



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
May 20, 2024**

A meeting of the Planning Commission was held on May 20, 2024 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, 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 7:17 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and one member of the public addressed the commission. Dan Kippley explained that he is running for a seat on the County Commission, and reminded the audience that the primary will be held on June 4, 2024. Mr. Kippley also commented that he is looked forward to serving Minnehaha County as a member of the County Commission.

Consent Agenda

Commissioner Duffy read each item on the consent agenda and Items 2, 3, & 5 were requested to be moved to the regular agenda.

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

ITEM 1. Approval of Minutes – April 22, 2024

As part of the consent agenda, a motion was made by Commissioner Kippley and seconded by Commissioner Ralston to **approve** the meeting minutes from April 22, 2024. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.



Consent Agenda

ITEM 4. CONDITIONAL USE PERMIT #24-22 to transfer one (1) building eligibility from the SW $\frac{1}{4}$ NE $\frac{1}{4}$ to the NW $\frac{1}{4}$ NE $\frac{1}{4}$ all within the NE $\frac{1}{4}$ (Ex. 4 RDS On W Side & H-1 For Road 1.51 A & Ex. Tract 1 & 2 Burkman's Addition) Section 11 T101N-R48W Split Rock Township.

Petitioner: Kara Busch

Property Owner: Beau Kellenberger

Location: Approximately 1 mile southeast of Brandon

Staff Report: Scott Anderson

General Information:

Legal Description – NE $\frac{1}{4}$ (Ex. 4 RDS On W Side & H-1 For Road 1.51 A & Ex. Tract 1 & 2 Burkman's Addition) Section 11 T101N-R48W Split Rock Township

Present Zoning – A1 Agricultural

Existing Land Use – Pasture

Parcel Size – 116.06 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 1 mile southeast of Brandon. The applicant is requesting to move one building eligibility from an interior location to the north along 263rd Street. 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 better access and fuller utilization of the farmland.

On May 1, 2024 staff conducted a site visit. There are 7 residences located along 263rd Street and within $\frac{1}{2}$ mile of the proposed location of the transfer. The area to the south is primarily under agricultural production.

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. The application has indicated that they have 2 building eligibilities in this area and that there is a likelihood that they will share an approach. Any new approach would have to be reviewed and approved by Split Rock Township

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

The off-street parking requirements will be provided for once a single-family residence is constructed on the subject property.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance.

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

The proposed conditional use will have 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 #24-22 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 obtain an approach permit from Split Rock Township for any new approach.

Action

As part of the consent agenda, a motion was made by Commissioner Kippley and seconded by Commissioner Ralston to **approve** Conditional Use Permit #24-22 with the staff recommended conditions. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-22 – Approved



ITEM 6. CONDITIONAL USE PERMIT #24-24 to exceed 3,600 square feet of accessory building space (requesting 3,888 square feet) on the property legally described as Lot 5 Prairie View Estates (Ex. E50') W½ NW¼ Section 36 T101N-R51W Wall Lake Township.

Petitioner: Clint Stencil

Property Owner: Sam Everson

Location: 26724 465th Avenue

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 5 Prairie View Estates (Ex. E50') W½ NW¼ Section 36 T101N-R51W Wall Lake Township

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 4.37 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject property is located approximately three miles west of Sioux Falls and to the southeast of Country Villa Estates. The applicant is requesting to build a 54 feet by 72 feet accessory building. The 3,888 square feet accessory building requires a conditional use permit prior to issuing a building permit.

The applicant submitted a sit plan and building plans with the application for this permit. The proposed building will be located south of the house where it will utilize a portion of a looped driveway. The building plans show that the building will be used for storage, a basketball court and a “break area” with a full kitchen and bathroom. Stairs are shown on the plan leading to a location above the break area, but no plans were submitted for that portion of the building. The applicant should be aware that the building cannot be used as a residential dwelling. Planning staff recommends that a condition be placed on the permit to restrict the kitchen area to remove the full size range and not allow bedrooms in the loft space. These conditions are typical of similar buildings permitted in the county.

