

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
May 23, 2016

A meeting of the Planning Commission was held on May 23, at 7:35 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning

Planning Commission Chair Mike Cypher called the Minnehaha County Planning Commission meeting to order at 7:35 p.m.

CONSENT AGENDA

Items 5 and 8 were removed from the consent agenda by members of the public. The consent agenda consists of Items 2, 3, 4, 6, 7, 9, 10, and 11.

A motion was made by Commissioner Barth and seconded by Commissioner Duffy to approve the consent agenda consisting of Items 2, 3, 4, 6, 7, 9, 10, and 11. The motion passed unanimously.

ITEM 1. Approval of Minutes – April 25, 2016

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Duffy to **approve** the meeting minutes from April 25, 2016. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #16-27 to exceed 1,200 square feet of total accessory building area – requesting 3,200 sq. ft. on the property legally described as Tract 1 Brower 2nd Addition, SW1/4, Section 27-T102N-R51W.

Petitioner: James Anderson

Property Owner: same

Location: 46346 261st St. Approximately 1 south of Hartford

Staff Report: David Heinold

This would allow 3,200 sq. ft. of total accessory building area.

General Information:

Legal Description – Tract 1 Brower 2nd Addition, SW1/4, Section 27-T102N-R51W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 3.06 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to exceed 1,200 sq. ft. in total accessory building area for the purposes of constructing a 40'x80' pole building. 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.

There are several buildings in the immediate vicinity that exceed the 1,200 sq. ft. The property owner, 46354 261st St., directly to the east of the subject property has 3,120 sq. ft. of total accessory building area on a ten acre parcel. On a similar parcel size, the property at 26076 463rd Ave. has 5,792 sq. ft. of total accessory building area about a quarter mile to the northwest. Other building sizes in the surrounding area reach a total of 6,968, but is situated on a 23 acre farmstead site located to the west of the subject property near the intersection of 463rd Ave. and 261st St.

On May 10, 2016, the City of Harford Planning Commission reviewed the conditional use permit request and has presented no concerns for the requested accessory building size.

On May 11, 2016, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The proposed building will be located on a 3.06 acre parcel.

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 two other properties within a half-mile of the subject property that have building sizes

relatively comparable to the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with five residential acreages within a half-mile of each other as well as the Brower Industrial Park Addition located to the northwest of the subject property.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 3,200 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided.

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

No off-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 at any time.

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. 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 proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the transition area for the City of Hartford identified by the Envision 2035 Comprehensive Plan, which recognizes that these areas have the primary purpose of maintaining the rural landscape until eventual residential development and/or municipal annexation. The proposed use of the building for personal storage should not affect the future growth of this area given the present use of the land for residential purposes.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #16-27 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 3,200 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.

- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

ACTION

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-27 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #16-27 – Approved

ITEM 3. CONDITIONAL USE PERMIT #16-29 to exceed 1,200 square feet of total accessory building area – requesting 1,700 sq. ft. on the property legally described as Rowena Original Lot 24, Block 13 & S1/2 of Lot 23 & Lot 25, Block 15; all in Section 26-T101N-R48W.

Petitioner: Mark Rollinger

Property Owner: same

Location: 26675 Douglas Ave. Approximately 4 miles east of Sioux Falls

Staff Report: David Heinold

This would allow 1,700 sq. ft. of total accessory building area.

General Information:

Legal Description – Rowena Original Lot 24, Block 13 & S1/2 of Lot 23 & Lot 25, Block 15; all in Section 26-T101N-R48W

Present Zoning – R-1 Residential District

Existing Land Use – Residential

Parcel Size – 0.42 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to exceed 1,700 sq. ft. in total accessory building area for the purposes of constructing a 15'x30' addition to an existing 1,250 sq. ft. accessory building. 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.

There are no accessory buildings exceeding the 1,200 square foot limitation in the Rowena community; however, the size of the existing building on the subject property already exceeds 1,200 sq. ft. The petitioner is requesting an additional 450 sq. ft. onto a 1,250 sq. ft. building.

On May 12, 2016, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The proposed building will be located on a 0.42 acre parcel.

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.

Two of the residential properties located at 26673 Brownstone Ave. and 48259 Hwy. 42 have an existing 1,200 sq. ft. building on similar size parcels as the subject property. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily residential in the existing unincorporated town of Rowena.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 1,700 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided.

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

No off-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 at any time.

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. 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 proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the transition area east of the City of Sioux Falls identified on the Envision 2035 Comprehensive Plan, which recognizes that these areas have the primary purpose of maintaining the rural landscape until eventual residential development and/or municipal annexation. The proposed use of the building for personal storage should not affect the future growth of this area given that Rowena is an established rural service area as identified by the Envision 2035 Comprehensive Plan.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity and appropriate for the existing lot size of the subject property. Staff recommends **approval** of Conditional Use Permit #16-29 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 1,700 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

ACTION

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-29 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #16-29 – Approved

ITEM 4. CONDITIONAL USE PERMIT #16-30 to exceed 1,200 square feet of total accessory building area – requesting 15,500 sq. ft. on the property legally described as Johnson’s Addn. (Ex. Tr. 1 Haug’s Addn.), S1/2 SE1/4, Section 2-T102N-R50W.

