



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
September 26, 2022**

A meeting of the Planning Commission was held on September 26, 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, Ryan VanDerVliet, Adam Mohrhauser, Doug Ode, 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 7:32 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 Items 8 & 9 were requested to be moved to the regular agenda.

A motion was made to approve the consent agenda consisting of Items 1, 2, 3, 4, 5, 6, & 7 by Commissioner Randall and seconded by Commissioner Barth. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

ITEM 1. Approval of Minutes – August 22, 2022

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Barth to **approve** the meeting minutes from August 22, 2022. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.



Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #22-63 to transfer two (2) building eligibilities from the NE $\frac{1}{4}$ SW $\frac{1}{4}$ & the SW $\frac{1}{4}$ SW $\frac{1}{4}$ all in Section 26 T104N-R48W to Swenson's Tract 3 (Ex. Swenson's Tracts 3A, 5, & 6) NW $\frac{1}{4}$ Section 35 T104N-R48W & the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26 T104N-R48W.

Petitioner: Mark McGee

Land Owner: Same

Location: 48213 Logan Street, approximately 4 miles northwest of Sherman

Staff Report: Scott Anderson

General Information:

Legal Description – SW $\frac{1}{4}$ (Ex. H-1) Section 26 T104N-R48W Logan Township.

Present Zoning: A1 Agricultural

Existing Land Use: Cropland

Parcel Size – 159 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 4 miles west of Sherman and 12 miles north of Brandon near the intersection of Logan Street and County Highway 113. The applicant is requesting to move two building eligibilities, one to the west and another to the south. The area in which the building eligibilities are now located is used as cropland. The move would locate the building eligibilities into pasture land and closer to a paved highway.

On August 30, 2022 staff conducted a site visit. There are several residences located within 1/2 mile of the proposed location of the transfer. It must be noted that much of this property is located along West Pipestone Creek. The topography is generally very flat along this waterway. Any future building site will have to take the designated flood hazard zones into consideration when locating a building site.

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 three 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 two building eligibilities does not increase the number of dwelling units allowed in this section. The requested location for the eligibilities places them near other residentially used property. Access would have to be approved by the Minnehaha County Highway



Department or Logan Township depending on the location of the future approaches. The siting of a building eligibilities in this area 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 eligibilities. It is likely that rural water and electricity are already located in the ditch or area. Minnehaha County Highway Department and/or Logan Township will need to approve the location of any new driveways to be used for the new lots.

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 these building eligibilities in this location will enhance the productivity of the rest of this quarter section and locate the building eligibilities 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 #22-63 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 Minnehaha County Highway Department and/or Logan 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 Randall and seconded by Commissioner Barth to **approve** Conditional Use Permit #22-63. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-63 – Approved



ITEM 3. CONDITIONAL USE PERMIT #22-64 to transfer four (4) building eligibilities from the SW¹/₄ NE¹/₄ & the NW¹/₄ SE¹/₄ & the SE¹/₄ NW¹/₄ & the NE¹/₄ SW¹/₄ to the SW¹/₄ NW¹/₄ in the N¹/₂ SW¹/₄ (Ex. H-1 & H-2) & S¹/₂ NW¹/₄ (Ex. H-1, HD & Ex. Haaks Tracts) all in Section 22 T101N-R48W Split Rock Township.

Petitioner: Justin Vyn

Land Owner: Same

Location: Approximately 2.5 miles south of Brandon

Staff Report: Scott Anderson

General Information:

Legal Description – N¹/₂ SW¹/₄ (Ex. H-1 & H-2) & S¹/₂ NW¹/₄ (Ex. H-1, HD & Ex. Haaks Tracts) Section 22 T101N-R48W Split Rock Township.

Present Zoning: A1 Agricultural

Existing Land Use: Cropland

Parcel Size – 148.69 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 2.5 miles south of Brandon near the intersection of Spring Valley Place and SD Highway 11. The applicant is requesting to move four building eligibilities from landlocked quarters to an area accessible from S.D. Highway 11. The area in which the building eligibilities are now located is used as cropland.

On August 30, 2022 staff conducted a site visit. There are several residences located within 1/2 mile of the proposed location of the transfer. There is an existing residential subdivision containing five lots located adjacent to the north and several residential lots across the highway. Furthermore, Iverson Crossing is located about 1/4 of a mile to the south.

