



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
April 25th, 2022**

A meeting of the Planning Commission was held on April 25th, 2022 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, Ryan VanDerVliet, Mike Ralston, and Jeff Barth.

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 7:48 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 4 was requested to be moved to the regular agenda.

A motion was made to approve the consent agenda consisting of Items 1, 2, 3, 5, & 6 by Commissioner Barth and seconded by Commissioner Ode . The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

ITEM 1. Approval of Minutes – March 28th, 2022

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ode to **approve** the meeting minutes from March 28th, 2022. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.



Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #22-29 to transfer one (1) building eligibility from Tract 1 Nearman's Addition to the N660' E660' (Ex. Nearman's Addition) all in the SE¼ SE¼ Section 16 T102N-R48W Brandon Township.

Petitioner: Jacqueline Meisenheimer

Land Owner: Same

Location: Along 481st Avenue, approximately 1 mile north of Brandon

Staff Report: Scott Anderson

General Information:

Legal Description – N660' E660' (Ex. Nearman's Addition) SE¼ SE¼ Section 16 T102N-R48W Brandon Township

Present Zoning – A1 Agricultural

Existing Land Use – Pasture

Parcel Size – 5.29 Acres

Staff Report: Scott Anderson

The property is located approximately 1 1/4 miles northwest of Brandon near the intersection of 259th Street and 481st Avenue. The applicant is requesting to move one building eligibility to the south. The area in which the building eligibility is now located is not being used for crop production. The site of the existing eligibility is rolling hills with a small creek running through. The proposed transfer would move the eligibility to the south and onto land that is better suited for residential development.

On April 8, 2022, staff conducted a site visit. There are many residences located within 1 mile of the proposed location of the transfer. This area is desirable for development, as it is close to Brandon and located within an area of significant residential development.

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 many 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 a building eligibility does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it near other residentially used property. Access would have to be approved by the Brandon Township. The siting of a 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 already an approach onto the proposed building site. Brandon Township will need to approve the location of any new driveways to be used for the new lot.

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 this 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 #22-29 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 Brandon 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 Barth and seconded by Commissioner Ode to **approve** Conditional Use Permit #22-29 with staff recommended conditions. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-29 – Approved



ITEM 3. CONDITIONAL USE PERMIT #22-30 to transfer one (1) building eligibility from the E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ & SE $\frac{1}{4}$ SW $\frac{1}{4}$ to the SW $\frac{1}{4}$ NW $\frac{1}{4}$ & NW $\frac{1}{4}$ SW $\frac{1}{4}$ & W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ (Ex. H-1) all in Section 2 T103N-R50W Lyons Township.

Petitioner: Wayne & Linda Larson

Land Owner: Same

Location: Along 470th Avenue, approximately 3 miles southwest of Baltic

Staff Report: Scott Anderson

General Information:

Legal Description – SW $\frac{1}{4}$ NW $\frac{1}{4}$ & NW $\frac{1}{4}$ SW $\frac{1}{4}$ & W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ (Ex. H-1)
Section 2 T103N-R50W Lyons Township.

Present Zoning – A1 Agricultural

Existing Land Use – Cropland

Parcel Size – 95.56 Acres

Staff Report: Scott Anderson

The property is located approximately 3 miles southwest of Baltic near the intersection of 251th Avenue and County Highway 137. The applicant is requesting to move one building eligibility to the northwest and locate it so it would access County Highway 137. The area in which the building eligibility is now located is used as cropland. The move would locate the building eligibility near other existing residences.

On April 8, 2022, staff conducted a site visit. There are several residences located within 1 mile of the proposed location of the transfer. This area is desirable for development, as it is close to Baltic and located next to a County Highway.

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 many 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 a building eligibility does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it near other residentially used property. Access would have to be approved by the Lyons Township. The siting of a 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 already an approach onto the proposed building site. Lyons Township will need to approve the location of any new driveways to be used for the new lot.

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 this 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 #22-30 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 Lyons 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 Barth and seconded by Commissioner Ode to **approve** Conditional Use Permit #22-30 with staff recommended conditions. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-30 – Approved



ITEM 5. CONDITIONAL USE PERMIT #22-32 to exceed 1,600 square feet of accessory building space (requesting 3,264 square feet) on the property legally described as Lots 1 & 8 Block 2 Sorum's Subdivision Section 9 T102N-R49W Mapleton Township.

