



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
June 26, 2023**

A meeting of the Planning Commission was held on June 26, 2023 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Mike Ralston, Ryan VanDerVliet, Adam Mohrhauser, and Joe Kippely.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, & 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 8:07 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 no items 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 by Commissioner Ralston and seconded by Commissioner VanDerVliet. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

ITEM 1. Approval of Minutes – May 22, 2023

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner VanDerVliet to **approve** the meeting minutes from May 22, 2023. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.



Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #23-22 to allow a Government Training Facility on the properties legally described as Bollinger's Tract 1 W½ NE¼ & Tract 1 & 2 E½ NW¼ & Tract 1 W½ NE¼ all in Section 29 T103N-R47W Palisade Township.

Petitioner: City of Garretson

Property Owner: Same

Location: Approximately ½-mile south of Garretson, along 254th Street

Staff Report: Mason Steffen

General Information:

Legal Description – Bollinger's Tract 1 W½ NE¼ & Tract 1 & 2 E½ NW¼ & Tract 1 W½ NE¼ all in Section 29 T103N-R47W Palisade Township.

Present Zoning – A1 Agricultural

Existing Land Use – Vacant Lot

Parcel Size – Approximately 15.60 Acres

Staff Report: Mason Steffen

Staff Analysis: The Garretson Fire Department is requesting to allow a government training facility on the subject property in order to train the members of their fire department. Currently, this property is used by the City of Garretson to collect wood materials that are burned periodically, and they would now like to train firefighters on the property as well. The trainings that would take place on the property include live fire training, search and rescue, forcible entry training, etc.

On June, 7, 2023, staff conducted a site visit of the subject property and surrounding area. The property is located approximately half a mile south of Garretson, directly to the east of the Garretson golf course. This site is accessed via a long driveway, and is bordered by railroad tracks to the west and cropland to the east. Therefore, access to the site will be restricted by these existing barriers, and there is also a gate at the entrance of the site. Finally, the property is fairly separated from the nearby residences, and therefore any smoke that leaves the site should not have an overly negative impact on these nearby residents.

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.

While burns are taking place, the fire and smoke from the property may impact the enjoyment of the neighboring properties. However, the nearest residential use to the proposed location will be over 1,500 feet to the west, and therefore the temporary nuisance produced by the smoke should not overly impact the enjoyment of residential properties in the area. Finally, the property is directly adjacent to the Garretson golf course and could impact the enjoyment of this use, and therefore the petitioner should be required to notify the surrounding property owners as to when burns will take place on the site.



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

The construction of the proposed building for the purpose of training firefighters should have no impact on future construction and development in the surrounding area. Currently, the land around the subject property is still mostly used for agriculture, and this proposed government training facility will not impact any future agricultural development in the area.

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

The property already has access onto 254th Street via a half-mile long driveway. There should not be any other infrastructure requirements for this type of operation, and the drainage on the site will not be altered by the construction of the training building.

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

Any parking that occurs on this site will be temporary and there should not be a need to provide permeant parking spaces for this operation. Additionally, the site is large enough to accommodate any temporary parking that is needed while the site is in use.

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.

Given the nature of this facility, there is a likelihood that nuisances will be created by the smoke released from burns that take place on the property. However, these nuisances will only be for short periods of time, and with the large distance to houses in the area, the smoke should not overly impact the public. Also, the petitioner should be required to notify surrounding property owners as to when burns will take place on the site, which is consistent with other similar approved uses in the county. Finally, no other nuisances should be created from this proposed training facility.

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

Allowing the Garretson Fire Department to train firefighters on this site will generally benefit the health, safety and general welfare of the public. Allowing a government training facility on this vacant agricultural lot that is not being used as productive cropland will not impact the goals and policies of the 2035 Envision Comprehensive Plan.

