



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
July 23, 2018

A meeting of the Planning Commission was held on July 23, 2018 at 8:04 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Adam Mohrhauser, Ryan VanDerVliet, Becky Randall, Mike Ralston, Doug Ode, and Jeff Barth.

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning
Maggie Gillepsie – States Attorney

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 8:04 p.m.

Consent Agenda

Commissioner Duffy read each item of the consent agenda.

A motion was made to **approve** the consent agenda consisting of Items 1, 2, 3, and 4 by Commissioner Barth and seconded by Commissioner Ode. The motion passed unanimously.

ITEM 1. Approval of Minutes – June 25, 2018

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ode to **approve** the meeting minutes from June 25, 2018. The motion passed unanimously.



ITEM 2. CONDITIONAL USE PERMIT #18-34 to amend Conditional Use Permit #16-75 to allow 6,686 square feet of total accessory building area on the property legally described as S1/2 NW1/4, NW1/4, Section 18-T101N-R47W.

Petitioner: Lori Richards

Property Owner: same

Location: 26420 484th Ave. Approximately 3 miles southeast of Brandon

Staff Report: David Heinold

This would amend Conditional Use Permit #16-75 to allow 6,686 square feet of total accessory building area.

General Information:

Legal Description – S1/2 NW1/4 NW1/4, Section 18-T101N-R47W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 19.75 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting an amendment to Conditional Use Permit #16-75 to allow 6,686 square feet on approximately 19.75 acres. The site plan, at right, shows the proposed 30'x60' hoop structure located just north of the existing house. There are already several large buildings on the subject property. The total existing accessory building area is 4,851 sq. ft., which is comprised of four buildings.



There are a few accessory building sizes in the surrounding area exceeding the 3,600 square foot total permissible area of accessory building footprint for properties larger than 3 acres. The property owner, 26427 484th Ave., has 6,000 square feet on a similar size parcel located kitty-corner to the southwest of the subject property on approximately 17.23 acres. The property located to the northeast at 48419 264th St. has approximately 4,851 sq. ft. on 10.05 acres. Conversely, the property at 26403 484th Ave. has 3,428 sq. ft. of total accessory building area located about a quarter mile to the northwest on 7.86 acres.

On July 12, 2018, staff visited the property and determined that the proposed use of the 30'x60' hoop structure is an appropriate land use for the surrounding area. The hoop structure will be a part of a plant nursery for wholesale distribution to area farmers markets. The applicant does not



conduct any retail sales at the subject property. Comparatively, the lot immediately to the southwest has a few larger accessory buildings as well as a similar plant nursery area on site.

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 size of the requested accessory structure exceeds the sizes of existing buildings on similar properties to the subject property; however, many of the properties in the area have accessory building sizes exceeding the 3,600 sq. ft. total area on smaller lot sizes. The personal use of the proposed accessory structure for storage as a greenhouse will likely not significantly affect the use and enjoyment of properties in the immediate vicinity.

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

The area primarily consists of agricultural farmland with several residential acreages and existing farmsteads. The requested accessory building area would set a precedent for future undeveloped properties in the surrounding area and would further increase the size of personal accessory buildings in the rural area; however, accessory building sizes over 5,000 sq. ft. have been approved in other parts of the county on similar lot arrangements. The future development of agricultural land is entirely dependent on the availability of building eligibilities for residential homes in the area.

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

The petitioner has not indicated a need to increase utilities or included any provisions for accommodating drainage facilities to manage the type, intensity, and flow of water from the proposed accessory structure. The site plan shows that the structure will be accessible via an extension of the existing driveway.

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. No retail sales of products is allowed on the premises in accordance with the Minnehaha County Zoning Ordinance.

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 structure for private use and storage will create few problems to neighboring properties. The property is located within the area defined as the Agricultural Production Area in the Envision 2035 Comprehensive Plan, which sets forth the



purpose to protect, preserve, and promote agricultural uses and the economic viability of farming operations in the rural area.

Recommendation:

Staff finds that the requested total accessory building area is relatively comparable to the existing accessory building sizes on similar properties in the surrounding area. Staff recommends **approval** of Conditional Use Permit #18-34 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 6,686 square feet.
- 2.) That a building permit is required prior to construction of the accessory structure.
- 3.) An inspection must be made of the proposed accessory structure to ensure that the total floor area of the structure does not exceed 1,800 square feet.
- 4.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 5.) That no retail sales of products or commercial business shall be conducted on the premises at any time.