Petitioner: Jeffery Christians

Property Owner: Same

Location: 47497 Northview Drive in Renner

Staff Report: Mason Steffen

General Information:

Legal Description – Lots 1 & 8 Block 2 Sorum's Subdivision Section 9 T102N-R49W Mapleton Township.

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – .62 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow 3,264 square feet of accessory building area. Currently on the property there is one detached accessory building, which has a 24' x 36' portion and a 30' x 40' portion. The proposed addition to this accessory building would be 25-foot wide addition and would be attached to the west side of the current structure. Based on regulation 13.03 Adjustment to Front Yard Requirements of the 1990 Revised Zoning Ordinance for Minnehaha County, the required front yard setback along Northview Drive can be reduce down to the current setback for the existing building which is 9.8 feet. However, since the subject property is a corner lot there is an intersection safety zone on this corner that the petitioner will need to meet. The petitioner has agreed to move the addition ten feet to the south, which will allow the petitioner to meet all of the setback and safety zone requirements. The proposed location of the addition to the accessory building is shown on the submitted site plan.

On April 8th, 2022, staff conducted a site visit of the subject property. The property is located in a subdivision on the west side of SD Highway 115 in Renner. The surrounding vacant and occupied residential lots are similar in size to the subject property. Finally, the proposed addition to the accessory building will generally fit within the current and future development of the surrounding residential 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.

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 surrounded by other similar residential lots. There should be no anticipated impacts to the normal and orderly development and improvement of the surrounding vacant residential lots. The proposed size of the accessory building is generally compatible with other residential properties in the immediate vicinity.

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

The petitioner will be required to extend all the necessary utilities to the addition, and access is already available for the accessory building addition. The accessory building should not have any negative effects on the drainage of the surrounding area, and the property is not located in the floodplain.

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 residential area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-32 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 3,264 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That only personal storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5) That all outdoor lighting shall be of a fully-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



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property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ode to **approve** Conditional Use Permit #22-32 with staff recommended conditions. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-32 – Approved



ITEM 6. CONDITIONAL USE PERMIT #22-35 to transfer one (1) building eligibility from the NE¹/₄ SW¹/₄ to the SW¹/₄ SW¹/₄ Section 17 T102N-R52W Humboldt Township.

Petitioner: Nick & Katlyn Jongeling

Land Owner: Rick Starnes

Location: Intersection of 455th Avenue & 259th Street, approximately 1 mile southwest of Humboldt

Staff Report: Scott Anderson

General Information:

Legal Description – SW¹/₄ Section 17 T102N-R52W Humboldt Township

Present Zoning – A1 Agricultural

Existing Land Use – Cropland

Parcel Size – 160 Acres

Staff Report: Scott Anderson

The property is located approximately 1 mile southwest of Humboldt near the intersection of 259th Avenue and 455th Avenue. The applicant is requesting to move one building eligibility to the southwest. The eligibility is landlocked and must be moved by CUP to be used. The area in which the building eligibility is now located is used as cropland. The move would locate the building eligibility next to the applicant's family farm. The building eligibility move will allow a residence to be constructed for a younger family member to be more closely involved in the family farm.

On April 12, 2022, staff conducted a site visit. The closest residence is the applicant's farmstead. There are three other farmsteads located all about 1/4 mile to the south and southwest. There is a large dairy located approximately 1 mile to the southeast and the move would bring an additional residence closer to the dairy.

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 a couple 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 a building eligibility does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it near other residentially used property. Access would have to be approved by the Humboldt Township. The siting of a 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 already an approach onto the proposed building site. Humboldt Township will need to approve the location of any new driveways to be used for the new lot.

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 this building eligibility in this location will enhance the productivity of the rest of this quarter section and locate the building eligibility near the family farm, which will allow a family member to be engaged in the farming activity.

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 #22-35 with the following conditions:

1. A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for a single-family dwelling.
2. Approval from Humboldt 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 Barth and seconded by Commissioner Ode to **approve** Conditional Use Permit #22-35 with staff recommended conditions. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-35 – Approved



Regular Agenda

ITEM 4. CONDITIONAL USE PERMIT #22-31 to allow Outdoor Industrial Storage on the property legally described as Lot 3 Harr's Addition SW¼ Section 30 T102N-R50W Benton Township.

Petitioner: Scott Gordon

Property Owner: Same

Location: Along SD Highway 38, approximately 1 mile southeast of Hartford

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 3 Harr's Addition SW¼ Section 30 T102N-R50W Benton Township.

