

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
October 26, 2015

A meeting of the Planning Commission was held on October 26, at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Wayne Steinhauer, Mike Cypher, Bonnie Duffy, Becky Randall, Doug Ode, and Jeff Barth.

STAFF PRESENT:

Scott Anderson and David Heinold - County Planning

NUMBER OF ATTENDEES: 2

The meeting was chaired by Wayne Steinhauer.

The consent agenda items were read and item #3 was requested to be moved to the regular agenda by Commissioner Barth. The consent agenda consisted of item #1.

CONSENT AGENDA

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

ITEM 1. Approval of Minutes – September 28, 2015

A motion was made by Commissioner Cypher and seconded by Commissioner Duffy to **approve** the meeting minutes from September 28, 2015. The motion passed unanimously.

Regular Agenda

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

ITEM 2. CONDITIONAL USE PERMIT #15-64 to transfer one building eligibility from Tract 7, SW1/4 SE1/4 & S1/2 SW1/4, Section 1-T102N-R48W, Hokenstad's Addition Pt. Secs. 1 & 12-T102N-R48W to the NE1/4 NE1/4 (Ex. N548' E620.26' & Ex. H-1) & N20 Rds., SE1/4 NE1/4 (Ex. H-1), Section 12-T102N-R48W.

Petitioner: Mike Hokenstad

Property Owner: Gary Hokenstad

Location: Approximately 3 miles southwest of Garretson

Staff Report: Scott Anderson

This would transfer one building eligibility.

General Information:

Legal Description – NE1/4 NE1/4 (Ex. N548' E620.26' & Ex. H-1) & N20 Rds., SE1/4 NE1/4 (Ex. H-1), Section 12-T102N-R48W.

Present Zoning – A1 Agriculture

Existing Land Use – Agriculture

Parcel Size – 17 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant wants to transfer one building eligibility from the SW ¼ of Section 1 of Brandon Township to the NE ¼ of Section 12 of Brandon Township. The applicant feels the transfer would allow for better agricultural production.

On October 8, 2015, staff conducted a site visit. There is a large confined animal feeding operation located approximately 1/2 mile south of the proposed transfer site. The applicant is moving the eligibilities from very productive crop land to land next to an existing farmstead. The applicant has indicated that the proposed site contains 17 acres of fairly rough pasture with a creek winding through it.

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 before a building permit for a single family residence is issued.

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

The transfer of one 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 wastewater system will be utilized. The applicant indicated that the proposed building sites will use an existing driveway for access onto 484th Avenue.

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.

6. Health, safety, general welfare of the public and the Comprehensive Plan.

The health, safety, general welfare of the public will not be impacted by the transfer of one (1) building eligibility. The intent of the Comprehensive Plan will be met, as density zoning will be followed.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #15-64.

PUBLIC TESTIMONY

Staff requested that Conditional Use Permit be deferred until the November 23, 2015 Planning Commission meeting due to the applicant not submitting the signed affidavit for the notification requirement as well as not being in attendance at the October 26 Planning Commission meeting.

ACTION

A motion was made by Commissioner Cypher to **defer** Conditional Use Permit #15-64 to the November 23, 2015 Planning Commission Meeting and Commissioner Duffy seconded the motion. The motion passed unanimously.

Conditional Use Permit # 15-64 – Deferred until November 23, 2015

ITEM 3. AGRICULTURAL TOURISM PERMIT #15-02 to allow a Farm Experience Operation and to exceed 1,200 square feet of total accessory building area – requesting 2,100 sq. ft. on the property legally described as Tract 5 Schaap & Wehde Tracts, SW1/4, Section 18-T103N-R49W.

Petitioner: Lora Roberts

Property Owner: Lora Bertelsen

Location: 47216 253rd St. Approximately 2.5 miles southwest of Baltic

Staff Report: David Heinold

This would allow a Farm Experience Operation, petting zoo & other activities and allow 2,100 square feet of total accessory building area.

General Information:

Legal Description – Tract 5 and 7 Schaap & Wehde Tracts, SW1/4, Section 18-T103N-R49W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 12 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to allow a farm experience operation and exceed 1,200 square feet of total accessory building area. The petitioner is requesting 2,100 square feet of total accessory building area. According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

- (1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

This Agricultural Tours Permit Application has two related parts. One part is a request for a farm experience operation where a barn will be constructed to be a meeting place for small group gatherings of approximately 50 people at a time. The petitioner verbally described the gatherings to be birthday type gatherings where activities are themed around agriculture and small petting zoo type animals. The building will contain a bathroom with a separate septic system and parking will be located to the south of the building along the driveway. The hours of operation for the farm-related gatherings will be between the hours of 10 am – 9 pm.

The second part of the request is in regards to the size of the proposed barn to hold the events, animals, and equipment used for the farm experience operation. The petitioner is requesting a new 36' x 45' building (1,620 square feet). The site already has a 20' x 20' hoop shed on the site. The total requested square footage for accessory buildings is 2,100 square feet. Several properties in the immediate vicinity have buildings larger than the requested square footage. The

attached accessory building sizes map shows a range from 1,400 sq. ft. to 4,536 sq. ft.

