



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
July 22, 2019**

A meeting of the Planning Commission was held on July 22, 2019 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

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

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:20 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

Consent Agenda

Commissioner Duffy read each item of the consent agenda.

Item 2 was requested to be moved to the regular agenda. Item 2 was moved to the regular agenda for discussion and action.

A motion was made to **approve** the consent agenda consisting of Item 1 by Commissioner Barth and seconded by Commissioner Mohrhauser. The motion passed unanimously.

ITEM 1. Approval of Minutes – June 24, 2019

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Mohrhauser to approve the meeting minutes from June 24, 2019. The motion passed unanimously.



Regular Agenda

ITEM 2. CONDITIONAL USE PERMIT #19-32 to amend Conditional Use Permit #18-02 to allow fireworks during the fireworks season in South Dakota until 11 pm and to extend the hours of public operation on New Years Eve/New Years Day from 12 am to 1 am on the property legally described as Tract 3 (Ex. H-1) Krell’s Addition, SE1/4 SE1/4, Section 36-T101N-R51W.

Petitioner: The Barn Inc. (Josh & Amanda Nelson)

Property Owner: same

Location: 46594 268th St. Located approximately 3 miles west of Sioux Falls

Staff Report: David Heinold

General Information:

Legal Description – Tract 3 (Ex H-1) Krell’s addition, SE1/4, Section 36-T101N-R51W

Present Zoning – C Commercial District

Existing Land Use – Event Barn

Parcel Size – 17.05 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to amend Conditional Use Permit #18-02 to allow fireworks during the fireworks season in South Dakota until 11 pm and to extend the hours of public operation New Years Eve/New Years Day from 12 am to 1 am. Currently, the petitioner is only allowed to host outdoor activities and events between the hours of 9 am and 9 pm for the existing banquet and event facilities.

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 proposed extension for the hours of operation will have an effect on the use and enjoyment of other properties in the immediate vicinity. The additional hours for outdoor activities may cause noise disturbances due to lighting off fireworks later into the evening. Most nights throughout the year do not get dark enough for any fireworks displays. There are no restrictions on residential properties in the immediate area for lighting off fireworks.

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

The subject property already has two event facilities and associated parking areas. The surrounding area is primarily commercial and residential with a few farms located in the immediate vicinity. There should not be an effect on the normal and orderly development and improvement of surrounding vacant since no buildings will be constructed on the site.



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

The petitioner already has utilities, access roads, and drainage in place with the existing buildings on the subject property. The proposed outdoor activities should not affect the provision of utilities, access roads, or drainage of stormwater from the buildings.

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

All off-street parking and loading requirements have been met 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 use for lighting off fireworks may cause noise disturbances for surrounding property owners at various times throughout the night. The petitioner should take precautions necessary to control any offensive nuisances such as noise and vibration during each outdoor event or activity.

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

The subject property is located just outside of the Transition Area within the Agricultural Production Area as identified by the Envision 2035 Comprehensive Plan. Although, the presence of Wild Water West in the immediate vicinity to the north of the subject property brings more of a commercial nature to surrounding area. The site is located adjacent to existing commercial establishments and in close proximity to residential uses. The proposed use fits with the mix of commercial, agricultural, and residential uses in the immediate area.

Recommendation:

Staff finds that the proposed use is compatible with the zoning ordinance and Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #19-32 with the following conditions:

- 1.) That CUP #19-32 shall allow a banquet and event facility.
- 2.) That the property shall adhere to the submitted site plan dated 12-20-2017.
- 3.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 4.) That a set of plans certified by a registered professional engineer be submitted for review and approval prior to the building permit(s) being issued for all buildings.
- 5.) That the applicant shall comply with Section 15.04 Minimum Improvement and Maintenance Standards of the 1990 Revised Zoning Ordinance for Minnehaha County for all driveways, parking lots, and loading/unloading areas.
- 6.) All applicable gravel driveways and parking areas shall have dust control product applied a minimum of once a year.
- 7.) No outside storage shall be allowed at any time.
- 8.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.