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.

This property is located in a subdivision of rural acreages. Many of these acreages have large accessory buildings on large lots. The neighboring property across the street has a large agricultural building. In addition, the subject property has at least one row of trees on the west, north, and east sides of the property. The trees help block views from the closest neighbors.

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 in a subdivision of rural acreages. Nearly all building eligibilities in the area are developed with a single family dwelling, therefore, it is unlikely new development will take place in the form of single family dwellings. A new large accessory building with finished space may lead to other nearby neighbors having similar requests. The proposed building is already a normal request in other areas of the county.

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

The applicant will be responsible to extend any required utilities to the building. Access to the building will be an extension to the existing driveway loop, and no new access points will be needed onto 465th Avenue.

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

The proposed building will not create any new parking requirements. The building will actually increase indoor off-street parking on 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.

The proposed building should not create additional nuisance. The use of the building will need to meet public nuisance ordinance compliance. Outdoor lighting should be cutoff and directed downward to prevent glare onto neighboring properties.

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

The health, safety, general welfare of the public will not be negatively affected by the construction of the proposed accessory building addition for personal use and storage. The proposed use of the accessory building is compatible with the existing accessory buildings in the surrounding area, and conforms to the goals of the 2035 Envision Comprehensive Plan.

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

- 1) That the building location shall adhere to the submitted site plan.
- 2) That the total area of all accessory buildings may not exceed 3,888 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) The kitchenette may not have a full size range with oven and no bedrooms are allowed in the accessory building.
- 6) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7) That a building permit is required prior to construction of the building.
- 8) 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**

MAY 20, 2024

Action

As part of the consent agenda, a motion was made by Commissioner Kippley and seconded by Commissioner Ralston to **approve** Conditional Use Permit #24-24 with the staff recommended conditions. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-24 – Approved



ITEM 7. CONDITIONAL USE PERMIT #24-25 to allow Temporary Firework Sales on the property legally described as Lot 2 Block 1 Renner Corner Addition SE¼ SE¼ Section 9 T102N-R49W Mapleton Township.

Petitioner: Jeffrey Bray

Property Owner: Sorum Holdings 2 LLC

Location: 25792 Lindbergh Lane

Staff Report: Mason Steffen

General Information:

Legal Description – Lot 2 Block 1 Renner Corner Addition SE¼ SE¼ Section 9 T102N-R49W Mapleton Township

Present Zoning – C Commercial

Existing Land Use – Warehouse Building

Parcel Size – 1.79 Acres

Staff Report: Mason Steffen

Staff Analysis: The subject property is located within the Renner Corner Addition, which is a commercial development located in the northwest corner of 258th Street and SD Highway 115. This lot currently has a jerky production building on the south side, and the petitioner is requesting to utilize the north portion of this lot for temporary firework sales. Temporary nine-day firework sales are allowed in the C Commercial zoning district with a conditional use permit. The approval of this permit would allow the petitioner to have a fireworks stand in subsequent years, as long as the conditions of the permit are met and the use does not stop for more than one year.

On May 2, 2024, staff conducted a site visit of the subject property and surrounding area. The site plan indicates that the fireworks will be sold from a tent located in the northeast portion of the lot. This property is located within a commercial subdivision, and is mostly surrounded by commercial property, but there are three existing residential acreages to the northeast of the property. The temporary increase in traffic and noise to the site from this use should have a minimal impact on these properties compared to the existing traffic on the state highway and the other commercial uses in the area. The parking on the site will be located to the south and west of the fireworks tent, and no parking will be allowed within the right-of-way at any time. Finally, in prior years there have been firework stands that have operated on the location of the Safari Bar, which is directly to the east of this property, and so this proposed use is not new to the 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.

Due to the limited timeframe for the firework sales, the proposed use should not have a negative effect on the enjoyment of other properties in the immediate vicinity. The hours of operation should be limited from 8:00 a.m. to 12:00 a.m., which is consistent with other firework sales approved by conditional use permits. Finally, the additional traffic added by the request for a temporary period should not overly 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.