Action

As part of the consent agenda, a motion was made by Commissioner Barth to **approve** Conditional Use Permit #18-34 and seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #18-34 – Approved



ITEM 3. CONDITIONAL USE PERMIT #18-35 to transfer one (1) building eligibility from the W1/2 NE1/4 (Ex. H-1), Section 13-T103N-R50W to the N1/2 NE1/4 (Ex. H-2) & E296' & Ex. Floren's Addn., Section 24-T103N-R50W.

Petitioner: Betty L. Oehlke Living Trust
 Property Owner: same
 Location: West of 253rd St. & 472nd Ave. Intersection
 Approximately 2 miles southwest of Baltic
 Staff Report: David Heinold

This would transfer one (1) building eligibility.

General Information:

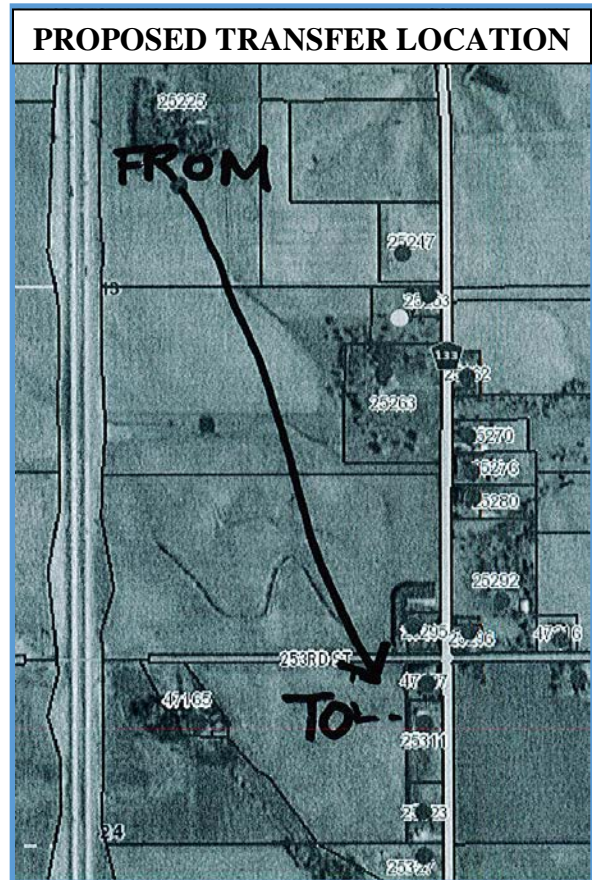
Legal Description – N1/2 NE1/4 (Ex. H-2 & Ex. E296 & Ex. Floren's Addn.),
 Section 24-T103N-R50W
 Present Zoning – A-1 Agricultural District
 Existing Land Use – Agriculture
 Parcel Size – 35.95 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to transfer one building eligibility from the W1/2 NE1/4 of Section 13 to an approximately 36 acre parcel in the N1/2 NE1/4, Section 24. The proposed transfer location has direct street frontage along the 253rd St. section-line road right-of-way. The existing location of the building eligibility is located a quarter mile off of County Highway 133. The site plan, at right, shows the proposed location of the building eligibility transfer.

There are no concentrated animal feeding operations within the surrounding area where the building eligibility will be located. The proposed building site is approximately one-and-a-quarter miles away from the nearest concentrated animal feeding operation to the northwest and southeast. Staff would like to note that there is an existing farmstead acreage and cattle pasture area located about 0.20 mile to the west of the proposed site for the transfer of building eligibility.





On July 12, 2018, staff visited the site and determined that the proposed transfer of building eligibility would allow a single family dwelling to be built in the immediate area.

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 is required to notify potential buyers to the realities of locating in an agricultural area. The addition of residential land use should not negatively affect the nearby residences and farmland. The proposed building site will be located on an existing farm area.

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

The approval of the building eligibility for a single family dwelling will not increase the number of dwelling units allowed in this section. The surrounding area is primarily agriculture with a few existing single family dwellings northeast and southeast of the proposed location for the dwelling. There are two existing farmsteads approximately 0.25 mile away from the proposed site of the transfer of building eligibility that have a similar cattle pasture area along the intermittent stream. The placement of a building eligibility for a single family dwelling may place certain restrictions on expansion of these existing cattle areas.