9.) The hours of operation for the public will be between 8:00 am and 12:00 am (midnight). Outdoor events and activities shall be limited to the hours of 9:00 am to 9:00 pm. The hours of operation for New Years Eve and New Years Day for the public shall be between 8:00 am and 1:00 am.

10.) Fireworks shall be allowed during the 9-day fireworks season until 11:00 pm.

11.) That the Planning Department reserves the right to enter and inspect the banquet and event facility 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 Department, presented a brief summary of the staff report and recommendation for the conditional use permit request.

Commissioner Barth asked the petitioner if they had any interaction with the neighbors about the proposed request.

Josh Nelson, 204 Park Dr., Lennox, SD, identified himself as the owner of Blue Barn event facility and indicated that they have not had any discussions with neighbors about the request.

Kris Lair, 46578 268th St., identified herself as one of the surrounding property owners near the subject property. Mrs. Lair stated concerns regarding who will be lighting off the fireworks, a notification of the fireworks shows ahead of time, and the direction fireworks will be lit off. She continued to mention that there may be a fire concern from the fireworks being lit off in the direction of open grasslands to the north of the event facility.

Darrell Bleeker, 46575 268th St., mentioned concerns regarding safety, where the fireworks will be lit off, who cleans up the mess afterwards, and there is no fire station near the facility.

Commissioner Duffy mentioned that Kirk Walters called her to report concerns regarding safety, which direction the fireworks would be lit off, and dust control application on 268th St.

Mr. Nelson mentioned that they recently changed contracts about having a professional do the fireworks displays. He continued to mention that they have been in contact with the Delapre Township officers about dust control.

Commissioner Duffy asked the petitioner if they would notify the neighbors prior to the fireworks displays and Mr. Nelson stated that they could notify neighbors of the fireworks.

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

Commissioner Duffy closed the floor to public testimony.



Discussion

Commissioner Ralston explained that professionally discharged fireworks is a good requirement, but he has concerns with notification about who gets notified at what distance.

Commissioner Barth added that there could be a condition requiring posting a sign similar to the notification sign or a social media post to alert surrounding property owners of fireworks.

Commissioner Ralston made a motion to approve Conditional Use Permit #19-32 with one additional condition “That the fireworks display be professionally discharged”.

Commissioner Barth concurred with Commissioner Ralston and would like to add an additional condition “That a sign be posted on the property or a social media post indicating the date, time, and duration of the event be prepared prior to lighting off fireworks.”

Commissioner Ralston made a new motion to approve Conditional Use Permit #19-32 with one additional condition “That the fireworks display be professionally discharged” and “That a sign be posted on the property or a social media post indicating the date, time, and duration of the event be prepared prior to lighting off fireworks.”

Action

A motion was made to **approve** Conditional Use Permit #19-32 with amended conditions by Commissioner Ralston and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #19-32 - Approved

- 1.) That CUP #19-32 shall allow a banquet and event facility.
- 2.) That the property shall adhere to the submitted site plan dated 12-20-2017.
- 3.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 4.) That a set of plans certified by a registered professional engineer be submitted for review and approval prior to the building permit(s) being issued for all buildings.
- 5.) That the applicant shall comply with Section 15.04 Minimum Improvement and Maintenance Standards of the 1990 Revised Zoning Ordinance for Minnehaha County for all driveways, parking lots, and loading/unloading areas.
- 6.) All applicable gravel driveways and parking areas shall have dust control product applied a minimum of once a year.
- 7.) No outside storage shall be allowed at any time.
- 8.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 9.) The hours of operation for the public will be between 8:00 am and 12:00 am (midnight). Outdoor events and activities shall be limited to the hours of 9:00 am to 9:00 pm. The hours of operation for New Years Eve and New Years Day for the public shall be between 8:00 am and 1:00 am.
- 10.) Fireworks shall be allowed during the 9-day fireworks season until 11:00 pm.



11.) That the Planning Department reserves the right to enter and inspect the banquet and event facility 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.

12.) That the fireworks display be professionally discharged.

13.) That a sign be posted on the property or a social media post indicating the date, time, and duration of the event be prepared prior to lighting off fireworks.