A large portion of this corner of the intersection was recently rezoned for a commercial development and most of the lots that were rezoned are still vacant. The temporary nature of this use should not impact the future development of these vacant lots. Additionally, this use will only be utilizing the undeveloped portion of a lot that already has an established warehouse building on the south side.

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

Access to the site will be provided by an existing access easement off of Lindbergh Lane, which runs along the east side of the subject property. Most temporary firework stands in the county provide a portable restroom on-site for customers and workers to use throughout the day, but no other utilities should be needed for this use. The temporary placement of a fireworks tent and any signage on the property will not impact the existing drainage on the site.

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

There are no specific parking requirements outline in the zoning ordinance for this type of use. However, the general requirement for unspecified non-residential uses in the ordinance is one parking space for every 300 square feet of building area. The square footage of the proposed tent is not included in the submitted site plan, but the portion of the lot surrounding the tent is undeveloped, and will provided ample temporary parking space for the proposed use. No parking will be allowed within the right-of-way of Lindbergh Lane or SD Highway 115.

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 temporary use should not create odor, fumes, dust, or vibration. Lighting should be directed away from the highway to prevent glare. Additionally, any signage placed on the property for this use will need to meet the regulations in the zoning ordinance, in order to limit any safety concerns. Finally, any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property.

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

The proposal is for a temporary use located near the intersection of a state highway and a county highway, and is on a lot mostly surrounded by commercial land. Therefore, the proposed temporary fireworks stand should not have a negative impact on the general welfare of the public and will not conflict with the 2035 Envision Comprehensive Plan.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-25 with the following conditions:

- 1) The property shall adhere to the submitted site plan.
- 2) No outside storage shall be allowed at any time.
- 3) The retail sale of fireworks must abide be all applicable SD laws and regulations.
- 4) That the temporary retail sales of fireworks shall be allowed to operate annually between June 27th and July 5th.



- 5) That the business shall only be allowed to operate between the hours of 8:00 a.m. and 12:00 a.m. Set up and tear down activities outside of the nine-day sales period must take place between 8:00 a.m. and 8:00 p.m.
- 6) Temporary signage for the operation must meet the requirements of Article 16.00 of the Revised Zoning Ordinance for Minnehaha County.
- 7) Temporary signs for the business are allowed to be placed no earlier than June 13th and must be taken down by July 10th.
- 8) That parking shall not be allowed within the public right-of-way of Lindbergh Lane or SD Highway 115 at any time.
- 9) That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 10) That the Planning & Zoning Department reserves the right to enter and inspect the fireworks stand at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made by Commissioner Kippley and seconded by Commissioner Ralston to **approve** Conditional Use Permit #24-25 with the staff recommended conditions. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-25 – Approved



Regular Agenda

ITEM 2. CONDITIONAL USE PERMIT #24-20 to make (1) building eligibility available in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ within the NW $\frac{1}{4}$ (Ex. E660' W1751.25' N660' & Ex. Tract 1 HHW Farms Addition & Ex. H-2) Section 32 T101N-R52W Wellington Township.

Petitioner: David Hoversten

Property Owner: Same

Location: Approximately 10 miles south of Humboldt on SD Highway 19

Staff Report: Mason Steffen

General Information:

Legal Description – NW $\frac{1}{4}$ (Ex. E660' W1751.25' N660' & Ex. Tract 1 HHW Farms Addition & Ex. H-2) Section 32 T101N-R52W Wellington Township

Present Zoning – A1 Agricultural

Existing Land Use – Cropland

Parcel Size – 138.84 Acres

Staff Report: Mason Steffen

Staff Analysis: The subject property currently has two conditional use building eligibilities that have not been assigned to specific quarter-quarter sections. The petitioner is requesting to make one of these building eligibilities available in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of this section, so that they can survey and sell a residential acreage. On May 2, 2024, staff conducted a site visit of the subject property and surrounding area. The building eligibility will be moving to a quarter-quarter section that is adjacent to the state highway, as well as an existing acreage. 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. There are also no concentrated animal feeding operations within a mile of the proposed building site, so this residential dwelling should not impact the agricultural production 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 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.