Petitioner: Larry Haug

Property Owner: same

Location: 47084 257th St. Approximately 0.5 miles east of Crooks

Staff Report: Kevin Hoekman

This would allow 15,500 sq. ft. of total accessory building area.

General Information:

Legal Description – Johnson’s Addn. (Ex. Tr. 1 Haug’s Addn.), S1/2 SE1/4, Section 2-T102N-R50W

Present Zoning – A-1 Agriculture

Existing Land Use – Dwelling on an acreage

Parcel Size – 23 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 1/3 of a mile east of the Town of Crooks. The site is located within an area of many platted lots consisting of acreages and farmsteads. The subdivisions combined are considered as a subdivision of more than four lots. In subdivisions or residential developments which exceed four lots in number, accessory building area is limited to 1,200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner would like to construct a 30 foot by 60 foot addition to a large existing accessory building. The 900 square foot addition will be added to 5,400 square foot accessory building. Many other large accessory buildings exist on the property. The 15,500 square foot total requested includes all existing buildings and the 900 square foot addition. Past buildings were permitted, because the property owner owned more than 40 acres of adjacent land.

The property is currently a large acreage including a single family dwelling and many large accessory buildings. The acreage has many trees and shrubs that screen view of the structures from the road. The proposed 900 square foot addition is depicted on the provided site plan to be located on the north side of the largest accessory building. The petitioner noted at the time of application that the addition is to better house his collection of cars. Staff visited the site and found that the property is well maintained and noticed no sign of commercial activity in at the current site. Staff also observed that the current large accessory building is difficult to see from the right-of-way because of mature tree groves planted around the property. The size of the parcel and distance from the road also make the property appear as a farm rather than an acreage.

There are several large accessory buildings in the area; however, this 15,500 square foot request is far larger than neighboring property buildings as depicted in the supporting map. The nearest

in total square footage is an existing farmstead to the southwest of the site. It has 11,393 square feet of accessory building including nearly 3,000 square feet used as cattle shelters. Several other properties with smaller totals can be found in the area. These smaller buildings can be found on the provided accessory building size map.

Conditional Use Permit Criteria:

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 little impact on surrounding properties. The site has significant buffer distance from other non-farm residences and will have no effect on the agricultural use nearby. The accessory structure shall not be used as a commercial operation at any time.

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. Most of the building eligibilities in the area have already been developed; therefore, future development of the area will likely come from the Town of Crooks. Development of Crooks will already have to work with the current large accessory buildings on the property as well as other buildings on neighboring properties.

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

The petitioner will be responsible for attaining and extending utilities to the proposed dwelling and accessory building, and the proposed accessory building will utilize the same driveway as the dwelling.

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

No off-street parking will be needed as a result of personal activities in this accessory building. No commercial or business parking will be allowed at any time.

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. 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 proposed accessory building should have little to no effect on the health, safety, and general welfare of the public as well as the Envision 2035 Comprehensive Plan. The 900 square foot addition is small in comparison to the buildings that are already present at the site.

Recommendation:

Staff finds that the proposed addition is reasonable to the size of the existing structures, the size of the property, and the location of the addition on the property. Staff recommends **approval** of Conditional Use Permit #16-30 with the following conditions:

- 1.) The total accessory building square footage shall not exceed 15,500 square feet.
- 2.) A building permit is required prior to construction of the accessory building.
- 3.) That an inspection be made on the proposed addition to an accessory building to ensure that the total floor area of the addition does not exceed 900 square feet.
- 4.) That only personal residential storage shall be allowed in the building, and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) 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 full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

ACTION

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-30 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #16-30 – Approved

ITEM 6. CONDITIONAL USE PERMIT #16-33 to exceed 1,200 square feet of total accessory building area – requesting 2,520 sq. ft. on the property legally described as Tract 1A of Engebretson’s Addition, S1/2 NE1/4, Section 8-T103N-R47W.

Petitioner: Dallas Westover

Property Owner: same

Location: 48548 Westover Pl. Approximately 1.5 miles north of Garretson

This would allow 2,520 sq. ft. of total accessory building area.

General Information:

Legal Description – Tract 1 of Engebretson’s Addition

Present Zoning – A1 Agriculture

Existing Land Use – vacant

Parcel Size – 2.07 acres

Staff Report: Scott Anderson

Staff Analysis:

The applicant is requesting approval of a conditional use permit to construct a 40’ by 63’ detached building for a total of 2,520 square foot. The proposed accessory structure would be located to the west of the proposed single family residence. The applicant provided a narrative explaining his need for a larger accessory structure.

The subject property is located approximately 1 ½ miles north of Garretson. Staff conducted a site visit on May 11, 2016. The area surrounding the subject property consists primarily of agricultural uses. There are several undeveloped residential lots in the area.