Regular Agenda

ITEM 3. CONDITIONAL USE PERMIT #19-28 to allow Seed and Chemical Sales on the property legally described as Tract 9, Grimmus Addition, SE1/4 SE1/4, Section 34-T101N-R48W and SW1/4 SW1/4, Section 35-T101N-R48W.

Petitioner: Colton Grimmus

Property Owner: Sandra Grimmus

Location: 48248 268th St.

Located approximately 4 miles east of Sioux Falls

Staff Report: David Heinold

General Information:

Legal Description – Tract 9, Grimmus Addition, SE1/4 SE1/4, Section 34-T101N-R48W and SW1/4 SW1/4, Section 35-T101N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 28.28 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to operate an agriculture seed and chemical retail business on the subject property. The proposed operation will be located in the far southwest corner of the property. The hours of operation will be 8:00 am to 5:00 pm, Monday thru Friday and will also open as needed to accommodate customer needs during the spring. There will only be one employee, Colton Grimmus, with the plan to hire an additional employee for the varying seasons.

On June 11, 2019, staff visited the property and determined that the proposed use for seed and chemical sales is an appropriate use for the rural area. Similar agriculturally-related operations are commonly seen throughout the County providing support for agricultural producers. Staff contacted the petitioner about supplying a list of the chemicals that he plans to store inside the building. The petitioner mentioned that there will be only herbicides and fungicides. No anhydrous ammonia will be stored on the subject property with this conditional use permit request.

The conditional use permit request was previously heard at the June 24, 2019 County Planning Commission meeting; however, there was a notification issue that requires resolution. The applicant did not receive the mailing addresses for the property owners within 500 feet of the subject property across the state line in Iowa. Therefore, the applicant was required to mail the notices for the July 22, 2019 County Planning Commission meeting for a public hearing on the conditional use permit request. An appeal letter was filed by a surrounding property owner, but the County Planning Staff feels it is necessary to bring the conditional use permit application back to the Planning Commission for consideration in accordance with the Zoning Ordinance.



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.

Due to the nature of the proposed seed and chemical retail sales business, there is likely to have negative effect upon the use and enjoyment of other property in the immediate vicinity. However, the addition of an agricultural-type warehouse building should not affect property values in the surrounding area. Staff recognizes that storage of certain agricultural chemicals may pose health as well as other associated safety risks for surrounding property owners.

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

The area is primarily agricultural with about a half dozen residential acreages along County Highway 150. There should be minimal effect on the normal and orderly development of surrounding vacant land with the addition of an agricultural accessory building. Although, the siting of the proposed land use may discourage existing or future residents from locating a residential dwelling near the subject property, which is determined by the number of available building eligibilities. The Envision 2035 Comprehensive Plan identifies the future growth of surrounding vacant property as remaining primarily agricultural land use.

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

The applicant will need to gain approval from the Minnehaha County Highway Department for a driveway and culvert permit. All other necessary facilities will be provided prior to construction of the proposed accessory building. The petitioner did not provide planning staff with a plan for how drainage will be managed on the subject property with the proposed building. According to the USGS 4 foot Contours, the higher elevations are located to the immediate east of the location for the proposed building associated with the seed and chemical sales business and slopes down towards the west.

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

The petitioner is required to provide parking and loading areas in conformance with the zoning ordinance for the number of employees as well as delivery vehicles on the subject property. The petitioner should provide two parking spaces for each three employees on the maximum shift with additional space to accommodate all trucks and other vehicles used in connection with the use. No parking is allowed in the County Highway right-of-way 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.

The petitioner has indicated that the amount of sales activity occurring at the proposed business will depend on the season. The number of inbound deliveries of products in the off season will be 15-20 with some of the loads by semi-truck. The narrative states that there will be approximately 75 visits throughout the year, which includes customer pickups from the business. At a minimum, the seed and storage areas should be secured during non-business hours.



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

The proposed agricultural seed and chemical retail business will be located in an area identified as long-term agriculture in the Envision 2035 Comprehensive Plan. The primary goal of this area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. The proposed use is an appropriate complement to the agricultural economy that provides support for agriculture operations in the area and should not significantly affect the health, safety, and general welfare of the public. The agriculturally-related operation of agricultural seed and chemical sales should fit with the intent of the plan. This is an area with quite a number of residential acreages in the immediate vicinity that may pose potential nuisances with regards to the nature of the proposed seed and chemical sales business.