There is an existing field approach onto the state highway for this property, which will provide access to the proposed platted lot. The petitioner will still need to obtain any applicable permits from the SD Department of Transportation for the improvement of this access before they can construct a single-family dwelling on the property. 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 2004 Public Nuisance Ordinance for Minnehaha County once the single-family dwelling is constructed.

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 #24-20 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 the applicable permits shall be obtained from the SD Department of Transportation for any improvements to the existing access before a building permit is to be issued.

Public Testimony & Discussion

Mason Steffen, of county planning staff, presented the staff report and recommendation to the commission.

The petitioner, David Hoversten of 2800 W Nicole Drive, Sioux Falls, SD, was present and available for questions from the commission. The commission did not have any questions for the petitioner at this time.

Chris Kasten, of 26711 455th Avenue, Parker, SD, addressed the commission with his concerns regarding the building eligibility transfer. Mr. Kasten explained that there is a hog concentrated



animal feeding operation within 1¼-miles of the proposed building site, and that the smell from this operation funnels into the valley where the dwelling is proposed. He also stated that the current acreage in this quarter-quarter section of land does not take care of their property, and that there are noxious weeds throughout the property that spread to the neighboring property. Finally, Mr. Kasten stated that the neighbors in the area are not in favor of the building eligibility being located along the highway in the proposed location.

Commissioner Ode commented that the purpose of the right-to-farm notice covenant is to notify any potential property owners that the site is located within the agricultural production area, and that there may be some disturbances from regular agricultural production. Mr. Kasten explained that he understood this requirement in the staff report, but that he is still opposed to the request.

David Hoversten returned to the podium to address the concerns from the neighbor. Mr. Hoversten explained that he already has a buyer in place for the acreage, and that he works in bridge construction and also understands the realities of living on a rural property. Mr. Hoversten also commented that the potential buyer wants to construct a home on the property, and a machine shed that will store the equipment he uses to repair bridges.

Bill Kasten, of 45472 268th Street, Parker, SD, also addressed the commission with his concerns regarding the building eligibility transfer. Mr. Kasten stated that a lot of water travels through the creek on the property during flood events, and that there have been a few bridge collapses in the area. He also commented that there is not room on the property for a shelter belt of trees, and that building a home on this site would be dangerous.

David Hoversten explained to the commission that the proposed location of the any buildings would be at least thirty-five above the elevation of the creek. He also commented that he does not know how the floodplain travels in the area, but that anything less than a 500-year flood should not have any impact on the property.

Commissioner Kippley stated that he appreciates the comments from the neighboring property owners, but that he sees this request as a valid use of an existing building eligibility.

Action

A motion was made by Commissioner Kippley and seconded by Commissioner Ode to approve Conditional Use Permit #24-20 with staff recommended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #24-20 – Approved



ITEM 3. CONDITIONAL USE PERMIT #24-21 to exceed 3,600 square feet of accessory building space (requesting 10,872 square feet) on the property legally described as Jensen's Tract NW¼ SW¼ Section 8 T101N-R47W Valley Springs Township.

Petitioner: Richard Reichow

Property Owner: Same

Location: 26362 485th Avenue

Staff Report: Mason Steffen

General Information:

Legal Description – Jensen's Tract NW¼ SW¼ Section 8 T101N-R47W Valley Springs Township

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 26.30 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow 10,872 square feet of residential accessory building area on the subject property. Currently, there are four older farm buildings on the property that total 7,372 square feet, and these buildings were all built prior to the current zoning ordinance for the county. The petitioner has also recently removed several other older farm buildings from the site. This request would allow the petitioner to build a new 50' x 70' accessory building for personal storage on the property. Since this new building will be built in a new location on the property, and will increase the total square footage of accessory buildings, a conditional use permit is required.

