



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
April 22, 2024**

A meeting of the Planning Commission was held on April 22, 2024 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Maggie Gillespie – States Attorney's Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:18 p.m.

PUBLIC COMMENT.

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

Consent Agenda

Commissioner Duffy read each item on the consent agenda and Item 3 was requested to be moved to the regular agenda.

A motion was made to **approve** the consent agenda consisting of Items 1, 2, 4, 5, 6, 7, & 8 by Commissioner VanDerVliet and seconded by Commissioner Ode. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

ITEM 1. Approval of Minutes – March 25, 2024

As part of the consent agenda, a motion was made by Commissioner VanDerVliet and seconded by Commissioner Ode to **approve** the meeting minutes from March 25, 2024. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #24-13 to transfer one (1) building eligibility from Tract 1 Daugaard Addition NE $\frac{1}{4}$ SE $\frac{1}{4}$ to Tract 2 Daugaard Addition E $\frac{1}{2}$ SE $\frac{1}{4}$ all in Section 31 T104N-R48W Logan Township.

Petitioner: Marty Gullickson

Property Owner: BG 250 LLC.

Location: 24969 479th Avenue

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 2 Daugaard Addition E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 31 T104N-R48W
Logan Township

Present Zoning – A1 Agricultural

Existing Land Use – Farmland

Parcel Size – 3.00 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The applicant is requesting to transfer one eligibility from a farmstead with three building eligibilities to a newly platted lot directly south of the farmstead. Two building eligibilities will remain on the farmstead site. A transfer of building eligibility requires a conditional use permit. The farmstead of the request has three building eligibilities because of a transfer approved in August 2023.

The property is located approximately five miles east of Baltic on 479th Avenue. The receiving parcel will be approximately $\frac{1}{4}$ mile north of the paved County Highway 114. The transfer will not move a building eligibility closer to any existing CAFOs.

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 property is located within an active agricultural area. The new location of the transferred building eligibility is adjacent to the farmstead where it is coming from. Few residential acreages and farms are located in the area. The new lot is adjacent to the farmstead. The proposed location will make little difference in the way development of uses already permitted in the area.

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

The property is located within an Agricultural Production area as identified in the Envision 2035 Comprehensive Plan. It is most likely that agricultural production will continue to be the primary land use going into the future. It is possible that new and growing animal confinement operations will be part of the future growth. The applicant should be aware of potential agricultural nuisances



and a Right-to-Farm Notice Covenant will be required prior to the start of a new single family dwelling. The proposed transfer will not increase density of potential dwellings in the area.

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

The property is accessible by a gravel township road and about a ¼ mile north of a paved highway. The applicant must obtain a driveway permit if applicable from the township, and the applicant will be responsible for extending any needed utilities such as water, electricity, and the construction of an onsite wastewater treatment.

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

Off street parking requirements will be met when a single family dwelling is permitted.

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 property will be built with a single family dwelling. All properties in the county must comply with the Public Nuisance ordinance. Neighbors concerned about a nuisance violation may contact the Planning and Zoning Office.

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

The proposed transfer will utilize an existing residential building eligibility. The density or residential units will remain the same. The new location of the building eligibility is still clustered with the remaining two eligibilities on the farmstead.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-13 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.

Action

As part of the consent agenda, a motion was made by Commissioner VanDerVliet and seconded by Commissioner Ode to **approve** Conditional Use Permit #24-13. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-13 – Approved



ITEM 4. CONDITIONAL USE PERMIT #24-15 to exceed 3,600 square feet of accessory building space (requesting 7,888 square feet) on the property legally described as Tract 3 Boll's Addition SE¼ NE¼ Section 19 T101N-R51W Wall Lake Township.

