

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
July 25, 2016

A meeting of the Planning Commission was held on July 25, 2016 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

David Heinold and Kevin Hoekman - County Planning

Planning Commission Chair Mike Cypher called the Minnehaha County Planning Commission meeting to order at 8:00 p.m.

CONSENT AGENDA

Item 2 was removed from the consent agenda by members of the public. The consent agenda consists of Items 1 and 3.

A motion was made by Commissioner Randall and seconded by Commissioner Ode to **approve** the consent agenda consisting of Items 1 and 3. The motion passed unanimously.

ITEM 1. Approval of Minutes – June 27, 2016

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Ode to **approve** the meeting minutes from June 27, 2016. The motion passed unanimously.

Consent Agenda

ITEM 3. CONDITIONAL USE PERMIT #16-52 to allow a Single Family Dwelling on the property legally described as the proposed Tract 4, NW1/4, Section 5-T104N-R49W.

Petitioner: Mike Niemeyer

Property Owner: Robert O'Brien

Location: Approximately 1 mile northwest of Dell Rapids

Staff Report: Kevin Hoekman

This would allow a Single Family Dwelling.

General Information:

Legal Description – NW ¼ (Ex O'Brien's Trs 1 & 3), Section 5-T104N-R49W, Dell Rapids Township

Present Zoning – A1 Agriculture

Existing Land Use – Crop land

Parcel Size – 147.42 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 1 mile to the northwest of Dell Rapids. The subject property has 2 building eligibilities on it. One eligibility is locked, and the dwelling for this locked building eligibility is located in the northeast corner of the parcel. The remaining eligibility is listed as requiring a Conditional Use Permit, and it is not placed in any specific quarter of the section. The Conditional Use Permit request is to make available the final building eligibility.

The petitioner has submitted a site plan which is a proposed platted parcel that is located in the NW ¼ of the NW ¼ of the section. The proposed residential acreage will have approximately 6.86 acres. The proposed area appears to follow the contours of the landscape so that the dwelling unit would be on top of a small hill that is naturally separated from surrounding agricultural crop land. This location is across the street from an existing farmstead and approximately ¼ mile north of two other residential acreages. Staff found no nearby CAFO's in proximity to the proposed site for a single family dwelling. The placement and use of this building eligibility will take up some active farmland, but the use of this land for a dwelling unit is consistent with density zoning. This is the final building eligibility that is located in this ¼ section of land.

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.

A right-to-farm notice covenant should be required to notify potential buyers to the realities of

locating in an agricultural area. Many of the building eligibilities in the area have already been used and no CAFOs are located nearby the proposed dwelling site.

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

The transfer of building eligibility does not increase the number of dwelling units allowed in this section. The proposed location of the building eligibility places the dwelling in a quarter quarter of the section with access to the township road. The siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties as many acreages already exist in the area.

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

No other extra utilities or services will be required for this site to utilize the building eligibility. The proposed location of the building eligibility will require a new driveway and a permit from the township.

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

The 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 proposed conditional use will have little to no effect on the health, safety and general welfare of the public. Placing this building eligibility in this location is in compliance with density zoning.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #16-52 with the following conditions:

- 1.) A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for a single family dwelling.
- 2.) The parcel shall be platted and placed within the register of deeds before the issuance of a building permit.
- 3.) A driveway permit must be obtained from Dell Rapids Township, and a copy presented to the Planning and Zoning department prior to the issuance of a building permit.

ACTION

As part of the consent agenda, Commissioner Randall made a motion to **approve** Conditional Use Permit #16-52 with conditions and the motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #16-52 – Approved

Regular Agenda

ITEM 2. CONDITIONAL USE PERMIT #16-51 to allow Equipment Sales, Display, and Repair for Trailers on the property legally described as Tract 2B Foster-Buckwalter Addition, N1/2, Section 22-T102N-R48W.