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

The placement of the building eligibility will result in the construction of a single family dwelling with a driveway approach proposed to be installed with access to 253rd St.

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 otherwise constitute a nuisance.

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

The health, safety, general welfare of the public should not be significantly impacted by the transfer of one building eligibility. The intent of the Envision 2035 Comprehensive Plan will be met under the requirements of density zoning.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #18-35 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 the single family dwelling.



2. That a driveway or culvert permit be obtained from Sverdrup Township prior to the issuance of a building permit.

Action

As part of the consent agenda, a motion was made by Commissioner Barth to **approve** Conditional Use Permit #18-35 and seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #18-35 – Approved



ITEM 4. CONDITIONAL USE PERMIT #18-36 to exceed 3,600 square feet of total accessory building area – requesting 4,280 sq. ft. on the property legally described as Tract 3, Ruhaak Addition, NE1/4, Section 23-T102N-R51W.

Petitioner: Jon Maras

Property Owner: same

Location: 1900 E. 2nd St. Approximately 0.5 mile east of Hartford

Staff Report: Kevin Hoekman

This would allow 4,280 square feet of total accessory building area.

General Information:

Legal Description – Tract 3 Ruhaak Addition, NE1/4, Section 23-T102N-R51W

Present Zoning – A1-Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 6.91 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately ½ mile east of Hartford on E. 2nd Street. The site is located within an area of more than 4 platted lots. In subdivisions or residential developments which exceed four lots in number, accessory building area is limited to 3,600 square feet, unless approval for a larger size is obtained through the conditional use permit process.

This property was the subject of a previous conditional use permit request that was scheduled earlier this year. At the time the petitioner changed the request, the later withdrew the request. This application is for a smaller total area than originally requested.

The petitioner would like to construct a 52 foot by 80 foot accessory building. At the time of the application the petitioner noted that a 120 square foot building exists on the property that was included in the request. During review of the request, staff found that the small building is assessed for 440 square feet. The 440 square feet will count towards the approved total accessory building area; therefore, the planning commission may approve a larger than requested area to accommodate the existing shed or simply approve the requested 4,280 square feet of accessory building. Combined the two buildings would equal 4,600 square feet.

The property is currently a large acreage including a single family dwelling. The proposed accessory building is shown on the site plan to be located east of the existing dwelling. A large concrete pad currently exists where the building is proposed to go. The property has two driveway accesses to the road.

The subject property is located in a subdivision, but only one neighbor has already constructed a dwelling. The surrounding area is predominantly agricultural but only a short distance west of the property is the City of Hartford. The provided map of accessory building sizes are only properties that are not currently agricultural farmsteads. One of the nearby properties has a



similar area of accessory building as this request, and another has accessory building space that exceeds this request.

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 accessory building 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. The large square footage may lead to other large accessory building requests by neighboring residential property owners. The surrounding agricultural land will likely remain for agricultural uses. Several building eligibilities exist nearby and outside of the subdivision. These building eligibilities may also be used for residential dwellings in the future. The proposed accessory building is on a property that has many trees on the east and west sides. The building will not be screened from the south. It is unlikely that it will have any effect on the future development of agricultural or residential development in the area.

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 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. Other large accessory building totals are located on far and non-farm properties in the near area.



Recommendation:

Staff finds that the proposed accessory building is reasonable to the size of the existing structures, the size of the property, and the location on the property. Staff recommends **approval** of Conditional Use Permit #18-36 with the following conditions:

- 1.) The total accessory building square footage shall not exceed 4,600 square feet.
- 2.) A building permit is required prior to construction of the accessory building.
- 3.) That an inspection be made on the proposed new accessory building to ensure that the total floor area of the addition does not exceed 4,160 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, a motion was made by Commissioner Barth to **approve** Conditional Use Permit #18-36 and seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #18-36 – Approved



Regular Agenda

ITEM 5. CONDITIONAL USE PERMIT #18-33 to allow a Bed & Breakfast Establishment on the property legally described as Tract 1, Degelau Addition, S1/2 NE1/4, Section 7-T102N-R49W.

Petitioner: Pamela L. Hoffman-Degelau

Property Owner: same

Location: 47291 Renberg St. Approximately 2.5 miles east of Crooks

Staff Report: David Heinold

This would allow a Bed & Breakfast Establishment.