Petitioner: Tom Ockenga

Property Owner: Same

Location: 26541 461st Avenue

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 3 Boll's Addition SE¼ NE¼ Section 19 T101N-R51W Wall Lake Township

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 3.96 Acres

Staff Report: Mason Steffen

Staff Analysis: This petitioner was approved for a 48' x 81' detached accessory building via a conditional use permit in 2016. In 2022, the petitioner requested approval to allow for 7,000 square feet of detached accessory building space, in order to build a 48' x 64' addition to this existing building. A building permit was issued for this addition in July of 2022, but work was never started on the project, and the permit has expired. The petitioner is now requesting conditional use permit approval to construct a new 50' x 80' detached accessory building to the west of the dwelling on the property. This new building will make the total detached accessory building space on the subject property 7,888 square feet.

On April 4, 2024, staff conducted a site visit of the subject property and surrounding area. The subject property is located one mile west of Wall Lake, and is in an area that has several similar residential acreages and farmland. The subject property has established tree groves on both the north and south property lines, which will screen the building from the nearest neighbors. Finally, the proposed size of the new accessory building is generally compatible with the agricultural uses in the area and should not create issues with these existing uses.

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.

There should be no anticipated negative effect upon the use and enjoyment of the residential properties in the immediate vicinity. Property values in the area should also not be negatively impacted due to the personal use of the proposed accessory building.

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

The proposed site of the accessory building is located in an area that is predominantly agricultural with a few residential acreages. There should be no impacts to the normal and orderly development



and improvement of surrounding farmland or any future residential acreages. The proposed size of the accessory building is generally compatible with the current and future land uses in the area.

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

The petitioner will need to extend all required utilities to the structure. The accessory building will be accessed by the same driveway as the residence on the property. An additional accessory building on the property should not have any significant effects on the drainage of the surrounding area.

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

The proposed site of the accessory building is large enough to accommodate the off-street parking requirement. The new accessory building will also add additional parking and storage to the 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.

No commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the planning department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

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

The health, safety, and general welfare of the public will not be negatively affected by the construction of the proposed accessory building. The proposed use will also generally fit within the uses of other properties in the rural area, and conforms to the goals of the 2035 Envision Comprehensive Plan.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-15 with the following conditions:

- 1) The building location shall adhere to the submitted site plan.
- 2) That the total accessory building square footage shall not exceed 7,888 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That the building shall not to be used for commercial uses or as a dwelling 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 shall be required prior to construction of the accessory building.
- 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 full compliance with the conditional use permit of approval and the Minnehaha County Zoning Ordinance.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

APRIL 22, 2024

Action

As part of the consent agenda, a motion was made by Commissioner VanDerVliet and seconded by Commissioner Ode to **approve** Conditional Use Permit #24-15. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-15 – Approved



ITEM 5. CONDITIONAL USE PERMIT #24-16 to transfer one (1) building eligibility from the SW¼ SE¼ to the SE¼ SE¼ all within the N½ Vacant Section Line ROW Lying Adjacent & SE¼ (Ex. H-1 & Ex. Rand Addition) Section 8 T101N-R52W Wellington Township.

Petitioner: Ronald Stofferahn

Property Owner: Same

Location: Approximately 6 miles south of Humboldt on SD Highway 19

Staff Report: Scott Anderson

General Information:

Legal Description – N½ Vacant Section Line ROW Lying Adjacent & SE¼ (Ex. H-1 & Ex. Rand Addition) Section 8 T101N-R52W Wellington Township

Present Zoning – A1 Agricultural

Existing Land Use – Farmland

Parcel Size – 130.00 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located 6 miles south of Humboldt and 14 miles west of Sioux Falls, approximately 1 mile north of the intersection of SD Highways 42 and 19. The applicant is requesting to move one building eligibility to the east. The area in which the building eligibilities are now located is used as cropland. The applicant indicated that the building eligibility is being moved to allow for a child to construct a home on the site.

On April 5, 2024 staff conducted a site visit. There are 3 residences located along SD Highway 19 north and south of the proposed location of the transfer. The area to the west is used for agricultural purposes.

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.

There are several residences located near the proposed site. 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 eligibility does not increase the number of dwelling units allowed in this section. The relocation and siting of one building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

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. It is likely that rural water and electricity are already located in the ditch.