There is an existing farmstead that has accessory structures exceeding 1,200 square feet as shown on the map provided by staff. There are several detached accessory structures located on the property directly south of the subject property. 48550 Westover Place has over 28,000 square feet of accessory structures. There are two (2) accessory structures which exceed 10,000 square feet. A map of the location is provided for the Planning Commission’s review.

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

Given the existence of the other larger accessory buildings in the area, the construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The building can only be used as an accessory structure to the established residential use and no commercial or business activities are allowed. The proposed additional structure is not large and will be used by the applicant to store his personal items.

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

It appears from the site plan submitted by the applicant that the existing driveway will be used to access the new accessory structure. As this is only an accessory structure, no other infrastructure is required.

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

There is ample area on the subject property for any parking as a result of residential activities. No on-street parking will be allowed. No commercial or business parking is 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.

There should be no offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property.

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 placement of a larger accessory structure on the subject property. The intent of the Comprehensive Plan will be met, as the site will retain its residential character and allow for the continued use of the property.

Staff finds that the requested conditional use is appropriate for this residential area. The recommended conditions of approval will help to ensure the over-sized building will be in character with the surrounding area. The Planning Department will perform a building inspection to measure the size of the structure. Measurements are taken of the outside perimeter.

Recommendation:

Staff finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of conditional use permit #16-33 with the following conditions:

- 1) The total accessory building square footage shall not exceed 2,520 square feet.
- 2) The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
- 3) The accessory building shall not exceed one story in height.
- 4) A building inspection is required to determine that the combined area of all accessory structures does not exceed 2,520 square feet measured from the outside perimeters.
- 5) A building permit is required
- 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 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

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-33 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #16-33 – Approved

ITEM 7. CONDITIONAL USE PERMIT #16-34 to exceed 1,200 square feet of total accessory building area – requesting 10,875 sq. ft. on the property legally described as N479.31’ S752.31’ W420’ & E35’ W420’ S255’, E1/2 E1/2 SW1/4, Section 1-T102N-R50W.

Petitioner: Jay Lewis

Property Owner: same

Location: 47146 257th St. Approximately 1 miles east of Crooks

Staff Report: David Heinold

This would allow 10,875 sq. ft. of total accessory building area.

General Information:

Legal Description – N479.31’ S752.31’ W420’ & E35’ W420’ S255’, E1/2 E1/2 SW1/4, Section 1-T102N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 4.82 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to exceed 1,200 sq. ft. in total accessory building area for the purposes of constructing a 60’x140’ accessory building. The proposed building will be used as an indoor horse riding arena and hay storage. 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.

There are several buildings in the surrounding area that exceed the 1,200 sq. ft. The property owner, 47095 257th St., about a half mile to the west of the subject property has 4,240 sq. ft. of total accessory building area on a similar sized parcel. Three other properties in that same area were permitted for an average of 3,000 sq. ft. varying in parcel size. In addition to these properties, there are a few other property owners with total accessory building area exceeding the petitioner’s requested size.

On May 10, 2016, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The proposed building will be located on a 4.82 acre parcel.

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 two other properties within a half-mile of the subject property that have building sizes relatively comparable to the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with five residential acreages within a half-mile of each other.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 10,875 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided.

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

No off-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 at any time.

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. 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 proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located just outside of the transition area east of the City of Crooks identified by the Envision 2035 Comprehensive Plan, which recognizes that these areas have the primary purpose of maintaining the rural landscape until eventual residential development and/or municipal annexation. The proposed use of the building for personal storage should not affect the future growth of this area given the present use of the land for residential purposes.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #16-34 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 10,875 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.

- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

ACTION

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-34 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #16-34 – Approved

ITEM 9. CONDITIONAL USE PERMIT #16-36 to transfer 2 Building Eligibilities from Tract B (Ex. S18' & Ex. Tr. 1A replat Erickson's Addn. & Ex. Lots 1-4) Heikes Addition, N1/2 to Tract A Holbeck Addn.; all in Sec. 34-T103N-R49W

Petitioner: James Holbeck

Property Owner: same

Location: Approximately 5 miles north of Sioux Falls

Staff Report: Scott Anderson

This would allow the transfer of two (2) building eligibilities.

General Information:

Legal Description – Tract B (Ex. S18' & Ex. Tr. 1A replat Erickson's Addn. & Ex. Lots 1-4) Heikes Addition, N1/2 to Tract A Holbeck Addn.; all in Sec. 34-T103N-R49W

Present Zoning – A1 Agriculture

Existing Land Use – residential/Agriculture

Parcel Size – 10.71 acres

Staff Report: Scott Anderson

Staff Analysis:

The applicant wants to transfer two (2) building eligibilities from Tract B of Heikes Addition in Section 34 of Sverdrup Township to an approximately 11 acre parcel platted as Tract A, Holbeck Addition. The applicant has submitted a preliminary plan indicating a reconfiguration of the Holbeck Addition will occur creating five (5) lots.

On May 6, 2016, staff conducted a site visit. There are no confined animal feeding operations near the proposed transfer. The applicant is moving the eligibilities from land that is average cropland to similar adjacent property. There are extensive platted lots to the south of the subject property.