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 three 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 two building eligibilities does not increase the number of dwelling units allowed in this section. The requested location for the eligibilities places them near other residentially used property. Access onto SD Highway 11 would have to be approved by the SD Department of Transportation. The siting of a building eligibilities in this area 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 eligibilities. It is likely that rural water and electricity are already located in the ditch or area. SD Department of Transportation will need to approve the location of any new driveways to be used for the new lots.

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 these building eligibilities in this location will enhance the productivity of the rest of this quarter section and locate the building eligibilities 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 #22-64 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 SD Department of Transportation must be obtained for the location of any new driveway onto SD Highway 11 before a building permit is to be issued.

Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Barth to **approve** Conditional Use Permit #22-64. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-64 – Approved



ITEM 4. CONDITIONAL USE PERMIT #22-66 to exceed 3,600 square feet of accessory building space (requesting 4,211 square feet) on the property legally described as the N500' E433.35' W½ NE¼ Section 30 T103N-R47W Palisade Township.

Petitioner: Debra Matthiesen

Land Owner: Same

Location: 48467 254th Street

Staff Report: Mason Steffen

General Information:

Legal Description – N500' E433.35' W½ NE¼ Section 30 T103N-R47W Palisade Township.

Present Zoning: A1 Agricultural

Existing Land Use: Residential Acreage

Parcel Size – 4.97 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow 4,211 square feet of residential accessory building area on the subject property. Currently, there is one detached accessory building on the property that has a total square footage of 1,971 square feet. Approval of this request would allow the petitioner to construct an additional 40'x 56' accessory building on the property. The petitioner has stated that the new accessory building would be used for their own personal storage, such as farm equipment and horse trailers. However, a condition should be placed on this permit to limit the potential of the accessory building becoming a dwelling or being used for a commercial operation in the future.

On September 1, 2022, staff conducted a site visit of the subject property and the surrounding area. The subject property is located along State Highway 11, directly south of Garretson's city limits, and there are several similar residential acreages in the surrounding area. This includes the neighboring property to the west, which is a three-acre property that was approved for 5,000 square feet of accessory building area in 2017. Therefore, the proposed size of the accessory building and total square footage on the property is generally compatible with the other properties in the immediate vicinity.

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 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 with other similar residential



acres and farmland. There should be no anticipated impacts to the normal and orderly development and improvement of the surrounding vacant farmland or residential acreages. 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 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 another 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.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-66 with the following conditions:

- 1) The building location shall adhere to the submitted site plan, and meet all applicable setbacks for the subject property.
- 2) The total area of all accessory buildings may not exceed 4,211 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) The building shall not to be used for commercial uses or as a dwelling at any time.
- 5) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit is required prior to construction of the accessory building.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.



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Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Barth to **approve** Conditional Use Permit #22-66. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-66 – Approved



ITEM 5. CONDITIONAL USE PERMIT #22-68 to exceed 3,600 square feet of accessory building space (requesting 4,504 square feet) on the property legally described as the N590.31' E590.31' NE¼ NE¼ Section 12 T103N-R51W Grand Meadow Township.

Petitioner: Kenneth Amundson

Land Owner: Same

Location: 46597 251st Street

Staff Report: Mason Steffen

General Information:

Legal Description – N590.31' E590.31' NE¼ NE¼ Section 12 T103N-R51W Grand Meadow Township.

Present Zoning: A1 Agricultural

Existing Land Use: Residential Acreage

Parcel Size – 8.00 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow 4,504 square feet of residential building area on the subject property. In 2016, this property was approved for a conditional use permit to allow 2,184 square feet of accessory building area, and at that time this permit was necessary due to the zoning ordinance only allowing 1,200 square feet of accessory building area. However, the 12'x 20' accessory building that was built in conjunction with the conditional use permit in 2016 was destroyed by the severe storms in May of 2022. Therefore, there is currently only one detached accessory building on the property, which is a 36'x 54' pole shed. Finally, this request would allow the petitioner to replace the destroyed shed with a 40'x 64' accessory building.

On September 1, 2022, staff conducted a site visit of the subject property and the surrounding area. The property is located at the intersection of 466th Avenue and 251st Street, and there are two neighboring residential acreages to the subject property. The neighboring property to the south is an approximately 3.5-acre parcel that was approved for 4,302 square feet of accessory building area in 2021. Therefore, the proposed size of the accessory building is generally compatible with the other properties and uses in the general vicinity.