Recommendation: Staff recommends **approval** of Conditional Use Permit #23-22 with the following conditions:

- 1) That the applicant shall obtain a building permit for the construction of any buildings on the property.
- 2) That the building to be constructed on the property shall only be used as a training building for the Garretson Fire Department, and no other uses will be allowed within the structure.
- 3) That the applicant is required to post a sign on the property, at least one week prior to any scheduled training dates where a burn will take place.
- 4) That the applicant is required to coordinate dates of burns with the adjacent golf course.
- 5) That no parking shall be allowed within the public right-of-way at any time.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

JUNE 26, 2023

- 6) That the Planning & Zoning Department reserves the right to enter and inspect the site 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 Ralston and seconded by Commissioner VanDerVliet to **approve** Conditional Use Permit #23-22. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-22 – Approved



ITEM 3. CONDITIONAL USE PERMIT #23-23 to exceed 3,600 square feet of accessory building area (requesting 6,764 square feet) on the property legally described as Munce Tract Lot 1 NE¼ NE¼ Section 9 T101N-R51W Wall Lake Township.

Petitioner: Eric Bartmann

Property Owner: Same

Location: 46281 263rd Street, approximately 2.5 miles south of Hartford

Staff Report: Mason Steffen

General Information:

Legal Description – Munce Tract Lot 1 NE¼ NE¼ Section 9 T101N-R51W Wall Lake Township

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 4.00 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow 6,764 square feet of residential building area on the subject property. This property was approved in 2021 for 4,484 square feet of accessory building area via a conditional use permit. Now, the petitioner is requesting more square footage in order to tear down an existing barn and build a new building. This new building will be a 48' x 76' detached accessory building that will be built in the same general location as the existing barn.

On June 7, 2023, staff conducted a site visit of the subject property and the surrounding area. The property is located near the intersection of 263rd Street and 463rd Avenue, and there are several other large residential acreages to the south of this property. Also, the nearest neighboring property to the south has a shelter belt of trees along the north property line that will help screen the building. Finally, the addition of a new detached accessory building in the same general location as a previous barn on the property will have a minimal impact to the surrounding acreages.

Conditional Use Permit Criteria:

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

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

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

The proposed site of the accessory building is located in an area that is still primarily used for agriculture, and a majority of the neighboring property is farmland with a few 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 #23-23 with the following conditions:

- 1) That the building location shall adhere to the submitted site plan.
- 2) That the total area of all accessory buildings may not exceed 6,764 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That the building shall not to be used for commercial uses or as a dwelling at any time.
- 5) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit is required prior to construction of the accessory building.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

JUNE 26, 2023

Action

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner VanDerVliet to **approve** Conditional Use Permit #23-23. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-23 – Approved



ITEM 4. CONDITIONAL USE PERMIT #23-24 to exceed 3,600 square feet of accessory building area (requesting 12,396 square feet) on the properties legally described as Tract 1 & 2 Devitt Addition SE¼ Section 11 T101NR48W Split Rock Township.

Petitioner: Chris & Julie Nelson

Property Owner: Same

Location: 26353 483rd Avenue, approximately 1 mile southeast of Brandon

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 1 & 2 Devitt Addition SE¼ Section 11 T101N-R48W Split Rock Township.

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 13.00 Acres

Staff Report: Mason Steffen

Staff Analysis: The subject property for this request is two separate parcels that are both owned by the petitioner and are being considered as one property for this request. Currently, there is one dwelling on the north parcel and three detached accessory buildings between the two parcels that total 3,876 square feet. The petitioner is proposing two new accessory buildings, a 36' x 40' building on the north parcel and a 59' x 120' building on the south parcel. The 36' x 40' building will be an additional detached accessory building for the existing dwelling on the north parcel. The 59' x 120' building will be built as a detached accessory building on the south parcel, but is expected to be converted into a single-family dwelling at a later date. Therefore, at this time the petitioner is requesting conditional use permit approval to allow 12,396 square feet of accessory building area, so that they may build both of the buildings prior to a dwelling being constructed on the south parcel.

On June 7, 2023, staff conducted a site visit of the subject property and surrounding area. Most of surrounding land is agricultural in use, but there are three other residential acreages in the general vicinity of the subject property. Given that the majority of the land in the area is still agriculture in use, the large square footage request for this property should not overly impact these surrounding properties. Finally, since the southern parcel has an additional building eligibility, there will not be an issue if the larger accessory building is eventually converted into a dwelling.