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 eligibilities 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 sites will have access from 255th Street.

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 two (2) building eligibilities. The intent of the Comprehensive Plan will be met, as density zoning will be followed. This type of clustering is encouraged in the Comprehensive plan in order to preserve large tracts of farm land rather than broken up parcels located with low density spacing.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #16-36.

1. A right-to-farm notice covenant shall be placed on each deed prior to the issuance of a building permit for all single family dwellings.

ACTION

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-36 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #16-36 – Approved

ITEM 10. CONDITIONAL USE PERMIT #16-37 to allow Retail Sales of Fireworks on the property legally described as Tract 1A Preheim's Addn. N 102, 27-101-48 Spit Rock Township.

Petitioner: Barry Bakken

Property Owner: Bart Bickley

Location: 48130 SD Highway 42 approximately 2 miles east of Sioux Falls.

Staff Report: Kevin Hoekman

This would allow retail sales of fireworks.

General Information:

Legal Description – Tract 1A Preheim's Addn. N 102, 27-101-48

Spit Rock Township.

Present Zoning – I-1 – Industrial

Existing Land Use – Vacant land and existing farm buildings

Parcel Size – 1.42 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject site is located approximately two miles east of the City of Sioux Falls. The petitioner plans on placing a tent or similar structure in the existing parking lot and holding temporary fireworks sales. Fireworks sales are allowed in the I-1 Industrial zoning district with a conditional use permit. The approval of this permit would allow the petitioner to have a fireworks stand in subsequent years, as long as the conditions of the permit are met and sales happen annually.

The site was formerly used as a lawn and garden nursery. There are two large existing buildings and the entire front yard is paved with concrete. Access to the site is off of SD highway 42.

The petitioner has submitted a simple hand drawn site plan. The site plan indicates the placement of a 40' x 40' tent on the concrete parking area. In addition a portable toilet was indicated on the site plan. Parking is not indicated, however much of the front yard has been paved and can provide parking for the stand.

Staff recognizes that many fireworks stands create common issues that should be considered when placing conditions on this proposed use. Signage and attention grabbing devices are necessary to direct people safely to a business location. Too much signage or attention grabbing devices, like flags and pennants, may create visual clutter and distract drivers. Total signage for the temporary fireworks stand should be limited to a total of 64 square feet. Pennants and stringers may be used during operating days for fireworks sales. Flags should have a limited total quantity regardless of each flag's content. The land use will likely include hours of operation into the night. The nighttime use of the property may lead to lights and traffic. Any temporary lighting should be designed to prevent light from spilling onto neighboring property.

Conditional Use Permit Criteria:

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.

The proposed use will create a busy retail business for a temporary time period. The area includes a mix of rural land uses with residential subdivisions located approximately 1/3 mile away to the east and west. One farmstead is located across the street from the site. Much of the operations surrounding the fireworks stand will take place around the week before Independence Day.

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

The proposed fireworks sales is located on an industrial zoned property on a busy State Highway. The land uses in the area will likely change slowly with few potential residential uses in close proximity of the existing site.

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

The site plan show access to the site from South Dakota Highway 42. The proposed access to the road is a wide paved driveway. The temporary sales will not affect the drainage of the site.

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

The Zoning Ordinance requires one parking space for every 100 square feet for a “Recreation of Amusement Establishment.” The site plan does not indicate any parking. The 1600 square foot tent would require 16 parking spaces. This is easily attainable as the site is rather large

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 fireworks sales will create a busy temporary retail site. The site is, however, industrially zoned, and it has the potential to develop into other intensive uses. Fireworks should not be allowed to be ignited on the site, because they may create nuisance noise and hazards for the neighboring properties.

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

The site is located within an existing industrial site which was constructed to accommodate large traffic. If applicable state laws are followed, the proposed fireworks sales should not create concerns for the health, safety, or general welfare of the public.

Recommendation:

Minnehaha County planning staff finds that the proposed use is compatible with the site and surrounding land uses. Staff recommends **approval** of Conditional Use Permit #16-37 with the following conditions:

- 1.) The property shall adhere to the submitted site plan.
- 2.) No outside storage shall be allowed at any time.
- 3.) The retail sales of fireworks must abide by all applicable SD laws and regulations.

- 4.) The retail sales of fireworks may only be marketable for nine (9) days per calendar year.
- 5.) All outdoor lights in use for the building or to illuminate the parking area shall be directed away from single family dwellings.
- 6.) Temporary signs for the business are allowed to be placed no earlier than June 13th and must be taken down by July 10th. One temporary freestanding sign is allowed not to exceed 64 square feet.
- 7.) Flags that are used for advertising shall be located on the subject property, not block the view of traffic entering or exiting the property, and shall only be placed during the regular nine (9) day selling period of June 27th through July 5th.
- 8.) No parking or stacking of vehicles shall be allowed in the right-of-way at any time.
- 9.) The hours of operation for the public must not exceed 8:00 am to 12:00 am (midnight). Set up and tear down activities outside of the nine day sales period must take place between 8:00 am and 8:00 pm.
- 10.) No storage of fireworks is allowed from August 1st to June 10th.
- 11.) That the Planning & Zoning Department reserves the right to enter and inspect the fireworks stand 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.