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 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 residential acreages. There should 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, which is mostly farmland and large residential acreages.

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 another 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.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-68 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 4,504 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) The building shall not to be used for commercial uses or as a dwelling at any time.
- 5) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit is required prior to construction of the accessory building.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the



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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 Randall and seconded by Commissioner Barth to **approve** Conditional Use Permit #22-68. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-68 – Approved



ITEM 6. CONDITIONAL USE PERMIT #22-69 to allow a Manufactured House on the property legally described as Tract 2 Dunker's Addition SE¼ SW¼ Section 31 T103N-R50W Lyons Township.

Petitioner: Lori Menke

Land Owner: Same

Location: Approximately 3 miles northwest of Crooks

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 2 Dunker's Addition SE¼ SW¼ Section 31 T103N-R50W Lyons Township

Present Zoning – A1 Agricultural

Existing Land Use – Vacant Acreage

Parcel Size – 4.58 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject property is a rural acreage site approximately one half mile west of the curved intersection of County Highways 143 and 126. The petitioner is requesting to place a manufactured dwelling on the property, and this request requires a conditional use permit.

The petitioner submitted a proposed layout of the property with the manufactured dwelling with a driveway and septic location. The petitioner has not picked out a specific manufactured dwelling model. Trees have already been planted around the property and provide a shelter belt and visual screening from nearly all directions. The petitioner explained to staff during application time that her intent is to live in the manufactured home temporarily until a stick frame home can be constructed. A timeline for construction for the stick frame dwelling is unknown, and may take several years.

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.

The property is located on a rural acreage site within the county. The subject lot is large and contains an existing grove of trees on three sides of the property. A manufactured home will not have significant effect of other nearby residential neighbors. The property has a building eligibility available. The building eligibility can be used for a stick built structure without the CUP process.

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

The proposed property is located on a rural acreage site within Minnehaha County. Many of the building eligibilities in the area are already developed. As a single family dwelling within an agricultural area, a Right-To-Farm notice covenant will be required prior to the placement of the



mobile home. This is designed to notify prospective property owners of some of the less desirable parts of living in an agriculturally productive area.

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

The property is accessed off of the township road 256th Street. A driveway approach already exists. The petitioner will be responsible for extending any needed utilities at their expense.

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

Off-street parking will be met when the manufactured dwelling is placed. The site plan includes a proposed driveway with an enlarged end available for parking.

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 placement of a manufactured home should not create any offensive odors, fumes, dust, noise, vibration, or lighting. The property must comply with the public nuisance ordinance.

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

The health, safety and general welfare should not be negatively affected by the proposed manufactured home. The manufactured home will comply with density zoning.

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 #22-69 with the following conditions:

- 1.) A building permit must be obtained prior to the placement of the mobile home.
- 2.) Each section of mobile home must bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.
- 3.) Prior to the issuance of a building permit, an onsite wastewater permit must be issued by the Minnehaha County Planning and Zoning Department.
- 4.) The manufactured home must comply with all requirements of Article 12.06 (C). of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 5.) Prior to the issuance of a building permit, a Right-to-Farm Notice Covenant must be filed on the deed with the Register of Deeds.

Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Barth to **approve** Conditional Use Permit #22-69. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-69 – Approved



ITEM 7. CONDITIONAL USE PERMIT #22-70 to amend Conditional Use Permit #19-32 to include the property legally described as Tract 5 Krell's Addition SE¼ SE¼ Section 36 T101N-R51W Wall Lake Township within the Blue Barn Event Facility located on Tract 3 Krell's Addition (Ex. H-1) SE¼ SE¼ Section 36 T101N-R51W Wall Lake Township.

Petitioner: Blue Barn LLC.

Land Owner: Same

Location: 46594 268th Street

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 3 Krell's Addition (Ex. H-1) & Tract 5 Krell's Addition SE¼ SE¼ Section 36 T101N-R51W Wall Lake Township.