On May 2, 2024, staff conducted a site visit of the subject property and the surrounding area. The property is mostly surrounded by agricultural land, but there are three residential acreages directly to the south. There is also an existing farmstead to the west of the property that has several larger accessory buildings for their livestock. Therefore, the proposed larger accessory building will be generally compatible with the existing uses in the area, due to the agricultural nature of these 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 still primarily used for agriculture, and a majority of the neighboring property is farmland with a few large residential acreages. There should also be no anticipated impacts to the normal and orderly development and



improvement of surrounding vacant farmland or residential acreages. The proposed size of the accessory building is generally compatible with the uses predominant in the surrounding area.

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

The petitioner will be required to extend all necessary utilities to the structure. The accessory building will be accessed by the same driveway as the current buildings on the property. The addition of a new 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 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 fit within the uses of other properties in the rural area, and conforms to the goals and policies of the 2035 Envision Comprehensive Plan.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-21 with the following conditions:

- 1) That the building location shall adhere to the submitted site plan.
- 2) That the total area of all accessory buildings may not exceed 10,872 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 conditions of approval and the Minnehaha County Zoning Ordinance.



Public Testimony & Discussion

Mason Steffen, of county planning staff, presented a brief overview of the staff report and recommendation to the commission.

The petitioner, Richard Reichow of 26362 485th Avenue, Valley Springs, SD, was present and available for questions, and the commission did not have any questions for the petitioner.

Commissioner Duffy asked the audience if anyone wished to speak on the item, and no members of the audience moved to speak.

Action

A motion was made by Commissioner Kippley and seconded by Commissioner Ode to **approve** Conditional Use Permit #24-21 with the staff recommended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #24-21 – Approved



ITEM 5. CONDITIONAL USE PERMIT #24-23 to exceed 3,600 square feet of accessory building space (requesting 3,872 square feet) on the property legally described as the NW¼ NE¼ NE¼ & S½ Vacant Section Line ROW Lying Adjacent (Ex. Darrocks Tract 1) Section 28 T102N-R48W Brandon Township.

Petitioner: Tonya Muller

Property Owner: Jason Ellsworth

Location: 48085 260th Street

Staff Report: Kevin Hoekman

General Information:

Legal Description – NW¼ NE¼ NE¼ & S½ Vacant Section Line ROW Lying Adjacent (Ex. Darrocks Tract 1) Section 28 T102N-R48W Brandon Township

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 5.35 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The applicant is requesting to construct a 40 feet by 80 feet building on the described property. The 3,200 square feet building will be in addition to the existing detached garage. An existing horse barn is planned for demolition. The combined total area of accessory building on the property will be greater than 3,600 square feet if the proposed building is constructed. A conditional use permit is required prior to the construction of the proposed building.

The property is located approximately one mile west of Corson. It is a little over five acres in size, and many of the surrounding properties are also large acreage lots. The applicant indicates on the site plan the proposed building will be located in the rear yard to the south of the residence.

The applicant submitted a site plan, narrative, and building plans to accompany the application for this request. The narrative describes the use of the building for a combination of storage and recreational uses. No water connection will be available for the structure. This will limit the potential for the building to be used as a dwelling.

The building is shown on the building plans with an 8 feet by 30 feet open lean-to. This lean-to was not included in the calculations for the allowed area. This should be included within the allowed area of the permit. The total area of accessory building space with the lean-to will be 4,112 square feet.

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 in a subdivision of rural acreages. Several properties in the area also have large accessory buildings. The size of the proposed building only requires a conditional use permit



because an existing garage is planned to remain. The building will be similar to the other buildings in the neighborhood.

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 in a subdivision of rural acreages. Many of the building eligibilities in the area are already used on the acreage sites and few remain. A new accessory building may lead other in the area to have large accessory buildings, but the area already several large buildings in the neighborhood.