Petitioner: Matt VanDyke

Property Owner: same

Location: 25935 482nd Ave. Approximately 1 mile north of Brandon

Staff Report: David Heinold

This would allow Equipment Sales, Display, and Repair for Trailers.

General Information:

Legal Description – Tract 2B Foster-Buckwalter Addition, N1/2, Section 22-T102N-R48W

Present Zoning – I-1 Light Industrial District

Existing Land Use – Commercial

Parcel Size – 2 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval for trailer sales, display, and repair shop. The subject property was recently approved for a contractor's shop and storage yard eight years ago and is presently being used as a repair shop. The narrative describes that the proposed use will be to have trailer sales and display in addition to the current business operation.

The hours of operation are planned to be Monday through Friday from 8 am to 5 pm. The petitioner does not plan to have more employees with the addition of the trailer sales business. The narrative details that the trailers will be special order from Moto Tech Trailers and shipped or available for customer pick up at the Martinsville, Indiana factory.

On July 12, 2016, staff met with the petitioner at the subject property and determined that the proposed location for the trailer sales, display, and repair business is appropriate for the area. The site has been previously used for a contractor's shop and storage yard, but now it is being used for general repair services for personal trucks. Staff does not foresee an issue with adding trailer sales, display, and repair to the business growth in the surrounding area further south.

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 majority of the land to the south and south east is zoned for light industrial or general commercial land uses while the remaining land to the north is currently agriculture. There are a few existing farmstead home sites to the north across the creek from the subject property. Special consideration should be given to maintaining adequate visual screening along the front

property line, which is also the South Dakota Highway 11 right-of-way.

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

The subject property is already zoned for light industrial use, which allows for certain uses such as public utilities, office, bank, warehousing and repair services, and greenhouses as permitted uses given that they meet the criteria established in Section 7.02 and 7.03 of the 1990 Revised Zoning Ordinance for Minnehaha County.

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

The subject property is accessed from 482nd Ave., which is currently a hard surfaced driving area. The driveway has already completed the requirements in the minimum maintenance and improvement standards for hard surfacing during prior approval of a conditional use permit for a contractor's shop and storage yard about eight years ago. All other facilities necessary to the function of the proposed storage yard and repair shop building will be provided in coordination with the zoning ordinance provisions.

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

The site plan indicates that there will be enough space to accommodate the storage and display of the one trailer as well as parking area for the petitioner. The area north of the existing building will be used for automobile parking.

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 trailer sales, display, and repair shop may by general nature present some noise issues through relative repair work conducted on the subject property, but should not be at a level as to constitute a nuisance to surrounding property owners. The surrounding area consists primarily of other more intensive land uses such as quarrying, railcar manufacturing, and warehousing. The proposed use should have a minimal effect on adjacent commercial and agricultural properties. Lighting should be directed downward onto the property to prevent light pollution off the site. At a minimum, the property owner should be required to develop a landscape and screening plan to mitigate potential concerns that arise from the proposed use.

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

The proposed use will be located in an area identified as transition area in the Envision 2035 Comprehensive Plan. The primary goal of this area is to focus new growth and development within municipalities and areas adjacent to existing municipalities where infrastructure will be available. The proposed use is compatible with surrounding land uses and should not significantly affect the health, safety, and general welfare of the public. Staff finds the proposed use, Trailer Sales, Display, and Repair, to be an appropriate use for the I-1 Light Industrial District. Since the location for the proposed business is in an area of the county where commercial and industrial uses are encouraged to locate, there should be few nuisances caused by the use of the proposed business.

Recommendation:

Staff recommends **approval** of Conditional Use Permit #16-51 with the following conditions:

- 1.) That CUP #16-51 shall allow Trailer Sales, Display, and Repair.
- 2.) That the property shall adhere to the submitted site plan received on 6-28-2016.
- 3.) That all signage shall be in conformance with Article 16 and 17 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 4.) That all driveways, parking lots, and outdoor storage areas shall be in conformance with the requirements of Section 15.04 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 6.) That the Planning & Zoning Department reserves the right to enter and inspect the sales and repair business 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 summary of the staff report.

