would otherwise constitute a public nuisance.

Recommendation:

Staff found that the transfer of building eligibility request is consistent with density zoning. Staff recommended **approval** of Conditional Use Permit #14-25 with the following conditions:

- 1.) That the lot shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to issuance of a building permit.
- 2.) That the construction of a single-family dwelling shall require permission from the South Dakota Department of Transportation for a new driveway off of State Highway 42.

ACTION

A motion was made to **approve** Conditional Use Permit #14-25 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-25 - Approved

ITEM 6. CONDITIONAL USE PERMIT #14-26 to transfer 1 residential building eligibility from the S1/2 NW1/4 (Ex H-1) & SW1/4 NE1/4 (Ex RY & Ex Tract 1 Engebretson Addn), Section 8-T103N-R47W to Tract 1 Engebretson Addn. S1/2 NW1/4 & SW1/4 NE1/4, Section 8-T103N-R47W.

Petitioner: Mark & Roxann Westover

Property Owner: same

Location: 48550 Westover Place approximately 2 miles north of Garretson

Staff Report: Scott Anderson

General Information

Legal Description – S ½ NW ¼ (Ex H-1) & the SW ¼ NE ¼ (Ex Ry and Ex Tr 1 Engebretson Addn) to Tract 1 of Engebretson Addition in the S ½ NW 1/4 , all in Section 8, T103N, R47W

Present Zoning – A-1 Agricultural

Existing Land Use – Agriculture

Parcel Size – 73 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant wants to transfer a building eligibility from the S ½ NW ¼ (Ex H-1) & the SW ¼ NE ¼ (Ex Ry and Ex Tr 1 Engebretson Addn) to Tract 1 of Engebretson Addition. The applicant has indicated that moving the eligibility would provide a better sight for a house. They are moving the eligibility out of a more productive agricultural area into a pasture area. The applicant has owned this property for several years.

On May 7, staff conducted a site visit. There are no animal confinement operations near the location of the transfer. The transfer is located in an area with many residential lots. The recently approved Spirit Canyon Addition containing 12 lots and several other residences are located approximately ½ to 1 mile to the south.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The transfer of the building eligibility does not increase the number of dwelling units allowed in this section.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Rural water is available in the area and a waste water system will be utilized. The applicant indicated that the proposed building site will use a driveway that will come off of Westover Place.

4) That the off-street parking and loading requirements are met.

Off-street parking requirements will be provided for once a single-family residence is constructed on the subject property.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance.

Recommendation: Staff found this conditional use permit request to be consistent with density zoning and recommended **approval** of Conditional Use Permit #14-26 with the following condition:

1. The lot shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.

ACTION

A motion was made to **approve** Conditional Use Permit #14-26 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-26 - Approved

ITEM 8. CONDITIONAL USE PERMIT #14-30 to allow retail sales of fireworks on the property legally described as Huset's Lot 1, Tract 1 NW1/4 in Section 10-T101N-R48W.

Petitioner: Raceway Promotions, Inc. (Steve Rubin)

Property Owner: same

Location: Huset's Lot 1, Tract 1 approximately 0.25 miles south of Brandon

Staff Report: David Heinold

General Information

Legal Description – Huset's Lot 1, Tract 1 NW1/4, Section 10-T101N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Commercial

Parcel Size – 1.71 Acres

Staff Report: David Heinold

Staff Analysis:

The subject property is located along South Dakota Highway 11 at the south edge of Brandon city limits. Currently, this property is in the A-1 Agricultural District. The proposed location for the temporary fireworks stand is directly adjacent to Huset's Speedway on top of the south hill. The properties to the south, east, and northeast are zoned A-1 Agricultural with property to the northwest in the City of Brandon.

The petitioner has applied for Conditional Use Permit #14-30 to allow annual nine-day retail sales of fireworks from June 27th to July 5th. Fireworks will be sold from a portable trailer located near the southeast corner of the site and will not be allowed in the right-of-way of SD Hwy. 11.

The attached written narrative indicates that additional traffic control will be provided on Sunday June 29th by Huset's Speedway staff to ensure safety and organization of customers for the both the track and the fireworks stand. No other events will planned for the same time period as the temporary sales of fireworks.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

Due to the limited timeframe for the firework sales, the proposed use should not have a negative effect on the enjoyment or property values of property in the immediate vicinity. The hours of operation should be limited from 9:00 am to 10:30 pm, which is consistent with other firework sales approved by conditional use permit in this area.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The temporary nature of the proposed use should not have an impact on future development.

3) That utilities, access roads, drainage, and/or other necessary facilities are provided.

Access to the site will be provided via SD Hwy 11, or Splitrock Boulevard. There is a right-turn lane off of SD Hwy 11 that will serve as the entrance to the site from the southeast.