Present Zoning: C Commercial

Existing Land Use: Event Facility & Office Building

Parcel Size – 18.57 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting to amend Conditional Use Permit #19-32 to expand the existing Blue Barn event facility to include adjacent commercially zoned property. The Blue Barn event facility has had several requests before the Planning Commission since the property was rezoned to C Commercial and the original permit for the event facility was approved in 2015. In 2018, the petitioners requested approval to allow for an additional event building on the subject property, which was also approved by the Planning Commission. Finally, in 2019 the conditional use permit was amended again to allow for firework displays during the 9-day firework season, and to extend the hours of operation from 12 am to 1 am on New Year's Eve and New Year's Day.

Approval of this request would allow the petitioners to expand their existing operation into the commercial building that is located on the property to the southeast of their existing operation. It is also the petitioner's intent to eventually combine this 1.52 acre parcel with their existing 17.05 acre parcel, so that they may use the same liquor license for the whole operation. Additionally, the current use of this building is as a photo studio and office that has been in operation since 2017, so the conversion to an event facility should not have an overly negative impact on the surrounding area. The petitioners have also stated that this new event building will allow them the opportunity to host smaller scale events, and that they will install a privacy fence between this property and the residential property to the east. Furthermore, the petitioner's intent is to change the access for this property, so that their current event buildings and the new event building are all accessed from the same driveway.

On September 1, 2022, staff conducted a site visit of the subject properties and surrounding area. This specific area of the county has a mix of land uses from commercial, residential, and agricultural uses. The two properties involved with this request are the only commercial properties in the immediate area, but the property directly north is the Wild Water West



Recreation Facility. The remaining land in the surrounding area is either residential or agricultural in use, and this includes the petitioner's own residential acreage immediately southwest of the event facility location. Finally, the expansion of an existing commercial use onto an adjacent commercial property is generally compatible with the surrounding area, especially given that there have not been any issues with the current operation that has operated for several years.

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.

Allowing the petitioners to expand their operation into the existing commercial structure should not have a negative effect on the use and enjoyment of other properties in the surrounding area. The petitioner has stated that they will be constructing a privacy fence between the subject property and the closest adjacent residential property, which will limit the concern of this property becoming a nuisance.

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

The proposed land use of an event facility on an existing commercial property is unlikely to effect the future land use in the area. Most of the vacant land surrounding the subject property is currently being used for agricultural purposes, and any new residential development will have to follow county density zoning standards.

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

The petitioner already has utilities and drainage in place with the existing buildings on the subject properties. Also, the access to the new event facility will be updated to follow the existing driveway for the Blue Barn event facility, and this will allow for more streamlined access to the operation as a whole.

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

The zoning ordinance requires a minimum of 1 parking space for every 100 square feet of gross floor area for recreation facilities, and this means that the new event facility will be required to provide at least 26 parking spaces. The petitioner has stated that the current parking lot for the photo studio on the subject property will be expanded to the west, and will be connected to the driveway for the existing event facilities to the north. Finally, the proposed size of the parking lot will be large enough to meet the minimum parking space requirement.

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.

Due to the nature of the proposed use for a wedding and corporate event facility, there will be nuisances between surrounding land uses. At a minimum, the petitioner shall be required to provide fully cutoff and fully shielded lighting, dust control on gravel driving surfaces, and opaque screening from the adjacent residentially-used property. The petitioner has stated that it is their intention to build a privacy fence between the subject property and the residential property



to the east.

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

The proposed expansion into an existing commercial building is unlikely to create additional health, safety, or welfare concerns as long as the recommended conditions are met by the petitioners. Additionally, the proposed use of an event facility has existed in the two buildings directly north for several years without issue to the public. Finally, the subject property is located just outside the Transition Area with the city of Sioux Falls, as designated in the 2035 Envision Comprehensive Plan, but the property is already zoned for commercial uses with other similar uses in the area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-70 with the following conditions:

- 1) That CUP #22-70 shall allow a banquet and event facility.
- 2) That the property shall adhere to the submitted site plan dated 8-30-2022.
- 3) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 4) That a set of plans certified by a registered professional engineer be submitted for review and approval prior to the building permit(s) being issued for all buildings.
- 5) That the applicant shall comply with Section 15.04 Minimum Improvement and Maintenance Standards of the 1990 Revised Zoning Ordinance for Minnehaha County for all driveways, parking lots, and loading/unloading areas.
- 6) All applicable gravel driveways and parking areas shall have dust control product applied a minimum of once a year.
- 7) No outside storage shall be allowed at any time.
- 8) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 9) The hours of operation for the public will be between 8:00 am and 12:00 am (midnight). Outdoor events and activities shall be limited to the hours of 9:00 am to 9:00 pm. The hours of operation for New Year's Eve and New Year's Day for the public shall be between 8:00 am and 1:00 am.
- 10) Fireworks shall be allowed during the 9-day fireworks season until 11:00 pm.
- 11) That the Planning Department reserves the right to enter and inspect the banquet and event facility at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Barth to **approve** Conditional Use Permit #22-70. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-70 – Approved