Present Zoning – I1 Light Industrial

Existing Land Use – Vacant Lot

Parcel Size – 2.24 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is planning an industrial warehouse building on the described property and a property tenant will be utilizing a portion of the yard for outdoor storage. Outdoor storage within an industrial zoning district requires a conditional use permit. Every property around the proposed site is zoned industrial or commercial.

This location of the proposed warehouse and outdoor storage is within the industrial park south of the east Hartford Exit on I-90. The property shares an access onto SD Highway 38 with several neighboring properties across the highway from Buffalo Trading Post. Since access to the industrial property is located on a paved highway, all driveways and required parking must be hard surfaced according to Article 15.04 of the Minnehaha County Zoning Ordinance. The area used for outdoor storage is allowed to be surfaced with gravel.

The petitioner submitted a site plan and narrative for review. The company which will be leasing out a portion of the building and site is National Tower Controls which works with communication towers throughout the region. Equipment will be located off site for much of the time, but equipment, materials, and tower sections will be on the site periodically to require the outdoor storage. The site plan shows the storage area to be located along the west and south property lines. Required employee parking will be located north of the building and will be required to be hard surfaced. The mutual access onto the highway is shown to be paved with asphalt. The site plan and narrative indicate a roll off dumpster will be on site. Steps should be taken to prevent debris from the dumpster from blowing onto other properties.



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.

Outdoor storage is a common part of land uses in this industrial development. A concrete casting company has a large outdoor storage area which has gravel surface area but no fence requirement. Another property to the south has outdoor storage as part of a mix of businesses including camper storage. This mix of businesses is surrounded by fencing to screen visibility of the outdoor storage as required by the conditional use permit. Recently, a request for outdoor storage on a property south and east of this site was denied. The denial of the request was largely based on the poor condition of materials and equipment being stored on the site.

Screening would be beneficial for this property as the storage area is rather small and a fence would be able to trap potential debris from an uncovered dumpster. A screening fence should be required on the south side of the property for this reason.

Setting the storage area back on the property will reduce the visible area from the state highway. Staff suggests that the site plan is followed and that all storage be kept further south on the property than the rear wall of the building. With required screening, outdoor storage of equipment and materials should be expected as a common land use in a rural industrial development.

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

This is in a development which is actively developing. New buildings and plats have been a regular occurrence over the last few years. Neighboring industrial properties will likely continue to develop since outdoor storage is a regular part of industrial property.

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

The petitioner will be required to extend any necessary utilities to the building. A septic system is shown on the site plan and will need to follow all septic permitting rules for industrial project.

The property is accessed from a shared driveway onto SD Highway 38. As was mentioned earlier in the staff report, industrial zoned properties are required to have hard surface driveways and parking according to Article 15.04 of the zoning ordinance.

The property will be developed with a large building, hard surfacing, and gravel. A developed property will have more stormwater runoff than an undeveloped site. The county has no requirements for stormwater retention. The planning commission may consider stormwater retention as a condition of approval if it is determined to be necessary.

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

The site is large enough to accommodate off-street parking and loading. No on-street parking and loading should be allowed. The required parking must be hard surfaced according to the zoning ordinance.



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

Outdoor storage of equipment and materials does not typically produce odor, fumes, dust, noise, or vibration. All lighting should be directed down and cutoff as to prevent glare onto neighboring properties and roads.

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

The proposed use will not likely have a negative effect on the health, safety, or general welfare of the public. To reduce potential harm a condition can be added to prohibit chemical or petroleum products from being stored outside.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-31 with the following conditions:

- 1). Gravel must be used to cover all regular driving surfaces of the storage area in accordance with Article 15.04 (B). of the zoning ordinance.
- 2). All parking and driveways must meet requirements of 15.04 (A). of the zoning ordinance.
- 3). The applicant shall provide a minimum of 90% opaque screening fence along the south property line.
- 4). No outdoor storage is allowed north of the rear wall of the building.
- 5). No chemicals or petroleum products shall be allowed to be stored outside on the property.
- 6). All new and replacement outdoor lighting must be fully shielded and cutoff to prevent the spillage of light off the property.
- 7.) The Planning & Zoning Department reserves the right to enter and inspect the facility at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

Public Testimony & Discussion

This item was removed from the consent agenda and placed on the regular agenda for a full hearing. Kevin Hoekman of planning staff, presented the staff report and recommendation.

Scott Gordon, the petitioner at 2912 S. Princeton Avenue, was present for any questions. Commissioner Ode asked what type of storage would be kept at the site. Scott Gordon responded that the tenant of the building will be a tower building company so things such as tower jibs will be located on property. The jibs allow cranes to have extra reach for a tall tower. Commissioner Ode continued to ask if any motor vehicles with oil and petroleum products will be stored on the property. Scott Gordon responded that there will be no machinery or junk stored outside.