ACTION

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-37 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #16-37 – Approved

ITEM 11. CONDITIONAL USE PERMIT #16-38 to allow Retail Sales of Fireworks on the property legally described as Tract 3 Lee's Addition NE 1/4, 2-101-48 Spit Rock Township.

Petitioner: TJ Cameron

Property Owner: Gaila & Rockford Shreurs

Location: Southeast side of Brandon across Aspen Boulevard from the Golf Course

Staff Report: Kevin Hoekman

This would allow retail sales of fireworks.

General Information:

Legal Description – Tract 3 Lee's Addition NE ¼ 2-101-48 Spit Rock Township.

Present Zoning – A-1 – Agricultural

Existing Land Use – crop land

Parcel Size – 93.64 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject site is located adjacent to the City of Brandon on the south side of Aspen Boulevard. The proposed driveway for the site is located across the street from the City of Brandon Municipal Golf Course. The petitioner plans on placing a tent in an area of an existing field to house temporary fireworks sales. Temporary (9 day) fireworks sales are allowed in the A-1 Agricultural zoning district with a conditional use permit. The approval of this permit would allow the petitioner to have a fireworks stand in subsequent years, as long as the conditions of the permit are met and sales occur annually.

The site is currently undeveloped cropland. The petitioner has submitted a simple site plan that shows the location of a 20 foot by 30 foot sales tent, parking area, and a portable sign. A portable toilet is included in the site plan as well. The site will share a driveway with the neighboring farmstead.

Staff recognizes that many fireworks stands create common issues that should be considered when placing conditions on this proposed use. Signage and attention grabbing devices are necessary to direct people safely to a business location. Too much signage or attention grabbing devices, like flags and pennants, may create visual clutter and distract drivers. Total signage for the temporary fireworks stand should be limited to a total of 64 square feet. Pennants and stringers may be used during operating days for fireworks sales. Flags should have a limited total quantity regardless of each flag's content. The land use will likely include hours of operation into the night. The nighttime use of the property may lead to lights and traffic. Any temporary lighting should be designed to prevent light from spilling onto neighboring property.

Conditional Use Permit Criteria:

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.**

The proposed use will create a busy retail business for a temporary time period. The area includes a mix of rural land uses with suburban municipal developments north of the site. One farmstead is located immediately west of the site, and the driveway for the farmstead is proposed to be used for access to this fireworks stand. Much of the operations surrounding the fireworks stand will take place around the week before Independence Day.

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

The proposed fireworks sales is located on an agricultural zoned property on a busy Municipal Street. The future land uses in the area will likely be determined by the City of Brandon. The Brandon 2035 Comprehensive Plan includes this area as development into residential uses. The sale of fireworks is not allowed within city limits of Brandon. This may cause some conflict when the annexation into Brandon occurs.

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

The site plan show access to the site from Aspen Boulevard. The proposed access to the road is a shared driveway with the neighboring farmstead. The temporary sales will not significantly affect the drainage of the site.

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

The Zoning Ordinance requires one parking space for every 100 square feet for a “Recreation of Amusement Establishment.” The site plan does include parking; however, individual spaces are not defined in the plan. The 600 square foot tent would require 6 parking spaces. This is easily attainable as the site is rather large

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 fireworks sales will create a busy temporary retail site. Fireworks should not be allowed to be discharged on the site, because the discharge of fireworks may create nuisance noise and hazards for the neighboring properties. The narrative lists potential hours of operation to be from 7:00 am to 12:00 am midnight. If artificial light is brought to the site for night time sales, then the lighting should be directed away from residential uses.

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

The site is located near a busy paved street. If applicable state laws are followed, the proposed fireworks sales should not create concerns for the health, safety, or general welfare of the public. The Minnehaha County Comprehensive Plan, Envision 2035, states that we should promote cooperative efforts with municipalities in dealing with growth and development. County planning staff contacted the city offices of Brandon, and the city administrator had no concerns for the location of the fireworks sales.

Recommendation:

Minnehaha County planning staff finds that the proposed use is generally compatible with the site and surrounding land uses. Staff recommends **approval** of Conditional Use Permit #16-38 with the following conditions:

- 1.) The property shall adhere to the submitted site plan.
- 2.) No outside storage shall be allowed at any time.
- 3.) The retail sales of fireworks must abide by all applicable SD laws and regulations.
- 4.) The retail sales of fireworks may only be marketable for nine (9) days per calendar year.
- 5.) All outdoor lights in use for the building or to illuminate the parking area shall be directed away from single family dwellings.
- 6.) Temporary signs for the business are allowed to be placed no earlier than June 13th and must be taken down by July 10th. One temporary freestanding sign is allowed not to exceed 64 square feet.
- 7.) Flags that are used for advertising shall be located on the subject property, not block the view of traffic entering or exiting the property, and shall only be placed during the regular nine (9) day selling period of June 27th through July 5th.
- 8.) No parking or stacking of vehicles shall be allowed in the right-of-way at any time.
- 9.) The hours of operation for the public must not exceed 8:00 am to 12:00 am (midnight). Set up and tear down activities outside of the nine day sales period must take place between 8:00 am and 8:00 pm.
- 10.) No storage of fireworks is allowed from August 1st to June 10th.
- 11.) That the Planning & Zoning Department reserves the right to enter and inspect the fireworks stand 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.