Regular Agenda

ITEM 8. CONDITIONAL USE PERMIT #22-71 to allow a Bed & Breakfast Establishment on the property legally described as the N25' Vacant Access Road Lying Between Tracts 6 & 33 & W½ Vacant Access Road & Tracts 5 & 6 Lot 7 Bowman's Subdivision Section 21 T101N-R51W Wall Lake Township.

Petitioner: Jacqueline Thoms

Land Owner: Jacqueline Thoms, Cynthia Scott, & W.E. (Bud) Thoms

Location: 26559 East Shore Place

Staff Report: Kevin Hoekman

General Information:

Legal Description – N25' Vacant Access Road Lying Between Tracts 6 & 33 & W½ Vacant Access Road & Tracts 5 & 6 Lot 7 Bowman's Subdivision Section 21 T101N-R51W Wall Lake Township.

Present Zoning – RR Rural Residential

Existing Land Use – Residential

Parcel Size – .32 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to utilize the existing house on this property for short term rentals such as what is done through the Airbnb website. Minnehaha County has classified such use as a bed and breakfast which requires a conditional use permit.

The location of this property is on the east side of Wall Lake. East Shore Place is the development road connecting approximately 20 houses and cabins on the east side of the lake. The petitioner owns a collection of five parcels adjacent to each other with a house and a cabin. This permit request is only for a bed and breakfast operation within the house located at 26559 East Shore Place. This particular permit request is also related to conditional use permit #22-72 where the property owners are requesting to replace the cabin at 26557 East Shore Place with a manufactured home and operate a short term rental out of the mobile home. Even though these permits are related, both this permit request and CUP #22-72 will be evaluated separately.

The petitioner submitted a detailed narrative for how the proposed bed and breakfast will operate. This is not the first short term rental that the petitioner has operated. She explained in the narrative that the house is large enough to accommodate 4 to 6 people and that a list of specific rules apply to guests in the house.

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.

The property is located within a lakeside subdivision of houses and cabins. Short term rentals



such as this proposal, are generally compatible with residential sites because traffic is low and the number of guests are limited. The use is easily converted back into a single family dwelling if the property owner wished to stop having bed and breakfast guests. The property has dedicated parking areas so that no parking on the street is needed or allowed.

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

Many of the properties on East Shore Place are fully developed with single family dwellings and lake cabins. Newer development typically happens in the form of large house additions or house replacements rather than new houses on vacant lots. The operation of a bed and breakfast in the form of a short term rental should not have any effect on future development in the area.

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

The property shares a driveway with the cabin to the north; this is the cabin requested for replacement in CUP #22-72. Both sites have separate parking available for vehicles. Since there is an existing house, the utilities and drainage will not change with the proposed use.

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

The property has a two stall garage and sufficient driveway space for off –street parking.

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 activities of a short term rental/bed and breakfast are similar to those within a single family dwelling. The operator explained in the narrative that AirBnB allows some screening of customers. The operator has the ability to deny customers who have a record of bad behavior. A list of rules are presented in the narrative as well.

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

The proposed use should have minimal to no negative effect on the public. Short term rentals such as proposed, allow property owners to supplement income and utilize space that may otherwise not be needed or fully utilized.

To protect the guests who stay at the bed and breakfast, the house must have functioning smoke and carbon monoxide detectors as required by the building code as adopted by Minnehaha County.

In order to protect the public, the petitioner should maintain a list of guests who stay at the bed and breakfast. The list shall be maintained and available for law enforcement if needed.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-71 with the following conditions:

- 1.) The house must have functioning smoke and carbon monoxide detectors as required by the building code as adopted by Minnehaha County.
- 2.) The proprietor must obtain any applicable South Dakota Sales Tax that is required.