Recommendation:

Staff finds that the proposed use for seed and chemical retail sales is an appropriate use for the surrounding area and conforms to the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #19-28 with the following conditions:

- 1.) That CUP #19-28 shall allow agricultural seed and chemical sales.
- 2.) That the property shall adhere to the submitted site plan dated 5-29-2019.
- 3.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 4.) That a set of plans certified by a registered professional engineer be submitted and reviewed prior to the building permit(s) being issued for the seed warehouse.
- 5.) That the petitioner supply the Planning Director with a list of all chemicals stored within the seed and chemical storage facility. If any changes result annually, a revised list must be provided to the Planning Director for review.
- 6.) That the applicant shall obtain an approach permit from Minnehaha County Highway Department.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the 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

David Heinold, County Planning Department, presented a brief summary of the staff report and recommendation for Conditional Use Permit #19-28.

Colton Grimmus, 26674 Brownstone Ave., identified himself as the petitioner and asked for questions.

Commissioner Barth asked the petitioner if he had met with any of the neighbors on their concerns regarding the proposed request.



Colton Grimmus mentioned that he had no contact with either of the property owners.

Dan & Amy Aukes, 605 Mae Rose Dr., Valley Springs, SD, identified themselves as the neighboring property owners and mentioned concern regarding the perception that property values won't decrease or stay the same with the proposed seed and chemical business. Dan Aukes questioned what can be done to ease their concerns about the proposed building right next to the property line. Mr. Aukes continued to mention that there should be an alternative location for the building and bins.

Commissioner Ode asked Mr. Aukes if he is concerned of the unknown. Mr. Aukes explained that it is part of the concern, but they are more concerned with who holds everyone accountable.

Mr. Aukes stated that they would like to build a house on their property, but there is a lot of unknown. He continued to mention concerns regarding how their concerns can be eased and what cost will be deferred to their property value if they don't want to live next to a seed and chemical sales business.

Commissioner Ode asked Mr. Aukes how big their property is and Mr. Aukes mentioned that they have 6.6 acres.

Commissioner Ode asked if a condition requiring trees on the west side of the building would help ease their concerns. Mr. Aukes stated that it would probably help, but wonders if there could be a different spot for the proposed use altogether. He continued to mention concerns regarding children playing near the road.

Amy Aukes questioned the notification process for the conditional use permit request.

Scott Anderson, County Planning Director, explained that all of the property owners within 500 feet, including the property owners in Iowa, were notified of the planning commission meeting tonight in an effort to resolve the error made in the previous meeting.

Commissioner Duffy asked the petitioner if he would be opposed to putting up trees along the western property boundary. Mr. Grimmus stated that he is not opposed to planting trees.

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

Commissioner Duffy closed the floor to public testimony.

Discussion

Commissioner Barth made a motion to approve Conditional Use Permit #19-28 with an additional condition requiring "1 row of evergreen trees and 1 row of deciduous trees to be planted to the west of the building."



Action

A motion was made to **approve** Conditional Use Permit #19-28 by Commissioner Barth and seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #19-28 - Approved

- 1.) That CUP #19-28 shall allow agricultural seed and chemical sales.
- 2.) That the property shall adhere to the submitted site plan dated 5-29-2019.
- 3.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 4.) That a set of plans certified by a registered professional engineer be submitted and reviewed prior to the building permit(s) being issued for the seed warehouse.
- 5.) That the petitioner supply the Planning Director with a list of all chemicals stored within the seed and chemical storage facility. If any changes result annually, a revised list must be provided to the Planning Director for review.
- 6.) That the applicant shall obtain an approach permit from Minnehaha County Highway Department.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the 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.
- 9.) That one (1) row of evergreen trees and one (1) row of deciduous trees be planted to the west of the building.



Old Business

None.

New Business

Scott Anderson brought up a discussion about the annual summer gathering for the planning commission members to meet on August 16, 2019, 6 pm at the Safari Bar & Grill.

Adjourn

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

The meeting was **adjourned** at 8:01 pm.