General Information:

Legal Description – Tract 1, Degelau Addition, S1/2, NE1/4, Section 7-T102N-R49W

Present Zoning – A-1 Agricultural District

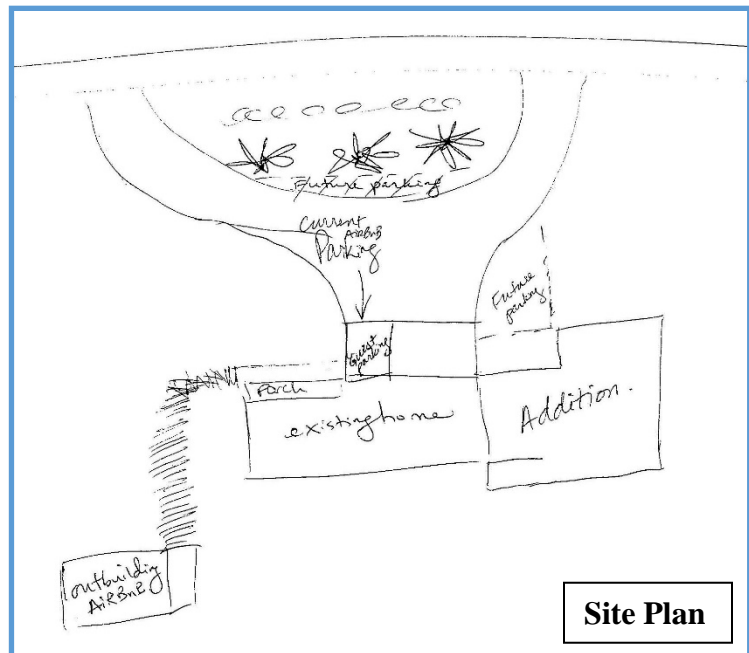
Existing Land Use – Residential

Parcel Size – 4.72 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner, Pamela Hoffman, is requesting conditional use permit approval to allow a bed and breakfast establishment for one day, weekend, and week-long stays on an approximately 4.72 acre lot in the existing 20'x30' detached accessory building until the house addition is completed. The written narrative describing the proposed use and the petitioner's explanation of the business operation is attached for your review. The site plan, at right, shows the location of the bed and breakfast establishment, guest parking, and access to the site. As indicated in the attached narrative, the petitioner proposes to use the existing 20'x30' detached accessory building until the house addition is completed that is included in the request to allow a bed and breakfast establishment for short-term rental.



On June 13, 2018, staff visited the property and determined that the proposed site for a bed and breakfast establishment is an appropriate land use for the surrounding area.



On July 11, 2018, Scott Anderson and David Heinold from the County Planning Department met with the applicant at the property to discuss the conditional use permit request. Staff discussed additional conditions on the permit request for a bed and breakfast establishment to ensure compliance with the Zoning Ordinance and Envision 2035 Comprehensive Plan.

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 subject property is located in an area between primarily agricultural farmland and a couple adjacent one to two acre lot subdivisions in the immediate area. The effect upon the use and enjoyment of other residential properties in the immediate vicinity should not be negatively affected by the proposed use of the existing 20'x30' detached accessory building while the house addition is under construction for short-term rental for one day, weekend, and/or week-long accommodations. The written narrative explains that the petitioner is currently constructing an addition on the existing main single family dwelling with more bedrooms to accommodate the requested bed and breakfast establishment. As stated in the narrative, the petitioner will convert the 20'x30' detached accessory building back to the intended use when it was constructed for personal storage of household items and property maintenance equipment. The zoning ordinance defines that a bed and breakfast establishment accommodation may provide no more than 10 bedrooms for guests, exclusive of the living quarters of the owner or operator.

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

The area is already well developed with single family dwelling subdivisions and the remainder of the land remains in agricultural production of crops. It is unlikely that the proposed use for a bed and breakfast will negatively impact the normal and orderly development and improvement of surrounding vacant properties.

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

The subject property already contains all of the necessary facilities for operation of the bed and breakfast establishment in accordance with the zoning ordinance and other applicable laws.

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

Applicant response: *Guests currently park on my driveway in the spot closest to my porch. Upon completion of my addition, my deceased parents' furniture will move out of my garage and into the addition, allowing me to park inside and my driveway will be covered with crushed asphalt to accommodate guest parking in an orderly, lined fashion.*

The petitioner plans to use the existing driveway area in front of the main dwelling as guest parking for the proposed bed and breakfast establishment. No overnight parking is allowed along Renberg St. or within the public road right-of-way.