- 3.) The proprietor must obtain the required Lodging License with the South Dakota Department of Health.
- 4.) That the proprietor shall maintain a guest list and make such list available at the request of law enforcement.
- 5.) The establishment shall be limited to a total of six guests of the same family at one time.
- 6.) Guests shall have at least one dedicated off street parking space.
- 7.) That the Planning & Zoning Department reserves the right to enter and inspect the bed and breakfast establishment at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony

Kevin Hoekman, County Planning staff, presented the staff report and recommendation. Commissioner Ode asked what the definition of short term rental was. Kevin responded that short term rental is not defined within the ordinance; therefore, the proposed use of the property for AirBnB rentals is classified as a bed & breakfast.

Jaki Thoms, 2860 E Old Orchard Trail, spoke as the petitioner for the proposal. She explained that her son would be listening to the hearing on her phone since he was unable to attend. She then read the letter she submitted prior to the hearing. Jaki Thoms presented a detailed power point presentation regarding the history and operations of AirBnB. She included details on how she intends to monitor and operate the AirBnB on this property and the property where CUP #22-72 is proposed. Commissioner Ode asked if the house was handicap accessible. Jaki responded that the existing house and the proposed manufactured home on the other site will both be handicap accessible.

Duane Boice, 26575 East Shore Place, explained that his experience over the years with short term rentals at Sturgis and the Black Hills have renters who treat the neighborhoods like a giant party. He noted that the county should pay attention to the algae growth in the lake, the poor condition of the private roads, and the sewer system. He noted that the AirBnB might be a good addition as long as rules are honored.

Margret Brevier, 46271 Wall Lake Place, presented a petition with names and signatures of many residents on the east side of the lake who are opposed to the proposed bed & breakfast. She raised a concern about the sewer system and the likelihood that renters will not share in the concern for water overuse or flushing things that should not be flushed. She raised concern over the road conditions and the added traffic that a bed and breakfast will bring. She noted that many people already drive down the roads and turn around in yards and driveways of residents in the area. Margret continued that there will be safety concerns with unknown people with a simple background check. She noted that a real bed and breakfast has the property owner live on the grounds. That way people follow rules better. She added that a manufactured home will lead to more property owners wanting to put up another home on their lots. She finished that the proposed bed and breakfast and a manufactured home will reduce property values and have problems with the single family residential homes.



Lance Bergeson, 26527 E Shore Place, stated that there is a difference how people will act when the owner is present on the property. He noted that the neighborhood is quiet because many people are old. The definition and expectation of a part is different for older people. A disturbance would exist, even if only a small percentage of renters are problematic.

Todd Schrick, 26569 East Shore Place, stated that he inherited a cabin on the lake a couple houses south of the proposed bed and breakfast. He explained that people generally don't want to live next to a rental house.

Jaki Thoms responded that many issues were addressed in in the power point. She reiterated that she has the right to choose who can stay on the site. She did not see how renters will use the sewer more than someone living in the house full time. People driving by may be real estate agents looking to buy/sell houses in the area.

Commissioner Barth asked how lots are grandfathered in to allow houses on small lots. Kevin Hoekman responded that it is true that many of the lots in the area are grandfathered in, but since there is a central sewer system the minimum lot size is also considerably smaller than the typical one acre lot requirement. Commissioner Barth asked if a structure is removed from the property can it be rebuilt. Kevin Hoekman responded that a house can be replaced on a lot.

Commissioner Barth stated that the Wall Lake beach has problems despite security and cameras at the park. He explained that this item will likely get appealed and argument will be heard by the County Board in a hopefully abbreviated versions.

Commissioner Barth motioned to deny the conditional use permit. The motion died for lack of a second.

Commissioner Randall stated that a motion would be good for discussion and motioned to deny the conditional use permit request #22-71. Commissioner Barth Seconded the motion.

Discussion

Commissioner Randall noted that this decision is tough and will likely be appealed. She explained that she has experience herself staying in AirBnBs. She further explained to the audience that the request is for a conditional use permit and not to rezone the property. As a conditional use permit, there will be conditions. If the conditions are not met the county can take away the permit.

Action

A roll call vote was taken on the motion to deny conditional use permit #22-71. Commissioners Barth, VanDerVliet, Randall, and Duffy voted to for the motion to deny conditional use permit, and Commissioners Ralston, Ode, and Mohrhauser voted against the motion. The motion to deny conditional use permit #22-71 was approved with a vote of 4 ayes and 3 nays.