Gary Meyer, 26154 466th Ave., raised concern about the potential of outdoor storage on the property because other properties with outdoor storage in the area are poorly maintained. Gary explained that the Planning and Zoning Department webpage strongly encourages property owners to contact the department prior to purchasing a property to ensure the use is allowed in



the zoning district of the property. Gary showed a set of photos and described what the photos showed. Photos showed the current conditions of several neighboring properties, and he explained that outdoor storage should not be allowed until exiting properties are cleaned up.

Cindy Meyer, 26154 466th Ave, raised concern about lighting because the new building west of the site has bright lights which glare into her yard. She also raised concern regarding what happens after work hours such as individuals shooting targets into the field near her house.

Scott Gordon responded to the concerns by stating that the complaints are for other properties, and that he likes to have a clean operation.

Commissioner Barth asked if lighting is restricted on the permit. Kevin Hoekman read through the recommended conditions which include a requirement for downward pointed lights. Kevin Further explained that lighting is not controlled unless there is a conditional use permit.

Commissioner Mohrhauser noted that he voted to deny the operation last month but does not see a reason to deny this project.

Action

A motion was made to approve Conditional Use Permit #22-31 with conditions by Commissioner Mohrhauser. The motion was seconded by Commissioner Ode. The motion was approved unanimously.

Conditional Use Permit #22-31 – Approved



ITEM 7. REZONING #22-01 to rezone from the A-1 Agricultural District to the C Commercial District on the property legally described as Tract D Eggers Addition, Tract 1 Safari Addition, County Auditors Subdivision Tract 7, & the S 200' Tract 6 all in the SE¼ SE¼ Section 9 T102N-R49W Mapleton Township.

Petitioner: Jensen Electric, Inc.

Property Owner: Sorum Holding 2, LLC.

Location: Located at the Renner intersection on SD Highway 115

Staff Report: Mason Steffen

General Information:

Legal Description – Tract D Eggers Addition, Tract 1 Safari Addition, County Auditors Subdivision Tract 7, & the S 200' Tract 6 all in the SE¼ SE¼ Section 9 T102N-R49W Mapleton Township.

Present Zoning – A-1 Agricultural District

Existing Land Use – Cropland

Parcel Size – 15.03 acres

Staff Report: Mason Steffen

Staff Analysis: The parcels involved in this request are located west of the intersection of SD Highway 115 and County Highway 130, also known as Renner Corner which is the name of the convenience store northwest of the intersection. The petitioner has stated that the proposed rezoning will allow for commercial development in the Renner area and specifically to expand the uses currently at the Renner Corner. Additionally, a request to rezone largely the same property was brought before the Planning Commission and County Commission in early 2020. That request was denied due to concerns raised from commissioners and neighbors. The main concern was how the drainage from the property would be handled, due to the fact that in 2019 a majority of the subject property was flooded, and because the property is listed in the floodplain on future FEMA maps. Finally, the petitioner has stated that two of the four residential properties directly adjacent to the subject property have been bought by the Sorum's, and that they have also spoken to the owners of the other two properties.

County planning staff met with the petitioner and DGR Engineering before the planning commission meeting, in order to address the concerns that were raised in 2020. At this meeting, the petitioner submitted a site plan of the proposed development. The site plan includes six commercial lots with a single road running between County Highway 130 and SD Highway 115. In addition, the petitioner has stated that they have already received preliminary approval from the State DOT and from the County Highway Department for the new road accesses. In the process of adding these new road accesses the petitioner will also be removing three existing driveway accesses on County Highway 130 and three existing driveway accesses on SD Highway 115. This will allow for more streamlined access to the future uses in the area, and to the existing commercial and residential uses at the corner. In addition, one of the properties that is requested to be rezoned is an apartment complex, located at 47494 258th Street, and if the rezoning is approved this complex would become a nonconforming use in the C Commercial District. However, the petitioner has stated that this apartment complex would be removed in the



future, as part of their development plan. Furthermore, the petitioner and DGR Engineering submitted a drainage plan that shows the property will be regraded in order to direct a majority of the drainage through drainage easements to a detention pond in the southwest corner of the development. The drainage plan also lists contour lines that show that the property will be more than five feet above the base flood elevation that is listed on the future FEMA maps. The property is not currently located within the floodplain, but once these new maps are adopted the petitioner would need to apply for a LOMR (Letter of Map Revision) in order to remove the property from the floodplain. Otherwise all of the floodplain development regulations will be required for any development that occurs after the new FEMA map is adopted by Minnehaha County. Finally, the petitioner has stated that they have received approval for sanitary sewer hookups from the Renner Sanitary Sewer District. This will relieve any concern with having on-site wastewater systems on ground that could potentially flood.