There is an issue with the proposed access to the site. The section line that runs along 264th Street has been vacated. Ownership of the vacated right-of-way is now split between the property owners of 25599 264th Street and 26382 456th Avenue. The applicant will need to secure legal access from the owners of these parcels in order to gain access to SD Highway 19. Staff will make obtaining an easement part of the recommended conditions of approval.

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 no effect on the health, safety and general welfare of the public. Placing the building eligibility in this location will enhance the productivity of the rest of this quarter section and locate the building eligibility in closer proximity of similar uses.

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 #24-16 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) That prior to approval of a building permit, the applicant will need to secure legal access to the subject property and obtain an approach permit from the SD Department of Transportation if required.

Action

As part of the consent agenda, a motion was made by Commissioner VanDerVliet and seconded by Commissioner Ode to **approve** Conditional Use Permit #24-16. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-16 – Approved



ITEM 6. CONDITIONAL USE PERMIT #24-17 to transfer one (1) building eligibility from the NW¼ SE¼ to the SE¼ SE¼ and to make one (1) building eligibility available in the NE¼ SE¼ all within the SE¼ (Ex. A Parcel Commencing At The Southeast Corner Of Said Southeast Quarter Thence North 31 Rods, Thence West 31 Rods, Thence South 31 Rods, Thence East 31 Rods to the Point of Beginning, ((AKA Lots 1 & 2 (Ex. E 31 Rods, S 31 Rods & Ex. RY))) Section 15 T102N-R47W Red Rock Township.

Petitioner: Greg & Laura Leenderts

Property Owner: Same

Location: Approximately 3 miles north of Valley Springs

Staff Report: Mason Steffen

General Information:

Legal Description – SE¼ (Ex. A Parcel Commencing At The Southeast Corner Of Said Southeast Quarter Thence North 31 Rods, Thence West 31 Rods, Thence South 31 Rods, Thence East 31 Rods to the Point of Beginning, ((AKA Lots 1 & 2 (Ex. E 31 Rods, S 31 Rods & Ex. RY))) Section 15 T102N-R47W Red Rock Township.

Present Zoning – A1 Agricultural

Existing Land Use – Farmland

Parcel Size – 121.97 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting to move the building eligibility in the NW¼ SE¼ of this section, which has a railroad running through it, to the SE¼ SE¼ directly adjacent to an existing acreage. They are also requesting to make a conditional use building eligibility available in the NE¼ SE¼, which is the quarter-quarter where it is currently assigned. Both of the receiving locations are located along the gravel township road and will allow for more farmland to remain in use. On April 4, 2024, staff conducted a site visit of the subject property for this building eligibility transfer. The residential density in the immediate area is low with only a few residences within a half-mile of the proposed receiving locations. This proposed transfer will also not increase the residential density within this section of land. Finally, given the low residential density, the proposed building eligibility transfer will not overly impact the surrounding property owners.

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 in order to notify the owner of the realities of being located in an agricultural area. The additional residential uses will not significantly affect the surrounding properties, and the proposed locations will be closer to existing gravel roads.

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 located in the agricultural production area of the county where the predominant use of vacant land is agricultural. In addition, any development of this vacant land will be limited to the available building eligibilities on the land, and the transfer of these building eligibilities will not impact any future development.

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

The petitioner will need to obtain the applicable driveway permits in order to have access onto the property before the single-family dwellings can be constructed. The petitioner will also be required to obtain access to all the necessary utilities for the property. The new single-family dwellings will have minimal effect on drainage in the area.

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

Two off-street parking spaces are required for each single-family dwelling. The off-street parking requirement will be met once the single-family dwellings are constructed.

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.

Single-family dwellings do not typically create odor, fumes, dust, noise, or vibration. The property will have to comply with the public nuisance ordinance.