Conditional Use Permit #22-71 – Denied



ITEM 9. CONDITIONAL USE PERMIT #22-72 to allow a Bed & Breakfast Establishment and a Manufactured House on the property legally described as the W½ Vacant Access Road & Tract 4 Lot 7 Bowman's Subdivision and the E½ Vacant Access Road & Tract 35 Lot 7 Bowman's Subdivision all in Section 21 T101N-R51W Wall Lake Township.

Petitioner: Jacqueline Thoms

Land Owner: Jacqueline Thoms, Cynthia Scott, & W.E. (Bud) Thoms

Location: 26557 East Shore Place

Staff Report: Kevin Hoekman

General Information:

Legal Description – W½ Vacant Access Road & Tract 4 Lot 7 Bowman's Subdivision and the E½ Vacant Access Road & Tract 35 Lot 7 Bowman's Subdivision all in Section 21 T101N-R51W Wall Lake Township.

Present Zoning – RR Rural Residential

Existing Land Use – Residential

Parcel Size – .3 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to replace an existing dwelling with a manufactured home and use the manufactured home for short term rentals such as what is done through the Airbnb website. Each use is related to the same property, and the planning commission may approve one aspect, both, or neither aspect if concerns are raised about the manufactured home or the bed and breakfast request.

The location of this property is on the east side of Wall Lake. East Shore Place is the development road connecting approximately 20 houses and cabins on the east side of the lake. The petitioner owns a collection of five parcels adjacent to each other with a house and a cabin. This permit request is to replace the cabin with a manufactured house and have a bed and breakfast operation within the manufactured house located at 26557 East Shore Place. This particular permit request is also related to conditional use permit #22-71 where the property owners are requesting to operate a short term rental in the adjacent house. Even though these permits are related, both this permit request and CUP #22-71 will be evaluated separately.

The petitioner submitted a detailed narrative for how the bed and breakfast will operate, and why the cabin is in need of replacement. The narrative for the bed and breakfast operation is largely the same as what was submitted for CUP #22-71. The proposed manufactured home is large enough to accommodate up to six people. Since the manufactured dwelling has three bedrooms it is possible more than six people may be able to stay in the house. Staff recommends a limit of nine people to stay at any one time, as three can stay per bedroom.

Photos of the 28 feet by 54 feet dwelling are included with the petitioner's packet for review. The planned mobile home unit will be brand new model with a design intended for lakefront type



properties.

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.

The property is located within a lakeside subdivision of houses and cabins. Operating a short term rental, such as this proposal, should be compatible with residential sites because traffic is low and the number of guests are limited. The design of the proposed manufactured home is made to look like a lake house with many windows towards the lake. The dimensions of the proposed manufactured home is wide and short in order to appear more like a stick framed house and fit the narrow lot of the property. A large accessory building and many trees on the south side of the property should prevent most views of the proposed manufactured home and bed and breakfast. The manufactured home will replace a deteriorating and largely unusable cabin. The property has dedicated parking areas so that no parking on the street is needed or allowed.

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

Many of the properties on East Shore Place are fully developed with single family dwellings and lake cabins. Newer development typically happens in the form of large house additions or house replacements rather. The operation of a bed and breakfast in the form of a short term rental should not have any effect on future development in the area. The placement of a manufactured home will have the greatest potential effect on the neighbor directly north where the manufactured home will be most seen. The manufactured home selected by the applicant is designed to blend with other small lake front type cabins.

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

The property shares a driveway with the house to the south; this is the other house requested for a bed and breakfast in CUP #22-71. Both sites have separate parking available for vehicles. Utilities are available for the existing house and can likely be moved over to the proposed manufactured dwelling. The manufactured dwelling will not significantly change the topography and drainage of the lot.

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

The property has a long driveway with designated off street parking.

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 activities of a short term rental/bed and breakfast are similar to those within a single family dwelling. The operator explained in the narrative that AirBnB allows some screening of customers. The operator has the ability to deny customers who have a record of bad behavior. A list of rules are presented in the narrative as well. The manufactured home will appear like a single family dwelling.