Criteria for Conditional Use Permit:

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

There are a few residential acreages in the immediate vicinity, but the land is primarily agricultural crop and pasture land. The construction of 1,620 sq. ft. and the proposed use of the property as farm experience operation will likely not detract from the uses already permitted in the surrounding area or have an impact on property values.

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

The development of the approximately 12 acre parcel as a farm experience operation will blend well with existing agricultural operations and residential acreages. The future development of the surrounding area will likely not change significantly due to the construction of 1,620 sq. ft. pole barn and use as a farm experience operation other than slight residential growth, which is entirely determined by the number of available building eligibilities.

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

All needed infrastructure is in place. No other new infrastructure is required.

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

The proposed use is not specified in the parking and loading regulations of the Zoning Ordinance. The farm experience operation would be classified in the recreation type category which requires one parking space per 100 square feet, or sixteen (16) spaces for this portion of the building. It appears as if the site includes enough area to comply with this requirement.

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 petting zoo and farm-related gathering space. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The presence of an agricultural tourism use, such as a petting zoo and farm-related gathering space will likely not have an effect on the health, safety, and general welfare of the public.

Certain types of Ag Tourism Permits, including farm-related activities, allow special events. Special events may bring in large amounts of people, traffic, and potential noise to the area. Any special events shall meet requirements of Article 12.13 (G).

Recommendation:

Staff finds that the proposed use is consistent with the intent of the agricultural tourism ordinance and conforms to goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Ag Tourism Permit #15-02 to allow farm experience operation with

the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,100 square feet.
- 2.) The farm experience operation shall be secondary to the principle use of the property as residential. If the residential use ceases, the farm experience operation shall cease.
- 3.) The owner or occupant of the dwelling shall be engaged in the farm experience operation occupation. The farm experience operation shall have a limit of two full-time, non-resident employees, not to exceed four (4) full-time employees on site.
- 4.) The total signage for the operation shall meet the provisions of Article 12.13 (E) and (F) of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 5.) That prior to any special event or festival the applicant shall follow the provisions of Article 12.13 (G) of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 6.) All outside lighting shall be of a style that directs light downward and prevent light spillage onto adjacent properties.
- 7.) The petting zoo shall be considered an accessory use to the farm experience operation. The applicant shall maintain a Sales Tax License.
- 8.) A building permit is required before any permanent signs are to be erected.
- 9.) A minimum of 16 off-street parking spaces meeting the requirements of Article 15 of the Zoning Ordinance be provided for the farm experience operation facility.
- 10.) Retail sales of agricultural tourism products in Article 12.13 (B) 6) c) shall remain an accessory to the farm experience operation.
- 11.) Food concessions shall meet the requirements of Article 12.13 (B) 6) d) and be accessory to the farm experience operation.
- 12.) That the Planning & Zoning Department reserves the right to enter and inspect the farm experience operation at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

PUBLIC TESTIMONY

Staff presented a brief overview of the proposed Agricultural Tourism Permit request and also indicated that the petitioner was sent a copy of the staff report and courtesy letter last week. Staff continued to mention that the applicant did complete the notification requirement to surrounding property owners.

Commissioner Duffy asked what kind of animals the petting zoo would consist of at the site. Staff was not aware of the certain type of animals that would be at the facility because this was not included in the narrative.

Commissioner Cypher pointed out that the planning commission should not take action until the petitioner is present at the public hearing and requested to defer this item until next month.

Commissioner Barth asked if they were going to sell alcohol and has concern that the septic system will be able to handle the total number of people.

Commissioner Steinhauer called for additional public testimony, but no one responded. The floor was closed to further public testimony.

ACTION

Commissioner Barth made a motion to **defer** Agricultural Tourism Permit #15-02 to the November 23, 2015 Planning Commission meeting and the motion was seconded by Commissioner Ode. The motion passed unanimously.

Agricultural Tourism Permit #15-02 – Deferred until November 23, 2015

ITEM 4. REZONING #15-06 to rezone Tract 1 Priebe's Addition, S1/2 NE1/4, Section 7-T102N-R49W from the A-1 Agricultural District to the PD Planned Development District.

Petitioner: Tim and Pam Homan

Property Owner: same

Location: Approximately 3 miles north of Sioux Falls

Staff Report: Scott Anderson

This would rezone from the A-1 Agricultural District to the PD Planned Development District.

General Information:

Legal Description – Tract 1 of Priebe's Addition, Section 7, T102N, R49W, Minnehaha County.