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

The applicant will be responsible to extend any required utilities to the building. Access to the building will be an extension to the existing driveway, and no new access points will be needed onto 260th street.

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

The proposed building will not create any new parking requirements. The building will actually increase indoor off-street parking on 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.

The proposed building should not create additional nuisance. The use of the building will need to meet public nuisance ordinance compliance. Outdoor lighting should be cutoff and directed downward to prevent glare onto neighboring properties.

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

The health, safety, general welfare of the public will not be negatively affected by the construction of the proposed accessory building addition for personal use and storage. The proposed use of the accessory building is compatible with the existing accessory buildings in the surrounding area, and conforms to the goals of the 2035 Envision Comprehensive Plan.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-23 with the following conditions:

- 1) That the building location shall adhere to the submitted site plan.
- 2) That the total area of all accessory buildings may not exceed 4,112 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 is required prior to construction of the 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.

Public Testimony & Discussion

Kevin Hoekman, of county planning staff, briefly explained the request and staff report, and asked the petitioner to explain why they removed the item from the consent agenda.

Tonya Mueller, of 48085 260th Street, Brandon, SD, explained to the commission that she removed the item from the consent agenda because the staff report mentioned that the existing horse barn on the property was to be demolished. She explained that she is not planning on removing the horse barn, and wanted to make sure that if the item is approved she did not have to remove the building.

Kevin Hoekman explained to the commission that based on the building size calculations, the petitioner should be able to keep the horse barn, and that the demolition of the horse barn was mistakenly reference in the staff report. He also suggested that the commission change the wording of condition two from the staff report, so that all existing buildings on the property can remain.

Action

A motion was made by Commissioner Kippley and seconded by Commissioner Ralston to **amend** condition two to allow all existing buildings on the property to remain on-site. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

A motion was then made by Commissioner Kippley and seconded by Commissioner Ralston to **approve** Conditional Use Permit #24-23 with the amended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #24-23 – Approved with the following conditions:

- 1) That the building location shall adhere to the submitted site plan.
- 2) That the total area of all accessory buildings may not exceed 4,112 square feet, including all existing buildings and the proposed new building.
- 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 is required prior to construction of the 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.



ITEM 8. REZONING #24-01 to rezone from the R-1 Residential District to the C Commercial District the property legally described as Lot 2 Hatle Addition in the Town of Lyons T103N-R50W Lyons Township.

Petitioner: Mike Hanten

Property Owner: Dennis Hatle

Location: 327 1st Street

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 2 Hatle Addition in the Town of Lyons T103N-R50W Lyons Township

Present Zoning – R-1

Existing Land Use – Vacant School Building

Parcel Size – 1.27 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The parcel of this proposed rezoning is the location where the former Lyons School building and bus garage are located. The property owner recently underwent the process of vacating the alleyway on the original town platted block. And the block was replatted from many small substandard lots into two lots containing over an acre of land area for each lot. Both lots are currently zoned R1 Residential. The applicant is requesting to rezone Lot 2, with the school building, into C-Commercial zoning district.

The applicant submitted a narrative description of the property with general site plans. The applicant explains in the narrative that the property has been classified through equalization as commercial. It should be noted that the classification of by equalization is not the same as the zoning of the property. The zoning will determine permitted uses on a property going forward. The classification of the property is for tax assessment purposes only.

Staff has worked with the applicant and property owner for several years. A complaint was received in late 2017, and staff worked with the property owner through the next summer. In the fall of 2018 the property owner applied to rezone the property, and the rezoning request was denied after additional time was provided to remove public nuisance items off the property. The state of the public nuisance on the property has slowly improved over the years. Loads of garbage, abandoned lawn mowers, and even vehicles have been removed from the property. There are still items on the property that would be considered a public nuisance, but general complains of the property have greatly reduced due to the efforts of the property owner's son.