ACTION

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-38 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #16-38 – Approved

Regular Agenda

ITEM 5. CONDITIONAL USE PERMIT #16-31 to exceed 1,200 square feet of total accessory building area – requesting 5,904 sq. ft. on the property legally described as Tr. Hanson’s Addn., E1/2 NE1/4, Section 6-T102N-R50W.

Petitioner: Cade Burkett

Property Owner: Evan Burkett

Location: 46685 256th St. Approximately 3.5 miles west of Crooks

Staff Report: David Heinold

This would allow 5,904 sq. ft. of total accessory building area.

General Information:

Legal Description – Tract 1 Hanson’s Addition, E1/2 NE1/4, Section 6-T102N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 8.18 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to exceed 5,904 sq. ft. in total accessory building area for the purposes of constructing a 40’x60’ and 30’x40’ accessory building. There is an existing 36’x64’ barn presently located on the property that will remain. 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.

There are a few properties nearby that have a relatively comparable total accessory building area with the request for almost double the size of the existing building storage space on the subject property. The property about a quarter mile to the north at 25571 467th Ave. has 4,592 sq. ft. of total accessory building area. The petitioner’s lot is double the size of the parcel to the north.

On May 10, 2016, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The proposed building will be located on an 8.18 acre parcel.

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 one other property within a half-mile of the subject property that has a building size relatively comparable to the petitioner’s requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate

vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with five residential acreages within a half-mile of each other.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 5,904 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided.

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

No off-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 at any time.

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. 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 proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the agricultural production area identified in the Envision 2035 Comprehensive Plan, which recognizes that the primary purpose of the area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. The proposed use of the building for personal storage should not affect surrounding land uses with an established shelterbelt of landscaping around the perimeter of the proposed location for the accessory building.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #16-31 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 5,904 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

PUBLIC TESTIMONY

David Heinold, Planner I, presented a brief overview of the staff report and recommendation.

Cade Burkett, 46885 256th St., identified himself as the petitioner and resident on the property. Commissioner Cypher asked if he was clear on what full cutoff lighting means and Mr. Burkett explained that there are no plans for outdoor lighting.

Commissioner Cypher called for additional public testimony, but no one answered.

Commissioner Cypher closed the floor to public testimony.

ACTION

Commissioner Barth made a motion to **approve** Conditional Use Permit #16-31 and the motion was seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #16-31 - Approved

ITEM 8. CONDITIONAL USE PERMIT #16-35 to transfer 4 Building Eligibilities from Tract 4 Sorum's Addn., S1/2 NE1/4 and N1/2 SE1/4, Section 9-T102N-R49W; and Tracts 3 & 4 Peterson's Subd., NW1/4, Section 10-T102N-R49W to Tract 5 Peterson's Subd., NW1/4, Sec. 10-T102N-R49W

Petitioner: Bradley Peterson

Property Owner: same

Location: Approximately 5 miles north of Sioux Falls

Staff Report: Scott Anderson

This would allow the transfer of four (4) building eligibilities.

General Information:

Legal Description – Tract 5, Peterson's Subdivison, NW ¼, Section 10, T102N, R49W.

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 57.73 acres

Staff Report: Scott Anderson

Staff Analysis:

The applicant is requesting approval to allow four (4) building eligibilities to be placed in Tract 5 of Peterson's Subdivison. The subject property is located about 5 miles north of Sioux Falls. Currently, there is one building eligibility available on Tract 5. With the proposed request to move 4 additional building eligibilities onto Tract 5 there would be a total of five (5) building eligibilities on Tract 5, which is nearly 58 acres in size. The future development of a five parcel subdivision would require that a preliminary plan of the proposed subdivision be submitted and reviewed by the County.

On May 12, 2016, staff conducted a site visit. There are no concentrated animal feeding operations near the proposed transfer. The petitioner is moving 2 building eligibilities out of the Silver Creek flood plain and into an area where residential development is occurring.

Conditional Use Permit Criteria:

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 a building eligibility does not increase the number of dwelling units allowed in this area because the transfer only occurs within the same 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 sites will use the existing right-of-way and share a driveway if possible.

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 transfer of building eligibilities will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance due to residential activities.

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 the building eligibilities. The intent of the Envision 2035 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 #16-35 with the following condition:

- 1.) Each 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.

PUBLIC TESTIMONY

Scott Anderson, Planning Director, presented a brief overview of the staff report and recommendation.

Jeff Peterson, 25744 475th Ave., identified himself as the petitioner's representative and indicated that they have no current plans for development. Mr. Peterson explained that the primary reason for the request is to move the building eligibilities.