With all this in consideration, the area is designated as a ½-mile rural service area within the Envision 2035 Comprehensive Plan. Rural service areas are designated as appropriate for limited convenience commercial development to support the rural portions of the county. In addition, the petitioner and DGR Engineering have submitted several documents that specifically address the concerns raised during the first rezoning attempt. Staff finds that these documents sufficiently answer the questions and concerns raised in 2020. Finally, the proposed rezoning will allow for a cohesive development in an area designated for such commercial development, and will limit any future residential development in the floodplain.

Recommendation: Staff finds that the proposed rezoning conforms to the goals and policies of the Envision 2035 Comprehensive Plan and recommends **approval** of Rezoning #22-01 to rezone the subject property from A-1 Agricultural District to C Commercial District.

Public Testimony & Discussion

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

The petitioner Ron Jensen, of 25804 Lindbergh Avenue, addressed the commission and explained his reasons for the request. He stated that the flooding that occurred in Renner in 2019 was unprecedented, and caused by several factors that were unique to that event. Furthermore, he explained that they took all of the issues expressed by the neighbors at the previous rezoning attempt and created a plan that specifically addressed those issues. He then went on to explain that he has been developing commercial properties to the south of Renner Corner for several years, and that this rezoning would allow them to continue developing with the same approach to the north. Next, he stated that by rezoning the property it will allow them to create better drainage on the property, better access to existing and future uses, and allow them to move the current Renner Corner businesses farther back from the State Highway. Mr. Jensen explained that moving the businesses farther from the State Highway will more than likely be required in the future as the highway expands, so they are trying to be proactive with this rezoning request. He then went on to explain that the only planned lot as of now is Lot 5 Block 1, which is where they plan to move the jerky making operation that current is located at Renner Corner. Finally, he explained that the water that caused the flooding in 2019 was due to culverts under State



Highway 115 being blocked, and that most of the water came from the east side of the highway and was not caused by this property.

Commissioner Mohrhauser asked Mr. Jensen if the goal was to bring the drainage from the property to the detention pond in the southwest corner of the development. Mr. Jensen explained that the pond would hold some of the water, especially from Lot 1 Block 1. Commissioner Mohrhauser followed up to ask if the rest of the lots will have proper drainage. Mr. Jensen explained that as of now they only have plans to develop Lot 5 Block 1, and that the drainage from the future development of the other lots will be handled as each individual business moves into the development.

Commissioner Barth asked if they will be building up the lots to keep them above the floodplain. The petitioner explained that it is not currently shown in the floodplain, but that he understands why the FEMA maps are being updated for Renner. Commissioner Barth then asked who owns the property on the east side of State Highway 115, and Mr. Jensen explained that the property to the east is owned by the Berg Family. He also went on to explain that FEMA uses GPS data to create their floodplain maps, and that DGR Engineering has done a more detailed survey of the property that shows it is above the projected floodplain elevation. Finally, he explained that it is their intent to submit DGR's data to FEMA in order to prevent the property from being placed in the floodplain when the new maps are adopted.

Commissioner Randall asked the petitioner when the removal of the apartment building will take place. The petitioner explained that there is not a set timeframe, but that they would give the current tenants ample time to find other accommodations before it was removed.

David Condon, of 25789 Lyndale Road, explained to the commission that he has concerns with rezoning productive agricultural ground to a commercial development, especially due to the current food shortages and because agricultural ground should be protected.

Nancy Rasmussen, of 25781 475th Avenue, addressed the commission with her concerns about the rezoning request. She stated that she would like to see proof that the State Department of Transportation caused the flooding issues in 2019, and that there were three other floods the same year to the west in Renner. Additionally, she expressed concerns with the drainage plan that was submitted and explained that all the drainage in the area flows through her yard. She then stated that she believes this development will cause many issues in the area including noise, pollution, and drainage issues that will directly affect her property. In addition, she stated that she is on the board for the Renner Sanitary Sewer District, and that the board told the petitioner that they would consider adding the development to the system but they had not been given full approval.