4) That the off-street parking and loading requirements are met.

There is ample parking available on this site to handle the traffic generated by this temporary land use. The petitioner will provide reserved, handicap parking near the temporary fireworks stand if necessary.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

This temporary use should not create any of the nuisances listed above.

Recommendation:

Staff recommended **approval** of Conditional Use Permit #14-30 with the following conditions:

1. That the temporary retail sales of fireworks shall be allowed to operate annually between June 27th and July 5th.
2. That access shall be provided via SD Hwy 11, or Splitrock Blvd.
3. That the business shall be allowed to operate between the hours of 9:00 am and 10:30 pm.
4. That one site sign is permitted and shall not exceed 32 square feet in size. Two signs or banners are permitted on the proposed trailer and shall not exceed 15 square feet. No other signs, banners or flags, with the exception of the American flag, shall be permitted in conjunction with the use.
5. That sign(s) shall not be placed on the property prior to June 23rd and shall be removed by July 8th of each year.
6. That fireworks shall be sold from a tent, trailer, or portable POD located at the site and placed near the southeast corner of the lot.
7. That parking shall not be allowed within the right-of-way of SD Highway 11. All parking shall be contained to the parking area as shown on the submitted site plan.
8. That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.

ACTION

A motion was made to **approve** Conditional Use Permit #14-30 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-30 - Approved

Regular Agenda

A motion was made by Commissioner Randall and seconded by Commissioner Rogen to **approve** the regular agenda. The motion passed unanimously.

ITEM 7. CONDITIONAL USE PERMIT #14-29 to allow a Class One Major Home Occupation, restore service truck bodies, on the property legally described as Olines Tract 1 and Jerda's Tract 1 NW1/4, Section 34-T103N-R49W.

Petitioner: Maren Skroch

Property Owner: Todd and Kay Roth

Location: 25543 475th Avenue approximately 4.5 miles north of Sioux Falls

Staff Report: Scott Anderson

General Information

Legal Description – Online's Tract 1 & Jerda Tract 1 of Peterson's Subdivision, Section 34, T103N, R49W

Present Zoning – A-1 Agricultural

Existing Land Use – Residential

Parcel Size – 1.76 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is proposing to operate a service truck body restoration business as a home occupation. The business would remove the service body and mount it on a different truck. The applicant prepared a narrative outlining the business, which is included for your review. The business would be operated out of the 40 foot by 50 foot detached accessory building located north of the residence. All of the building will be used for the business, which exceeds the suggested criteria for a home occupation.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

There is a cluster of more than twenty-five (25) residences located in the north and south of the subject property. There are two closest residences located approximately 260 feet to the north and 195 feet to the south. The area to the west is agricultural land and SD Highway 115 separates the subject property from the lots to the east. The applicant indicated in the narrative that business activity would occur daily from 12 pm to 5:00 p.m. The small scale of the business and limited hours should not significantly impact the residences in the area nor interrupt the agricultural activities occurring in the general vicinity.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The proposed home occupation should not impede normal and orderly development in the area.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Utilities and access to the property is adequately provided. The subject property has direct access to a paved county highway.

4) That the off-street parking and loading requirements are met.

There is ample off street parking provided on the site. The accessory building in which the business will occur has a paved apron for any customers to park on.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed use should not create odors, dust, fumes, noise or vibrations in any amounts that would be considered a nuisance. There is approximately a 250 foot buffer between the proposed use and the closest residences in the area and the subject property is located on a paved SD Highway.

Recommendation: Staff recommended **approval** of Conditional Use Permit #14-29 to allow a Class One Home Occupation with the following conditions:

1. The property shall obtain and maintain a sales tax license from the S.D. Department of Revenue.
2. That no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential or agricultural use.
3. That the applicant be limited to one (1) non-illuminated wall sign, which shall not exceed two (2) square feet and one (1) non-illuminated free-standing sign, which shall not exceed four (4) square feet each in area for the home occupation. A Sign Permit shall be obtained prior to the installation of any sign.
4. That the employees of the home occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
5. That no stock or trade shall be displayed or stored outside the enclosed structures located on the property.
6. That a minimum of two (2) off-street parking spaces be provided. Each parking space shall measure at least nine (9) feet by eighteen (18) feet and shall be kept in a dust free manner.
7. That any finish/painting area be ventilated so not to allow any buildup of noxious fumes. All required fire and building codes must be met. A dry chemical extinguisher shall be required in the finishing area.
8. That the Chief Building Inspector conduct an inspection of the business prior to operation to determine that all fire and safety codes are met.
9. Any new exterior lighting shall be shoe box style that directs the lighting downward.
10. The hours of operation shall be Monday through Saturday from 8:00 am to 5:30 p.m.
11. That a maximum of 2,000 square feet of accessory building be used for the home occupation.