Keith Myrmoe, 25738 475th Ave., asked the petitioner what their plans were and Mr. Peterson explained that they are moving the building eligibilities closer to 257th St. as well as removing two of the eligibilities out of the floodplain. Mr. Myrmoe asked if the petitioner plans to sell anytime soon and Mr. Peterson explained that they have no current plans for selling lots.

Commissioner Cypher clarified that the petitioner will have to submit a preliminary subdivision plan prior to developing these lots and that Mr. Myrmoe would be notified in a similar manner as this planning commission public hearing.

Scott Anderson corrected the staff report for clarification that there are only four (4) building eligibilities requested to be transferred.

Paul Evenson, 47594 257th St., stated that he is in opposition to the proposed building eligibility

transfer. Mr. Evenson mentioned that he believes that the two building eligibilities located in the floodplain could be used adjacent to South Dakota Highway 115 since there is already an existing housing development in close proximity to where these eligibilities are located. He continued to explain that he has farmed the land for many years and has discovered good drainage on this same parcel involved in the request. Furthermore, Mr. Evenson believes that this is not orderly development and indicated that Mapleton Township should have been notified of the transfer of building eligibility request.

Don Aschlager, 6705 N. 10th Ave., identified himself as a representative of the Mapleton Township board and indicated that he agrees with Mr. Evenson. Mr. Aschlager mentioned that there are currently 16 housing developments within the township area and quite possibly may not be able to take on additional responsibilities for road maintenance with existing conditions. He continued to explain that the township would like to be notified of conditional use permit requests to allow input from the board of supervisors. Mr. Aschlager questioned what the plan will be for maintenance of the road and Commissioner Cypher explained that the petitioner will be required to submit a preliminary subdivision plan detailing things such as the party responsible for road maintenance, drainage, etc. Mr. Aschlager reiterated that it is an important consideration to inform buyers that they will most likely have to provide their own road maintenance within the development.

Commissioner Cypher called for additional public testimony, but no one answered.

Commissioner Cypher closed the floor for public testimony.

DISCUSSION

Commissioner Barth asked if there would be a requirement for establishing a road district and Scott Anderson explained that this would be addressed during the platting process for delegating road authority or ownership for maintenance, etc. Commissioner Barth asked if there would be a driveway or culvert permit required and Mr. Anderson indicated that it would be up to the township and preliminary plan on access management to the lots.

Commissioner Even asked if there are any obligations to notify township or governing authority. Mr. Anderson explained that there is only a notification requirement for adjacent counties and pointed to the fact that there are other means of conveying information about the request such as the website, sign, etc. Commissioner Even asked for clarification that the burden to notify would be on the applicant and Mr. Anderson concurred.

Commissioner Barth questioned the number of signs and Mr. Anderson indicated that only one sign is required by ordinance placed in a location where there is more impact in the area around the proposed transfer location.

Commissioner Duffy reiterated the need to design the roadway to meet road construction specifications for the state standards.

ACTION

Commissioner Even made a motion to **approve** Conditional Use Permit #16-35 and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #16-35 - Approved

ITEM 12. PRELIMINARY SUBDIVISION PLAN #16-01.

Legal Description –Holbeck Addition (Lots 1-3 and Lot 1 of Tract A and Lot 2 of Tract A) NE1/4 of Section 34-T103N-R49W
Location - approximately 6 miles north of Sioux Falls
Petitioner / Owner- Jim Holbeck

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Agriculture
Parcel Size - 30.8 acres

Report by: Scott Anderson

Staff Analysis:

The applicant has submitted a preliminary plan for a new subdivision located north of Sioux Falls. The new subdivision will consist of five (5) residential lots. Several building eligibilities are being moved to accommodate this proposed subdivision. The final plat can not be approved unless these eligibilities have been transferred.

Staff has reviewed Section 4.01 of the Minnehaha County’s Subdivision Ordinance to determine that all requirements have been met. The applicant has provided all of the required information for a Preliminary Plan, including detailed topographic information, typical cross section for road construction, a grading and drainage plan, and erosion control plan.

The sizes of the lots within the proposed subdivision range in size from between 3.05 acres to 8.4 acres. The entire subdivision will utilize on-site wastewater disposal systems and will connect to Minnehaha Community Water.

The applicant is dedicating Helen Trail, a cul-de-sac, as a road. Prior to a final plat being approved, the applicant shall either construct Helen Trail to the County’s road standards or post surety in an amount to cover the construction cost. Engineered road plans shall also be provided. The applicant has purchased a road sign for Helen Trail.

The applicant will have to address the future maintenance of Helen Trail. Should the applicant create a homeowner’s association to maintain the road, staff recommends that a copy of the covenants be submitted with the final plat to make sure maintenance is addressed.

Recommendation:

Staff recommends **approval** of Preliminary Plan #16-01.