Commissioner Barth asked Nancy Rasmussen if her house sank in 2019 when the area flooded. Nancy Rasmussen explained that her yard has no soil and is almost entirely gravel, which causes parts of her yard to sink regularly.



Priscalla Green, of 25781 475th Avenue, stated to the commission that she has concerns that the survey that was completed by DGR Engineering was done in a drought year, which may not accurately reflect the elevations in the area.

Yulia Condon, of 25789 Lyndale Road, explained that her main concern is that this development will change the rural character of Renner from agricultural to an industrial park. She also expressed concerns with the future development being a nuisance to her property across the highway.

Commissioner Barth asked Ron Jensen where the residences that they acquired are located. The petitioner explained that they bought the property located at 25789 475th Avenue, and that this property has both a house and a mobile home on the property. He also addressed the neighbors concerns by stating that he is also a farmer, so he is sensitive to the issue of preserving agricultural land. Furthermore, he explained that the properties would not be industrial and that everything would be contained inside the buildings with no outside noise. Mr. Jensen reiterated that the water in 2019 that affected the Renner Corner came from the east. He also explained that he has talked to the farmer directly north of the subject property, and they raised no concerns to him about the request. Next, he stated that phase one of the project would be to move the jerky operation from the Renner Corner to Lot 5 Block 1 of the proposed development, and that they are hopeful to begin this phase this year if everything is approved. Then he stated that the design for the plan was specifically made to not adversely affect the neighbors in the area. Finally, he stated that he went to the Renner Sanitary Sewer District Board Meeting on April 19th in order to obtain an approval letter stating that they can handle the proposed development, and he also explained that the approval was voted on and approved at this meeting.

Commissioner Barth asked Ron Jensen if the Renner Sanitary Sewer District had received the federal funding to repair the system after the floods. Mr. Jensen stated that he believed they had secured funding and that repairs had taken place since the flooding. Additionally, Mr. Jensen explained that the survey that was done by DGR Engineering was based on the elevations for the land, and has nothing to do with the amount of water currently in the area.

Nancy Rasmussen returned to the podium and stated that there was no vote at the Renner Sanitary Board Meeting to definitively allow them to use the sewer district. She additionally stated that the board said that the five new building would be considered if they did not overload the sewer district, and that she believes the sewer district can not handle the proposed amount of sewer from the development.

Ron Jensen readdressed the commission by reading a letter from the Renner Sanitary Sewer District Clerk, which stated that a vote was taken and approval was given to them to connect the entire development to the sewer district. He further explained that Minnehaha Community Water Corporation has stated that they can serve the development, as long as each individual lot does not exceed 20,000 gallons of water usage per month.

Commissioner Randall asked Mason Steffen about how rezoning the property would affected the apartment building as a nonconforming use. Mason explained that technically the apartment



building is already a nonconforming use in the A-1 Agricultural District and that it would continue as a nonconforming use in the C Commercial District. He also explained that nonconforming uses are allowed to continue but that they cannot be rebuilt if they are destroyed, and that there are restrictions on remodeling and enlarging nonconforming uses.

Commissioner Barth stated that Renner has been a problem for a while because it floods frequently and it costs the county money to supply all of the necessary equipment when it does flood. He additionally stated that the county is not a museum and that it is going to change rapidly as the population of the county expands. Then he stated that his hope is that in the future the Renner Fire Station is moved to higher ground on the east side of State Highway 115, and that the rest of Renner slowly moves in this direction away from the floodplain. Finally, he explained that he expects there to be growth along State Highway 115, and that he sees this project as the next step in this growth.

Commissioner Ode stated that he agrees with Commissioner Barth that things are going to change, and that modernization makes things better in the long run even if it may not seem like it now.

Action

Commissioner Barth made a motion to recommend **approval** of Rezoning #22-01, and the motion was seconded by Commissioner Ralston. The motion passed unanimously with 6 votes in favor and 0 votes against the motion

Rezoning #22-01 – Approval Recommended



ITEM 8 CONDITIONAL USE PERMIT #22-28 to allow a Class C (960 Animal Units), Hog Concentrated Animal Feeding Operation on the property legally described as Tracts 1 & 2 Hainje Addition NW¼ Section 19 T104N-R48W Logan Township.

Petitioner: Jeffery Siemonsma

Land Owner: Same

Location: 47832 Pipestone Street, approximately 3 miles southeast of Dell Rapids

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tracts 1 & 2 Hainje Addition NW¼ Section 19 T014N-R48W Logan Township.