PUBLIC TESTIMONY

Staff presented a brief summary of the proposed major home occupation. Commissioner Even asked where the access to the home occupation would be. Staff explained that there has been questions about legal access to the south, which ended up with that access no longer usable; however, the petitioner could access the home occupation via an extension of the existing driveway off of South Dakota Highway 115.

David Shelton, 3500 S. Western Ave., introduced himself as the petitioner's representative and mentioned that the building for the proposed home occupation was previously used as a Snap-On tools depot for deliveries. Mr. Shelton stated that the petitioner did have access from the south by verbal easement, but the petitioner does not have any desire to utilize that easement for the proposed use. He explained that the petitioner is requesting the conditional use permit prior to purchase of the property in order to determine if the proposed use would be appropriate for the area.

Commissioner Cypher asked if the petitioner's representative had any questions about the conditions set forth in the staff report and Mr. Shelton noted that the conditions are satisfactory for the proposed home occupation. Commissioner Randall asked for clarification on the right-of-way access issue. Mr. Shelton indicated that the access from the south was nothing more than a verbal agreement between property owners. He added that the current property owner is no longer using the access from the south, only the access off of 475th Avenue.

Commissioner Barth asked if the building meets the required setbacks and staff clarified that the existing building meets the setback requirements for the A-1 Agricultural Zoning District.

Darla Singaas, 25547 Rock Ridge Ave., stated that she is concerned about the effect on property values in the immediate vicinity and that the subject property will become a junk yard. Commissioner Cypher asked Ms. Singaas if she understood the condition that states that there shall be no outdoor storage. Ms. Singaas concurred that she understands the condition for no outdoor storage and noted that she does not have any more questions for the proposed use.

Steven Fletcher, 25539 475th Ave., stated that he had the understanding that there were no building eligibilities on the lot to the west because there is no access unless the property owner accesses the property from the manufactured home subdivision to the south. Mr. Fletcher understands that petitioner would like to access the accessory building for the proposed use from the existing driveway, which would be a perfectly logical access. He indicated that his business idea along with other property owners got turned down. He pointed out that there is no commercial operations or businesses in the area and mentioned that he has only seen a Snap-On truck on the property once in the past five years.

Commissioner Cypher asked if Mr. Fletcher understood that the conditional use permit application is for a major home occupation, not a commercial business. Mr. Fletcher stated that he doesn't really understand the difference when a business is a business that receives money and is registered with the South Dakota Department of Revenue. Commissioner Cypher explained that the county did not have the same regulations in place 25 years ago that are in effect today. Commissioner Cypher added that it is important for the county to have a

mechanism to know what home occupations are in operation and the ability to control them to a certain extent.

Mr. Fletcher is concerned that neighboring property owners will be able to smell the fumes from the body shop from 200 yards away. He also indicated that he is one-hundred percent against the proposal and added that the area should stay residential. Commissioner Barth asked if there could be any changes made to the plan to ease his concerns. Mr. Fletcher noted that he does not want the proposed use on the subject property.

Belva Gulbrandson, 25541 475th Ave., lives directly adjacent to the north and is no longer for the idea of the proposed use in the area. Ms. Gulbrandson stated that she does not care for people to be working the garage to the immediate south of her property. She is concerned that people will be driving near her septic tank and it may cause some damage to her septic system. She indicated that she has grandchildren and is not for the occupation because her property is not that far from the subject property.

David Shelton recognized the importance of the concerns regarding the proposed use and the need to carefully consider the pride of ownership for property in the immediate vicinity. Mr. Shelton explained that the area is not within a residential zoning district, but in the agricultural district where residents may be subject to certain inconveniences. Commissioner Barth asked Mr. Shelton if there would be any reason that people would be driving over the neighbor's septic system. Mr. Shelton stated that the petitioner has no intention of driving near the neighbor's septic system unless their system is encroaching on the property boundary.

Commissioner Cypher closed the floor to further public testimony.

DISCUSSION

Commissioner Barth provided an example that if somebody wanted to purchase a property in this area with four teenagers racing their motorcycles and chasing dogs, then the county would have no way of regulating their use of the property. Commissioner Barth pointed out that neighbors would have plenty of opportunities to contact the county if the conditions of the proposed use are not being met. Commissioner Randall concurred with Commissioner Barth and does not want to see another driveway off of 475th Avenue. Staff explained that the South Dakota Department of Transportation will not allow the construction of an additional driveway off of South Dakota Highway 115.

ACTION

A motion was made to **approve** Conditional Use Permit #14-29 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-29 - Approved

Old Business

None.

New Business

None.

Adjourn

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to adjourn. The motion passed unanimously.