Joann Moan, 25935 482nd Ave., identified herself as the petitioner's representative.

Sheri Carmon, 25941 482nd Ave., lives on the property immediately to the south of the subject property and she mentioned concerns over safety from increased high-speed traffic. She also explained that there are serious sightline problems with the hill from the bottom of Split Rock Creek to the entrance to the concrete plant just south of this site.

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

Commissioner Cypher closed the floor to public testimony.

DISCUSSION

Commissioner Barth understands the concern presented, but believes that the proposed use is a reasonable use of the property and fits with the businesses in the surrounding area.

ACTION

Commissioner Barth made a motion to **approve** Conditional Use Permit #16-51 with conditions and the motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #16-51 – Approved

ITEM 4. CONDITIONAL USE PERMIT #16-47 to exceed 1,200 square feet of total accessory building area – requesting 4,240 sq. ft. on the property legally described as Tract 1 Wirtjes Addn., N1/2 NE1/4, Section 35-T103N-R48W.

Petitioner: Clifford Malsom

Property Owner: same

Location: 48275 255th St. Approximately 1 miles southwest of Garretson

Staff Report: David Heinold

This would allow 4,240 sq. ft. of total accessory building area.

General Information:

Legal Description – Tract 1 Wirtjes Addition, N1/2 NE1/4, Section 35-T103N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use –Residential

Parcel Size – 5 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. 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. requirement. The property owner, 48226 255th St., about a half mile to the west of the subject property has 6,348 sq. ft. of total accessory building area on a similar sized parcel. The property immediately adjacent to the east of the subject property has 2,400 sq. ft. on a 10 acre parcel.

On May 26, 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 5 acre parcel.

On July 14, 2016, staff inspected the property and the items discussed at the previous planning commission meeting on June 27, 2016 have been removed from the 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 within 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, 4,240 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 #16-47 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 4,240 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

Staff presented a brief summary of the staff report.

Penny Malsom, 48275 255th St., identified herself as the petitioner's representative.

Commissioner Barth commented that property appears to be an overall improvement from the previous site conditions. Mrs. Malsom expressed gratitude for the additional time to abate the public nuisance ordinance violation and working with staff on removal of previously stated items from the property.

Commissioner Ode asked the petitioner if they could uphold maintenance of the property in order to prevent future conditions such as a less attractive look due to the miscellaneous junk items that were located on the property prior to abatement of the public nuisance ordinance violation. Mrs. Malsom explained that the extra building space will allow adequate indoor area to work on projects and not have multiple junk items scattered across the property.

Lowell Wirtjes, 401 E. Switchgrass Tr., identified himself as the landowner immediately adjacent to the south of the subject property. Mr. Wirtjes commended staff on efforts to get the property cleaned up. He continued to mention that he tried contacting the owner, but there was no result. He explained that he contacted the state Department of Environment & Natural Resources about the oil containment and was directed to file a complaint with the Environmental Protection Agency for further investigation.

Mr. Wirtjes noted that he would like the junk and miscellaneous parts to be stored inside the building as well as the oil properly contained according to the regulations. He continued to mention that he requests a complete listing of the regulations and conditions regarding oil containment. Staff noted this request for documentation.

Commission Cypher called for additional public testimony, but there was no answer.

Commissioner Cypher closed the floor to public testimony.

ACTION

Commissioner Barth made a motion to **approve** Conditional Use Permit #16-47 with conditions and the motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #16-47 – Approved

Old Business

None.

New Business

Commissioner Barth discussed that the planning commission should develop a list of concerns about the zoning ordinance and potential future situations to be aware to stay ahead of the county's growth patterns. He indicated that we should be looking into changes or additions that will keep the county positioned as a leader in the state.

Discussion amongst the planning commission continued regarding the zoning ordinance revisions subject matter.

Adjourn

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