PUBLIC TESTIMONY

Jim Holbeck, 27339 Ridgeway Rd., indicated that he is submitting this request for a preliminary subdivision plan for bigger lots using the building eligibilities on site for family members. Mr. Holbeck mentioned that there will be a buffer zone between the proposed development and existing homes along 255th St. with larger setbacks from each house. He continued to mention that there was a concern presented by adjacent landowners about past water runoff. He reiterated

the fact that they want to be good neighbors and help solve any issues that are presented. Tony Lee, 47563 255th St., explained that he has invested a significant amount of time, energy, and resources into resolving issues regarding drainage from the subject property. Mr. Lee noted that he was ensured the development will require a stormwater management plan during previous public hearings and compensated for additional water runoff from the site. Mr. Lee questioned why a building permit was issued prior to submitting a drainage plan and accountability to uphold conditional use permits conditions of approval on the subject property.

Commissioner Cypher asked planning staff about the building eligibility transfer and building permit issued for a single family dwelling. Scott Anderson explained that at the time of discussion regarding Mr. Holbeck's plans to develop the site, the petitioner was allowed to construct one house because he was not subdivided the land into separate parcels. Mr. Anderson continued to mention that the petitioner will be required to submit a preliminary subdivision plan with a grading and drainage plan detailing stormwater runoff management.

Mr. Holbeck explained that he bought 18 acres that could've been 6 houses, but only plans to build 4 houses. He continued to mention that the road will be constructed to specific standards and pointed to the fact that it is difficult to stop water running downhill.

Paul Korn, 216 S. Duluth Ave., identified himself as the engineering representative for the petitioner and mentioned that the proposed development plan will not alter the drainage pattern. Mr. Korn indicated that there is a plan to build a small berm on the south side of the property to intercept water and direct it towards 255th St. ditch away from the adjacent properties.

Mr. Lee explained that the petitioner is changing the use of the land with the addition of residential homes. He reiterated that the conditional use permit conditions are not being upheld.

Commissioner Cypher asked when the conditional use permit was approved and Scott Anderson mentioned that it was about ten years ago. Mr. Anderson pointed out that the only condition on the permit was that a preliminary subdivision plan be submitted for review by the planning commission and county commission, including a drainage and grading plan.

Mr. Lee questioned why the neighboring landowners weren't notified of the previous change. He continued to explain concerns over the number of building eligibilities and the condition of the township road as well as gravel driveway road off of 255th St. He also noted concern over the lack of communication about the proposed transfer of building eligibility and the ensuing development of the subject parcel.

Commissioner Barth asked how the drainage should flow and Mr. Lee mentioned that it goes back to the original discussion. Mr. Lee added that he has been attempting to solve the issue with culverts and drain tile to aid drainage off the property. Commissioner Barth asked if the water was groundwater and Mr. Lee concluded that it is definitely not groundwater because they have done tests to determine that the drainage is not below the surface.

Mr. Holbeck addressed the issue of the half-mile road and indicated that it is their intention to have a private access road. He continued to mention that the berm is being built on his property

at his expense and is not sure what else can be done to solve the drainage issue. Mr. Korn explained that extending the road will not change the drainage pattern because the end of the proposed development is at the crest of a hill. He continued to mention that the road will follow the terrain of the landscape.

Commissioner Barth asked if the proposed drainage plan will benefit the drainage in the area. Mr. Korn indicated that a combination of including the berm on the north side of the property and directing the drainage toward the road will continue to allow water to flow across the land without causing harm to neighboring properties.

Mr. Lee presented concern over the change in the concept discussed at the previous planning commission regarding the building eligibility transfer nearly ten years ago.

Commissioner Cypher closed the floor to public testimony.

DISCUSSION

Commissioner Barth indicated that communication is key and that there can always be more adequate notification to landowners. He continued to mention that this is not an unreasonable plan and hopes that the drainage issue is solved with the proposed development plan.

Commissioner Even explained that oral statements made in a public hearing are only just statements unless they are written down and made a part of the conditional use permit. He continued to mention that he is still unsure whether there is any bearing of prior conditional use permit on action taken during this public hearing.

Commissioner Barth added that communication can solve issues and hopes that all people involved can discuss their concerns.

ACTION

Commissioner Barth made a motion to **recommend approval** of Preliminary Subdivision Plan #16-01 and the motion was seconded by Commissioner Randall. The motion passed with 3 ayes, 1 nay (Commissioner Even voted nay).

Preliminary Subdivision Plan #16-01 – Approval Recommended (3 yeas, 1 nay)

Old Business

None.

New Business

Scott Anderson mentioned that Kent Woodmansey, South Dakota Department of Environmental and Natural Resources, is interested in providing an overview of state concentrated animal feeding operations regulations and oversight. There was concurrence to allow Mr. Woodmansey to speak for about a half hour on the aforementioned topic at the next planning commission meeting or sometime in August.

Commissioner Even asked if we need to amend the zoning ordinance to require notification to the township authority responsible for road maintenance on all zoning and land use requests. Scott Anderson provided an overview of the text amendment process and mentioned that it is an option for the planning commission if they prefer. Discussion continued amongst the planning commission and staff on the notification issue.

Adjourn

A motion was made to **adjourn** by Commissioner Even and seconded by Commissioner Duffy. The motion passed unanimously.