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 19.23 Acres

Staff Report: Kevin Hoekman

Update:

This item is a continuation of a hearing begun at the March 28th Planning Commission meeting. At the hearing a few people spoke about concerns regarding odor and close proximity to residential dwellings. One person brought up possibly requiring extra trees to disperse smell and appearance. It is likely that many people did not speak at the hearing because it was announced that the petitioner was requesting deferral to consider alternate options. At the time of writing this update, staff has not received any new reports of how the operation may or may not change. The rest of this report is the same as it was presented for the March Planning Commission meeting.

Staff Analysis:

The petitioner is requesting to build a 2,400 head finishing swine barn on the edge of a farmstead of this property. The size of the barn makes the request a Class C CAFO up to 999 animal units. A new Class C CAFO requires a conditional use permit, and it is required to meet specific standards as required by the ordinance.

The property is located approximately three miles southeast of Dell Rapids on Pipestone Street. County Highway 121 is located less than one quarter mile west from the farm. The site plan for the barn shows the placement will be along the east side of the farmstead. A row of evergreens are located on the west of the barn and other trees are located to the north and west of the barn. The east side of the barn is shown on the site plan to have no additional screening; however, the petitioner explains in the provided narrative that trees can be planted if required. The building plans provided by the petitioner indicate that the barn is planned to be 101 feet by 198 feet in size. Manure will be kept in a pit below the barn, and will be planned to inject into surrounding farm land once per year in the fall.



Part of the submitted materials is a printout of the south Dakota Odor Footprint Tool. The size of the barn was input into the worksheet and the tool calculated the distance of a percentage of nuisance free days from the barn. The 97% nuisance free distance circle is highlighted on the worksheet with distances ranging from 1,418 feet to the northeast to 1,617 feet to the southwest. A map was provided to show that no dwellings other than the petitioner owned dwelling are outside of the area of 97% nuisance free.

The site plan is an important aspect of any conditional use permit. Below is a list of required elements for general CUPs as well as the last two elements that specifically address requirements for CAFOs. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. The petitioner has provided several site plans and narrative descriptions to describe locations and plans for the proposed barn.

The address of the property and the legal description.

The address provided for the property is 47832 Pipestone Street. The legal description is included on the application.

The name of the project and/or business.

The name of the petitioner is Jeff Siemonsma. One of the narrative descriptions includes the name of the project as Jeff Siemonsma's Hog Barn.

The scale and north arrow.

Each plan submitted has a scale and north arrow except for the one which shows the barn location and approximate size. This site plan does not have a scale either. The orientation of the map is easy to determine and the size of the property allows for the approximate scale to be reasonable for the size and location of the barn.

All existing and proposed buildings or additions.

Aerial photos on the site plan show existing buildings. The location of the barn is depicted by a star on several plan and a grey rectangle on the site location plan.

The dimensions of all buildings.

The dimensions of the existing buildings are not included and not very applicable to the proposed use. There are many existing buildings within the farmstead. The size of the proposed barn is shown on the building plan as 101 feet wide by 192 feet long

The distance from all buildings to the property lines at the closest points.

Distances to property lines are not included on the site plan. The property is large enough that the approximate location of the barn will leave space to meet the required 50 feet setback from any property line.

Building height and number of stories.

The barn will have one story with a manure pit underneath.



Dimensions of all property lines.

The property is large with the approximate size of over 1000 feet wide by 700 feet deep from the road.

Parking lots or spaces; designate each space; give dimensions of the lot, stalls, and aisles.

Parking requirements are more typical for commercial and industrial type uses. This property is large enough to accommodate off street parking and loading.

Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping.

The petitioner does not show a plan for trees or landscaping. Trees are mentioned in the narrative as something which could be added.

Name and location of all adjacent streets, alleys, waterways and other public places.

The access street to the south is Pipestone Street. The nearest highway is County Highway 121 approximately ¼ mile to the west. These are included on the site plans.

A grading Plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.

No grading plan is submitted. The facility is planned to be contained in one building including the manure pit to prevent water runoff contamination.

The location of all existing and proposed structures, including manure containment facilities and confinement buildings and corrals. All new structures and corrals shall be located a minimum of 50 feet from any property line.

The proposed barn will be located adjacent to an existing farmstead. The animals and manure will be contained within the barn and setbacks from property lines will be met as the barn is located on the site plan in the approximate center of the parcel.

Setbacks and other requirements.

A Class C CAFO requires a setback of 1,320 feet from a dwelling, church, or business. The proposed barn as shown on the site plans meets all separation criteria and environmental setbacks required by the ordinance. No waivers will be required prior to approval of this proposed hog barn.