The property owner's son explained to staff his plans for the property. Rezoning one lot of the two replatted lots will allow him to utilize the old school building and bus garage for specialty car repair and sales. Once the land use is allowed, he plans to construct a residence on the open lot to the west. The intent is to have the business and house near each other so that he can watch the property and prevent further vandalism and break-ins of the school building.



The property owner should be aware that the public nuisance ordinance still applies to commercial zoned property, and the county expects the property to continue to make improvements towards public nuisance compliance if the rezoning request is approved. In addition the property owner should be aware that a conditional use permit is required for vehicle repair service and car sales on commercial zoned property in the county. The conditional use permit process will allow the county to add conditions to the land use and work with the property owner on additional solutions such as screening and building permits.

The property is located on the northern edge of the town of Lyons. A farmstead is located north of the property. Residential properties are located to the south of the property. A vacant residential lot is located to the west. Finally, a commercial zoned storage and contractor lot is located to the east. The property with the contractor lot, which contains the former gymnasium of the school, was zoned commercial in 1998. The location of property adjacent to commercial use and on the north edge of the town is appropriate for commercial land uses.

The town of Lyons is a rural service area within the 2035 comprehensive plan. The driveway for the lot is located on the north side onto 1st Street. 1st Street is one of two streets that have direct access onto County Highway 143. Access to the property would only need to pass the residential driveway of the farmstead.

The applicant and property owner should be aware that a building permit is required for most work on structures prior to the work starting. Buildings on the commercial lot will need to meet commercial building standards.

Recommendation: Staff finds that the proposed rezoning conforms to the goals and policies of the Envision 2035 Comprehensive Plan and recommends **approval** of Rezoning #24-01 to rezone the subject property from the R-1 Residential District to the C Commercial District.

Public Testimony

Kevin Hoekman, of county planning staff, presented the staff report and recommendation to the commission. Kevin also explained that since writing the staff report it was brought to his attention that the township does not maintain the portion of 1st Street that runs in front of the subject property. Therefore, Kevin explained that it will be the petitioner's responsibility to maintain this portion of the road, or to work with the township to bring the road up to township standards, so that the township will maintain the road.

The petitioner, Mike Hanten of 4104 S Infield Drive, Sioux Falls, SD, was present and available for questions from the commission.

Commissioner Kippley asked the petitioner to explain the proposed plans for the property if the rezoning is approved. Mr. Hanten explained that he represents the buyer and seller of the property, and that the rezoning of the property to commercial is a condition of the sale. Mr. Hanten also stated that the property owner has been paying commercial property taxes on the property since owning the property, and that rezoning the property would match the zoning with the existing use of the property.



Commissioner Kippley then stated to the petitioner that he would like some insurance that the property will be cleaned up before taking action. Mr. Hanten stated that the potential buyer cannot control the past, and that they do not want to keep spending money on the property without knowing that they will be able to use the property for their intended use in the future.

Commissioner Mohrhauser asked the petitioner if the potential buyer is aware of the requirements that were outline by the planning staff. Mr. Hanten explained that the buyer is aware of the conditional use permit requirement in order to operate a motor vehicle repair shop, and he also reiterated that the buyer cannot justify spending more money to clean up the property until they own the site.

Don Johnson, the neighboring property owner directly to east, addressed the commission with his comments regarding the rezoning. Mr. Johnson explained that he has owned the school gymnasium property for a long time, and that he uses this building to store equipment for his contracting business. He also commented that the school building is very old, and that he has concerns about the potential uses on the property if it is rezoned.

Donley Johnson, of 320 5th Street, Lyons, SD, presented pictures of the property from 2019 and explained that junk has been accumulating on the property for years. Mr. Johnson also commented that if the rezoning is approved he is concerned the property will become a dumping ground for more materials.