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

The proposed building eligibility transfer will have no anticipated effects on the health, safety and general welfare of the public. This building eligibility transfer will not increase the number of building eligibilities within the section, and will allow for the preservation of more farmland, which conforms to the goals of the 2035 Envision Comprehensive Plan.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-17 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) Approval from Red Rock Township must be obtained for the location of any new driveway before a building permit is to be issued.

Action

As part of the consent agenda, a motion was made by Commissioner VanDerVliet and seconded by Commissioner Ode to **approve** Conditional Use Permit #24-17. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-17 – Approved



ITEM 7. CONDITIONAL USE PERMIT #24-18 to exceed 3,600 square feet of accessory building space (requesting 5,529 square feet) on the property legally described as Tract 2A Nussbaum's Addition N½ SE¼ Section 31 T103N-R47W Palisade Township.

Petitioner: Morton Buildings Inc.

Property Owner: Tim Ockenga

Location: 25567 485th Avenue

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 2A Nussbaum's Addition N½ SE¼ Section 31 T103N-R47W Palisade Township

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 9.42 Acres

Staff Report: Mason Steffen

Staff Analysis: In 2016, the petitioner was approved via a conditional use permit to build a 50' x 90' detached accessory building. The petitioner is now requesting approval to construct a 21' x 49' addition to the south side of this building, which will make the total square footage of this structure 5,529 square feet.

On April 4, 2024, staff conducted a site visit of the subject property and surrounding area. The subject property is located approximately two miles south of Garretson and there are several similar sized residential acreages in the area. Most of the land in the immediate area is currently being used for agriculture and this will continue for the foreseeable future. Therefore, this proposed building addition will be generally compatible with the existing and future uses in the area. Finally, there is also a tree grove to the south of the accessory building, which helps to screen the building from the neighbor to the 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.

There should be no anticipated negative effect upon the use and enjoyment of the residential properties in the immediate vicinity. Property values in the area should also not be negatively impacted due to the personal use of the proposed accessory building.

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

There should be no anticipated impacts to the normal and orderly development and improvement of the surrounding vacant farmland or residential acreages. The predominant land use in the surrounding area is agriculture and this will continue into the future. Therefore, the proposed size and use of the accessory building is generally compatible with the surrounding area.



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

Given that this request is only for an addition to an existing accessory building, all the necessary utilities are already in place on the site. The accessory building will continue to be accessed by the same driveway as the current buildings on the property. The addition to the accessory building on the property should not have any negative effects on the drainage of the surrounding area.

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

The proposed site is large enough to accommodate the off-street parking requirement. The accessory building addition will also add additional parking and storage to the 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.

No commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the planning department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

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

The health, safety, and general welfare of the public will not be negatively affected by the construction of the proposed accessory building addition. Additionally, the proposed use will be on a property in an area with low residential development and high agricultural activity that will continue for the foreseeable future. Therefore, the proposed use will generally fit within the uses of other properties in the rural area, and conforms to the goals of the 2035 Envision Comprehensive Plan.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-18 with the following conditions:

- 1) The building location shall adhere to the submitted site plan.
- 2) The total area of all accessory buildings may not exceed 5,529 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) The building shall not to be used for commercial uses or as a dwelling 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.
- 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 full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

APRIL 22, 2024

Action

As part of the consent agenda, a motion was made by Commissioner VanDerVliet and seconded by Commissioner Ode to **approve** Conditional Use Permit #24-18. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-18 – Approved



ITEM 8. CONDITIONAL USE PERMIT #24-19 to transfer one (1) building eligibility from the NE¼ SW¼ to the NW¼ SW¼ all within the SW¼ (Ex. Villesvik Addition) Section 22 T103N-R47W Palisade Township.