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



The proposed bed and breakfast and manufactured home placement should have minimal to no negative effect on the public. Short term rentals such as proposed, allow property owners to supplement income and utilize space that may otherwise not be needed or fully utilized.

To protect the guests who stay at the bed and breakfast, the house must have functioning smoke and carbon monoxide detectors as required by the building code as adopted by Minnehaha County.

In order to protect the public, the petitioner should maintain a list of guests who stay at the bed and breakfast. The list shall be maintained and available for law enforcement if needed.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-72 with the following conditions:

- 1.) The house must have functioning smoke and carbon monoxide detectors as required by the building code as adopted by Minnehaha County.
- 2.) The manufactured home must meet all required setbacks and all requirements of Article 12.06 (C) of the County Zoning Ordinance.
- 3.) The proprietor must obtain any applicable South Dakota Sales Tax that is required.
- 4.) The proprietor must obtain the required Lodging License with the South Dakota Department of Health.
- 5.) That the proprietor shall maintain a guest list and make such list available at the request of law enforcement.
- 6.) The establishment shall be limited to a total of nine guests of the same family at one time.
- 7.) Guests shall have at least one dedicated off street parking space.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the bed and breakfast establishment at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony

Kevin Hoekman, County Planning staff, presented the staff report and recommended conditions. Commissioner Mohrhauser asked if the manufactured home would be about the same size. Kevin Hoekman responded that the manufactured home will be about twice as large as the cabin.

Jaki Thoms, 2860 E Old Orchard Trail, explained the dimensions of the manufactured home will be eight feet wider and twenty feet longer than the cabin. The new home will meet setbacks.

Commissioner Barth asked if the proposed structure was a brand new motor home. Jaki responded that it is a 2023 model.

Margret Brevier, 46271 Wall Lake Place, spoke against the proposed manufactured home. She raised concern that allowing a manufactured home will lead to others wanting two homes on a lot. In addition, the manufactured home would become an AirBnB and create the same problems as discussed for CUP #22-71. She reiterated that it will cause problems with the sanitary sewer



district and that her petition she handed out earlier included 80% of the east side wall lake residents to be against the proposed bed and breakfast and manufactured home.

Lance Bergeson, 26527 E Shore Place, explained that this dovetails into the previous permit application and stated that he was not aware of any other manufactured home on the lake.

Duane Boice, 26575 East Shore Place, explained that there are a couple mobile homes on North Shore Place and that he finds that the neighborhood is not a perfect community. He explained several issues with neighbors in the area. He noted that he is not all for a bed and breakfast but if it is approved that there needs to be a way to contact people about the problem.

Christian Lauter, 3775 High View Drive Colorado Springs, spoke over a phone to address concerns. He is part owner of the property. He explained that everyone there shows that there is a community. He noted that a manufactured home carries a stigma, but the cabin will be replaced with something better. He lives in a manufactured home in Colorado and the home is worth \$650,000. Christian Lauter clarified that this structure will replace an existing structure. The plumbing issue is a big concern and he has methods to reduce potential issues with clogged sewer. He explained that the AirBnB will be discrete in the neighborhood. Noise will be monitored and can send notice to guests that noise is getting too loud. There will be 24/7 hotline from AirBnB available for neighbors if there is a problem.

Jaki Thoms explained that after ever guest she will be out at the site to clean. So she will be out at the site often.

Kevin Hoekman, County Planning staff, stated that the planning commission may approve one aspect or both the AirBnB and manufactured home since the conditional use permit has two parts.

The floor was closed for discussion.

Commissioner Barth commented that people make assumptions about others and it is not the case that everyone will be partying like the Sturgis Rally. He stated that the community could do a better job of maintaining their own sewer or move to a gated community.

Commissioner Ralston stated that there is often a fear of the unknown. The petitioner is making an effort to make the AirBnB work. And there are other manufactured homes on the lake.

Action

Commissioner Ralston motioned to approve conditional use permit #22-72 with the recommended conditions. Commissioner Ode seconded the motion. The motion passed with five votes in favor and one vote against the motion. Commissioner VanDerVleit voted against the motion.

Conditional Use Permit #22-72 – Approved



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

SEPTEMBER 26, 2022

Old Business

None.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Mohrhauser. The motion was approved with 6 votes in favor and 0 votes against the motion.

The meeting was adjourned at 9:10 p.m.