Present Zoning – A-1 Agriculture

Existing Land Use – agriculture

Parcel Size – 20 acres

Staff Report: Scott Anderson

Staff Analysis:

Minnehaha County utilizes several zoning techniques such as density zoning, the use of subdivision regulations and Planned Development District to accomplish the goals of the Comprehensive Plan. The County's Comprehensive Plan states that occasionally, conventional zoning districts can be a barrier to innovative design and development techniques. The Planned Development District was added to the zoning regulations to provide developers with greater flexibility while at the same time increasing the public review of development proposals. Planned Developments can exactly outline proposed uses within the specific district and how development will occur. Furthermore, a specific set of guidelines for each planned development can be agreed upon by the County/City and developer. Planned Developments fill an important niche within the overall zoning of Minnehaha County.

The applicant has included a detailed narrative explaining future goals and development, as well as a site plan depicting the future development. A copy of both the narrative and site plan submitted in August are included for the joint planning commission's review. The applicant is requesting the Waterway Meadows Planned Development District to allow for the continued use of the existing accessory barn building on a ten (10) acre parcel, known as Tract 1 of Priebe's Addition. The applicant purchased this parcel in 2012. The lot was created by William and June Priebe in February of 2005. The existing barn was constructed in April of 2005. Tract 1 was sold to the current owners without a building eligibility, creating a non-conformity, which is an accessory structure located on a lot without an established principal use. The applicant would like to bring the existing barn structure into compliance with the Zoning Ordinance.

On August 10, 2015, staff conducted a site visit. The roads, Renberg Street and Haystack Place are in good condition. There is significant residential development in the general area with two (2) major residential subdivision, Vintage Village and High Prairie Ranch. In addition, there are

several other residences located on individual lots. The area is a mix of residential and agricultural uses.

The applicant is proposing a single sub-area based on the proposed use within the planned development. The single sub-area would allow the barn to be the principal use on the subject parcel. The subject property will not have a building eligibility assigned to it, nor will this rezoning authorize a residence to be constructed on the site.

The applicant is proposing to address the non-conforming use that is found at the site. There shall be no residential use allowed within the Planned Development. Without rezoning this parcel, the existing barn will continue to be a non-conforming use. Should the Planned Development be approved, the existing barn would no longer be a non-conforming use and would become the principal use of the parcel.

Recommendation: Staff recommends **approval** of Rezoning #15-06 to create the Waterway Meadows Planned Development District as follows:

WATERWAY MEADOWS PLANNED DEVELOPMENT DISTRICT. The regulations set forth herein or elsewhere in these regulations are the district regulations in the Waterway Meadows Planned Development District:

- (1). **USES PERMITTED.** A building or premises shall be permitted to be used for the following purposes:

The existing barn as the principal use of the property. Any changes or additions to the existing barn will require a new Final Development Plan to be reviewed and approved by the Minnehaha County Planning Commission.

- (2). **ACCESSORY USES.** Accessory uses and buildings permitted are those accessory buildings and uses customarily incident to any permitted use allowed in the A-1 Agricultural District.
- (3). **PARKING REGULATIONS.** Parking shall be regulated in conformance with the provisions of the A-1 Agricultural District.
- (4). **SIGN REGULATIONS.** Signs shall be regulated in conformance with the provisions of the A-1 Agricultural District.
- (5). **DENSITY, AREA, YARD AND HEIGHT REGULATIONS.** Density, area, yard and height shall be regulated in conformance with the provisions of the A-1 Agricultural District.
- (6). **FINAL DEVELOP PLAN.** Prior to future additions or any modifications to the barn, a Final Development Plan shall be presented to the Planning Commissions for their approval.

PUBLIC TESTIMONY

Scott Anderson, Planning Director, presented a brief synopsis of the happenings since the last public hearing regarding Rezoning #15-06.

Commissioner Cypher mentioned some concerns about whether or not this is the correct thing to do in allowing the rezoning. Mr. Anderson noted that allowing an accessory building as a conditional use is not the right route because of potential unintended consequences regarding storage buildings. Mr. Anderson indicated that the Planned Development District deals with properties that may impede development and would help to bring the property into compliance.

Commissioner Steinhauer concurred with the discussion at the previous public hearings and that a stable could change the nature of the property. Mr. Anderson concurred that this would open up the door to other uses, such as boarding horse businesses.

Tim Homan, 25725 464th Ave., concurred with the comments presented by planning staff and asked the planning commission if they had any questions. Commissioner Barth asked if this would satisfy them and Mr. Homan agreed.

Commissioner Barth reiterated the thoughts about the previous public hearings and indicated support for this proposed rezoning. Discussion continued about whether this is the correct route.

Commissioner Cypher pointed out the fact that the property owner would not be able to build the barn again if it were to burn down because of it falling under the nonconforming use clause.

Commissioner Steinhauer closed the floor was closed to further public testimony.

ACTION

A motion was made by Commissioner Cypher to **recommend approval** of Rezoning #15-06 and seconded by Commissioner Barth. The motion passed unanimously.

Rezoning #15-06 – Approval Recommended

Old Business

A. Staff explained that Rezoning #15-04 was approved by the joint Dell Rapids City Council and County Commission last month.

B. Staff explained that Conditional Use Permit #15-61 was approved by the County Commission last week, but there is some opposition to the condition about the property owner providing dust control.

New Business

None

Adjourn

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