Petitioner: Ed Davis

Property Owner: Paul Sittig

Location: Approximately 1 mile southeast of Garretson

Staff Report: Mason Steffen

General Information:

Legal Description – SW¼ (Ex. Villesvik Addition) Section 22 T103N-R47W Palisade Township

Present Zoning – A1 Agricultural

Existing Land Use – Farmland

Parcel Size – 136.57 Acres

Staff Report: Mason Steffen

Staff Analysis: This building eligibility is a conditional use building eligibility that requires a conditional use permit in order to be utilized. The petitioner is requesting to move the building eligibility from a landlocked quarter-quarter section to a quarter-quarter section along the gravel township road. On April 4, 2024, staff conducted a site visit of the subject property for this building eligibility transfer. The building eligibility will be moving directly adjacent to an already platted lot that is owned by the petitioner. The residential density in the immediate area is low with only a few residences within a half-mile of the proposed receiving location. This proposed transfer will also not increase the residential density within this section of land. Finally, given the low residential density, the proposed building eligibility transfer will not overly impact the surrounding property owners.

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 in order to notify the owner of the realities of being located in an agricultural area. The additional residential use will not significantly affect the surrounding properties.

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 located in the agricultural production area of the county where the predominant use of vacant land is agricultural. In addition, any development of this vacant land will be limited to the available building eligibilities on the land, and the transfer of this building eligibility will not impact any future development.

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

The petitioner will need to obtain the applicable driveway permits in order to have access onto the property before a single-family dwelling can be constructed. The petitioner will also be required to



obtain access to all the necessary utilities for the property. A single-family dwelling will have minimal effect on drainage in the area.

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

Two off-street parking spaces are required for a single-family dwelling. The off-street parking requirement will be met once a single-family dwelling is constructed.

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.

Single-family dwellings do not typically create odor, fumes, dust, noise, or vibration. The property will have to comply with the public nuisance ordinance.

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

The proposed building eligibility transfer will have no anticipated effects on the health, safety and general welfare of the public. This building eligibility transfer will not increase the number of building eligibilities within the section, and will allow for the preservation of more farmland, which conforms to the goals of the 2035 Envision Comprehensive Plan.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-19 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) Approval from Palisade Township must be obtained for the location of any new driveway before a building permit is to be issued.

Action

As part of the consent agenda, a motion was made by Commissioner VanDerVliet and seconded by Commissioner Ode to **approve** Conditional Use Permit #24-19. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-19 – Approved



Regular Agenda

ITEM 3. CONDITIONAL USE PERMIT #24-14 to make one (1) building eligibility available on the property legally described as the W330.84' SE¼ SE¼ (Ex. S658.32') Section 16 T102N-R48W Brandon Township.

Petitioner: Randy & Joni Hoffman

Property Owner: Same

Location: Approximately 1 mile north of Brandon

Staff Report: Kevin Hoekman

General Information:

Legal Description – W330.84' SE¼ SE¼ (Ex. S658.32') Section 16 T102N-R48W
Brandon Township

Present Zoning – A1 Agricultural

Existing Land Use – Vacant Lot

Parcel Size – 5.00 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow a single family dwelling on a five acre parcel that has an existing building eligibility, but requires a conditional use permit application and public hearing. Currently, the subject property is used as excess land behind the residential acreage site. The parcel is located in an area where multiple residential acreage have already been developed.

On April 5, 2024, staff visited the subject property and determined that the site is appropriate for the proposed single family dwelling. There are no concentrated animal feeding operations within a mile of the proposed single family dwelling 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 surrounding area is agricultural land with a cluster of residential acreages within a half mile of the proposed site for the single family homes. The placement of a single family dwelling should not negatively affect the use and enjoyment as well as property values 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.

There should be no negative affect upon the normal and orderly development and improvement of surrounding agricultural property. The future development of surrounding property is entirely dependent on the availability of building eligibilities for constructing a house. Most of the available building eligibilities in the area are already developed.

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



The petitioner mentioned in the questionnaire that the property will use the existing driveway. Staff is unaware if any permanent easement for the driveway access or utilities exists. This should be a requirement of approval for the CUP. Any new utilities must be extended at the expense of the developer.

One single family dwelling will have little effect of drainage in the area. Drainage generally flows north of the property into an intermittent stream.