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 20'x30' detached accessory building and planned addition to the existing house proposed to be used is setback approximately 550 feet northwest to the nearest dwelling. The proposed operation of a bed and breakfast establishment brings possible noise disturbances to surrounding property owners with new guests. Staff recommends adding a condition on the permit limiting check-in time for the bed and breakfast establishment to no later than 10:30 p.m. all week long to mitigate potential noise disturbances of late night guests.

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

The subject property lies adjacent to two existing residential dwelling subdivisions, which are mostly developed with single family dwellings on previously platted lots. Staff would like to note that the subject property only allows one (1) single family dwelling with the available building eligibility currently being used by the existing house in compliance with the density zoning requirements as listed in the Minnehaha County Zoning Ordinance. Staff acknowledges that the 20'x30' detached accessory building has a living quarters with a stove inside and is in violation of the zoning ordinance.

A proposed condition has been added to set a deadline for removing the living quarters and stove from the accessory building by December 28, 2018, which staff believes is an appropriate time transition to fully complete the house addition that the petitioner plans to utilize as the bed and breakfast establishment. All other detached accessory buildings may not be used as bed and breakfast establishments without appropriate approval by the Minnehaha County Planning Commission. This area is located within the Transition Area for the City of Crooks as identified by the Envision 2035 Comprehensive Plan, which has the primary purpose of maintaining the rural landscape until eventual development of residential and/or municipal development. The future development of vacant land is entirely dependent on the availability of building eligibilities for residential homes in the area.

Recommendation:

Staff finds that the proposed bed and breakfast establishment is an appropriate land use for the surrounding area consistent with the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #18-33 with the following conditions:

- 1.) That CUP #18-33 shall allow a bed and breakfast establishment.
- 2.) That the property shall adhere to the submitted site plan.
- 3.) That a sign may be posted on the property, with a building permit, not to exceed 16 square feet.
- 4.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 5.) The house addition and 20'x30' detached accessory building must have functioning smoke and carbon monoxide detectors as required by the 2015 IRC as adopted by Minnehaha County.
- 6.) The proprietor must obtain any applicable South Dakota Sales Tax that is required.



- 7.) The proprietor must obtain the required Lodging License with the South Dakota Department of Health.
- 8.) Daily check in of guests of the bed and breakfast establishment must be prior to 10:30 p.m.
- 9.) The 20'x30' detached accessory building shall return to allow only personal storage of household items and property maintenance equipment by December 28, 2018. All other detached accessory buildings shall only be used for personal storage of household items and property maintenance equipment.
- 10.) Approval must be obtained from Mapleton Township on driveway entrance and exit for guests of the bed and breakfast establishment.
- 11.) That the proprietor shall maintain a guest list and make such list available at the request of the Planning Director.
- 12.) That the Planning & Zoning Department reserves the right to enter and inspect the bed and breakfast establishment 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

David Heinold, County Planning, presented a brief overview of the staff report and recommendation for Conditional Use Permit #18-33.

Pam Hoffman, 47291 Renberg St., identified herself as the petitioner for the conditional use permit request.

Commissioner Duffy asked the petitioner if she was fully aware of the proposed conditions and she was in agreement with the staff recommended conditions of approval.

Commissioner Barth asked the petitioner if she has had a chance to meet with the neighbors regarding any of the concerns presented at the last planning commission meeting.

Mrs. Hoffman mentioned that she had not visited with anyone from the neighborhood but attempted to talk with Mr. Haak but they were out of town.

Commissioner Duffy called for public testimony but there was no answer.

Commissioner Duffy closed the floor to public testimony.

Discussion

Commissioner Mohrhauser asked planning staff about the east driveway and Mr. Heinold explained that the applicant will have to work with the township on the driveway approach.

Commissioner Barth mentioned that he feels a little perturbed with the use already in operation. He continued to explain that communication among neighbors is key but at the same time it appears that emotions have subsided from the previous meeting.

Action

As part of the consent agenda, a motion was made by Commissioner Barth to **approve** Conditional Use Permit #18-33 with the staff recommended conditions and seconded by Commissioner Ode. The motion passed 5-1, Commissioner Ralston voted nay.

Conditional Use Permit #18-33 – Approved



Old Business

None.

New Business

Kevin Hoekman presented an update on CAFO Ordinance revisions and there was discussion amongst the planning commission members regarding setting a hearing date.

Adjourn

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

The meeting was **adjourned** at 8:32 pm.