Conditional Use Permit Criteria:

As part of any conditional use permit request, the Planning Commission is required to consider several criteria.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The proposed barn is located within an active agricultural area. Much of the area is agricultural cropland and low-density residential farmsteads and acreages. The barn exceeds minimum



setback requirements and includes the advantage of exiting trees on the north and west sides to break winds from those directions. The barn is planned to be placed adjacent to a farmstead owned and lived on by the petitioner.

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

The proposed barn is located within an active agricultural area. There is potential for further development of agricultural uses, such as CAFOs, and residential uses in farmsteads and acreages. The land use of a CAFO will unlikely affect further agricultural development in the area, and CAFOs such as this will likely become more common in the future. However, as intense land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling.

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

The proposed facility indicates that a new driveway will have to be installed. The petitioner will have to acquire a driveway permit from the township and extend any utilities to the proposed facility. Grading will be minimally affected for the barn.

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

The operation is located on a large site that will have enough space to meet off street parking and loading requirements. Parking and loading in the right-of-way will not be allowed.

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

The petitioner is requesting a new CAFO facility. The inherent nature of a CAFO like this has the potential to create nuisances if not managed properly. This is especially true for odor, fumes, and dust. Anything included in the narrative and plans will be expected to be carried out. In addition, the Planning Commission has the ability to add conditions if they feel the petitioner's plans and staff recommendations are inadequate to mitigate nuisances.

One way to reduce many nuisances is with the use of trees to shelter wind, dust and sightlines. The barn is located in an area where trees exist on the west and north sides of the barn. Additional tree planting can be required if the Planning Commission considers it necessary.

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

The proposed swine CAFO will have to comply with the conditions of this permit and the regulations for CAFOs in the 1990 Revised Zoning Ordinance for Minnehaha County. These rules and regulations are designed to allow for development while preventing much of the potential harms that a CAFO facility may create. The facility is not required to obtain a State permit; however, the state will review the application if Minnehaha County deems state permitting to be necessary.



The proposed CAFO is located firmly within the Agricultural Production Area of the Envision 2035 Comprehensive Development Plan. In the description of this designated area, a goal of the Envision 2035 Comprehensive Development Plan is to “protect, preserve, and promote agricultural uses and the economic viability of farming operations.”

One neighbor contacted planning staff after receiving notification. The neighbor informed staff that he is opposed to the proposed with the first objection due to its location near a wetland which flows into Slip Up Creek. The County GIS maps indicate Slip Up Creek begins about ½ mile southeast of where the barn is located. Our maps do not indicate any water source protection or aquifers in the vicinity of the barn. The barn will be constructed to contain manure within a pit under the animals. This will be outside of rain and stormwater.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-28 with the following conditions:

- 1.) The facility shall be limited to swine confinement of a maximum of 999 animal units in size.
- 2.) The facility shall conform to the submitted site plans. Any minor changes, such as the shape of the building, may be approved by the Planning Director at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 3.) The manure containment facility must be in conformance with South Dakota Department of Agriculture and Natural Resources design standards for any newly constructed waste containment facility. A registered professional engineer shall certify the plan specifications and the construction of the facility.
- 4.) The proposed barn shall have engineer certified drawings that shall be submitted for review by the Building Inspector prior to the issuance of a building permit.
- 5.) A building permit is required for all structures prior to construction.
- 6.) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 7.) The Planning & Zoning Department reserves the right to enter and inspect the CAFO 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 Minnehaha County Zoning Ordinance.

Public Testimony

Kevin Hoekman, of county planning staff, explained to the commission that the petitioner has withdrawn the request.

Action

A motion was made to acknowledge the withdrawal of the Conditional Use Permit #22-28 by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-28 – Withdrawn



Old Business

Scott Anderson, of county planning staff, explained to the commission that the planning office has been keeping up with the code enforcement on the property that was denied Outdoor Industrial Storage by Conditional Use Permit #22-20.

Commissioner Mohrhauser asked staff what was occurring on the north end of the property involved with Conditional Use Permit #22-20. Kevin Hoekman explained that there has been dirt work on the property in order to construct a berm on the north and east sides. He further explained that planning staff has approved a Temporary Use Permit on the property for an Asphalt Batch Plant, which is allowed to be operational for one year.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Ralston and seconded by Commissioner Mohrhauser. The motion was approved unanimously.

The meeting was adjourned at 9:12 p.m.