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

The necessary parking will be provided as a result of the proposed residential home. No parking is allowed in the township 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 proposed building eligibility availability for the eventual construction of a single family dwelling will not constitute a nuisance due to the personal use of the property. The property must meet requirements of the Public Nuisance Ordinance.

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

The health, safety, and general welfare of the public will not be negatively affected by the proposed use of one building eligibility. The intent of the Envision 2035 Comprehensive Plan and density zoning will be upheld since the conditional use permit request will not increase the number of dwelling units in this section.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #24-14 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 the property owner must provide staff with proof of access for the property prior to the issuance of a building permit for the single family dwelling.

Public Testimony

Kevin Hoekman, of county planning staff, presented the staff report and recommendation to the commission.

The petitioner, Randy Hoffman of 213 S Sunset Drive Brandon, SD, was present and available for questions from the commissioners. Mr. Hoffman also provided planning staff with a document showing proof of the access easement that this property will utilize.

Jacqueline Meisenheimer, of 48088 259th Street Brandon, SD, explained some of her questions about the subject property to the commission. Mrs. Meisenheimer stated that she was confused by the language in the notice letter that she received, and that she thought the petitioner was receiving an additional building eligibility on the property. Mrs. Meisenheimer also brought up the fact that



this area is still used for agriculture, with several neighbors to the subject property having livestock, and that she wants to make sure that the property owners are aware of this fact. Finally, Mrs. Meisenheimer stated that she also has some concerns regarding snow removal on the long driveway to the property, as well as the potential for more light pollution from an additional house in the area.

Randy Hoffman returned to the podium to address the concerns raised by Mrs. Meisenheimer. He explained that he is not sure yet how snow removal will work on the driveway, but that he will be mindful of her property and horse fence during snow removal. He also explained that he is moving to the property in order to build a new single story house, so that his parents can move in with him and not have to move up and down stairs.

Jonathan Ertl, of 48078 259th Street Brandon, SD, also addressed the commission with some concerns regarding the subject property. Mr. Ertl explained that he has owned the property directly to the south for three years. He then explained that many of the neighbors have stated that this site has been used as a location to dump garbage for thirty to forty years, and that this continues to this day. Mr. Ertl explained that this could make the soil on the site unpredictable, and that the soil should be properly removed if it is contaminated. Finally, Mr. Ertl stated that he is also concerned with the snow removal on the driveway to the subject property.

Commissioner Ralston commented that he believes this is an appropriate land use for the property. He also stated that it appears that the neighbors have a good relationship, and are willing to work together on any issues that come up in the future.

Action

A motion was made by Commissioner Ralston and seconded by Commissioner Kippley to **approve** Conditional Use Permit #24-14 with the staff recommended conditions.

Commissioner Kippley commented that this property will still remain agriculturally zoned land even with the addition of a house, and that the right-to-farm notice covenant will notify the landowners of the realities of being surrounded by agriculture.

The motion to **approve** Conditional Use Permit #24-14 was approved with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #24-14 – Approved



Old Business

Scott Anderson, the County Planning Director, provided a brief update on the ongoing density zoning subcommittee. Mr. Anderson explained that the subcommittee had their second meeting on April 10, 2024, where the subcommittee continued discussion on the possibility of allowing accessory dwelling units in the county. The next subcommittee meeting will be on May 8, 2024. Scott explained that at this meeting, the subcommittee will discuss possible changes to the existing building eligibility transfer process in the county, as well as potential guidelines for where more dense residential housing may be considered.

New Business

Kevin Hoekman, of county planning staff, presented the updated transportation chapter of the 2035 Envision Comprehensive Plan to the commission. This presentation included updated road classification and bike route maps, updated railroad traffic projections, as well as discussion on the access management policy that was adopted by the Minnehaha County Highway Department in 2019. Finally, there was also some discussion between planning staff and the commission regarding setbacks from roads and if these could change in the future.

Adjourn

A motion was made to **adjourn** by Commissioner VanDerVliet and seconded by Commissioner Ralston. The motion was approved unanimously. The meeting was adjourned at 7:58 p.m.