Deb Bunde, of 302 1st Street, Lyons, SD, also addressed the commission with her concerns regarding the rezoning request. Mrs. Bunde first asked staff for clarification of the vacated alley that was mentioned in the staff report. Kevin Hoekman explained the previous location of the alley to Mrs. Bunde, and stated that the petitioner had worked with the township to vacate this alley. Mrs. Bunde then asked the commission why this request would be approved when there has been little change on the property since the rezoning request that was denied five years ago. She also stated that the county's comprehensive plan encourages commercial development at interstate intersections, and that this property is not located at one of these intersections. Mrs. Bunde further commented that the property has not bothered her up to this point, but that approving a commercial rezoning along a street that is not properly maintained by the township is premature. Finally, she stated that she believes there is much that needs to improve on the property before a rezoning should be approved.

Darrell Kurth, of 25129 466th Avenue, Colton, SD, explained to the commission that he owns a property in Lyons that he has considered building a new home on in the future. Mr. Kurth stated that he has visited the school property in recent years, and that it has caused him to have second thoughts about building a home in Lyons. Finally, he stated that the school building is old and outdated, and questioned the safety of the building for the petitioner and the neighbors.

Mike Hanten returned to the podium to address the concerns raised by the neighbors. Mr. Hanten stated that the proposed rezoning will match the zoning of the property to the existing land use, and the buyer is aware that nuisances exist on the site. He also commented that rezoning the property to commercial makes the land sellable, and that it does not make sense that the school gymnasium is



zoned commercial but not the school building itself. Finally, Mr. Hanten commented that he believes it is not in the best interest of the county to deny the rezoning request.

Discussion

Commissioner Kippley asked planning staff if they could further explain the condition of the property, and how it has changed since the previous rezoning request. Kevin Hoekman presented the commission with pictures from the rezoning in 2018, and explained that several vehicles and piles of materials have been removed, but that the property is still a public nuisance. Kevin also explained that the son of the owner of the property has been making progress on the site, and so it has been difficult to justify taking the property to the county commission in order to declare a public nuisance.

Commissioner Kippley asked staff if the commission could defer the item in order to provide more time to clean up property before approving the request. Kevin Hoekman explained that deferring the item is an option if the commission would like to consider giving the owner more time to clean up the property.

Mike Hanten was allowed to address the commission at this time and explained that many things have change on the property since the last rezoning request. He also stated that most of the materials that are on-site are in piles that will be easy to pick up and remove once the rezoning is approved.

Commissioner Mohrhauser stated that some items have been removed from the property, but that there are still a lot of items that remains on the site that need to be removed, and that he would like to get the property completely cleaned up before approving a rezoning.

Commissioner Ralston stated that even if the rezoning is approved, the commission would still have the ability to deny any future conditional use permit requests if the junk is not removed from the property.

Commissioner VanDerVliet stated that the property owner has had five years since the last rezoning request to clean up the property, and that not enough progress has been made on the site. Commissioner VanDerVliet also stated that he is not in favor of the proposed rezoning, due to the conditions on the site.

Commissioner Kippley made a final comment that he would like to see something done on the property before approval and that deferring the item may be the best option.

Action

A motion was made by Commissioner Kippley and seconded by Commissioner Ode to **defer** action on the item to the August 26, 2024 planning commission meeting. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Rezoning #24-01 – Deferred to August 26, 2024



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

MAY 20, 2024

Old Business

None.

New Business

Scott Anderson, the County Planning Director, presented a brief update on the density zoning taskforce that has been taking place for the update to the 2035 Envision Comprehensive Plan. Scott explained that the last meeting of the task force was held in May. He also stated that the taskforce is looking to recommend some changes to the building eligibility transfer process, as well as some guidelines for where more dense forms of development may be allowed. Finally, Scott explained that planning staff will be working to consolidate the taskforce information, and will present the items to the planning commission at a meeting later in the year.

Commissioners Ralston, Mohrhauser, and Duffy, who were members of the taskforce, thanked staff for their work on this item and stated that they believe the taskforce was a productive discussion regarding density zoning.

Adjourn

A motion was made to **adjourn** by Commissioner VanDerVliet and seconded by Commissioner Kippley. The motion was approved unanimously. The meeting was adjourned at 8:28 p.m.