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 buildings. Finally, if the larger



building is converted into a dwelling, it will have minimal impact on the surrounding area given that the south parcel is an eligible building site for a dwelling.

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 buildings 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. Finally, the requested square footage is fairly large, but given the rural natural of area and the fact that the larger building is expected to be converted into a dwelling, this should not impact the development of the surrounding properties.

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. Currently, both new buildings would be accessed via the existing driveway for the dwelling. If the 59' x 120' building is converted into a dwelling and an additional driveway is needed, the petitioner would need to contact Split Rock Township to obtain a driveway permit for an additional driveway. The drainage on the site should not be negatively impacted by the addition of the accessory buildings on the property.

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

The proposed site of the accessory buildings is large enough to accommodate the off-street parking requirement. The new accessory buildings 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 buildings 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 buildings. The proposed use will fit within the uses of other properties in the rural area. Finally, the south parcel has an additional building eligibility, so if the 59' x 120' building is converted into a dwelling, it will not impact the goals of the comprehensive plan or density zoning.

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

- 1) That the building locations shall adhere to the submitted site plan.
- 2) That the total area of all accessory buildings may not exceed 12,396 square feet.



- 3) That the buildings shall be an accessory use to the continued use of the property as a residential lot.
- 4) That the buildings shall not to be used for commercial uses at any time.
- 5) That the 36' x 40' building shall not be used as a dwelling at any time.
- 6) That the 59' x 120' building may be converted into a dwelling, provided that there is an available building eligibility on the parcel at the time of conversion.
- 7) That a building permit shall be required prior to construction of the accessory buildings.
- 8) That an additional building permit shall be required to convert the 59' x 120' accessory building to a dwelling, prior to occupancy of the structure as a dwelling.
- 9) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 10) That the Planning & Zoning Department reserves the right to enter and inspect the accessory buildings 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 Ralston and seconded by Commissioner VanDerVliet to **approve** Conditional Use Permit #23-24. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-24 – Approved



ITEM 5. CONDITIONAL USE PERMIT #23-25 to exceed 3,600 square feet of accessory building area (requesting 18,717 square feet) on the property legally described as Johnson's Addition (Ex. Tract 1 Haug's Addition) S½ SE¼ Section 2 T102N-R50W Benton Township.

Petitioner: Clayton Haug

Property Owner: Rose Haug

Location: 47084 257th Street

Staff Report: Mason Steffen

General Information:

Legal Description – Johnson's Addition (Ex. Tract 1 Haug's Addition) S½ SE¼ Section 2 T102N-R50W Benton Township

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 23.00 Acres

Staff Report: Mason Steffen

Staff Analysis: The subject property is located ¼-mile east of Crooks along 257th Street, and already has several large accessory buildings. Additionally, this property was approved for 15,500 square feet of accessory building area via a conditional use permit in 2016. For this request, the petitioner would be removing two existing accessory buildings from the property and adding a 50' x 86' building in the same general location as the two existing buildings. Finally, the total square footage of the remaining buildings plus this additional 50' x 86' building would be 18,717 square feet, which exceeds the approved 15,500 and therefore this conditional use permit is required.

On June 7, 2023, staff conducted a site visit of the subject property and the surrounding area. There are several other acreages in the immediate area, including a farmstead across the road that also has several large accessory buildings. Additionally, the proposed location for the accessory building is setback over 500 feet from the road and is screened by several trees. Therefore, the proposed accessory building should not have an overly negative impact on the surrounding acreages or farmland.

Conditional Use Permit Criteria:

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

The removal of two accessory buildings and the addition of another accessory building on this property should have 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 subject property is located in an area east of Crooks that does have several residential acreages, but the remaining land in the area is still dedicated to agricultural uses. Therefore, approval of this request should not impact the normal and orderly development and improvement of the surrounding vacant farmland or 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 #23-25 with the following conditions:

- 1) That the building location shall adhere to the submitted site plan.
- 2) The total area of all accessory buildings may not exceed 18,717 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) The building shall not to be used for commercial uses or as a dwelling at any time.
- 5) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit is required prior to construction of the accessory building.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

JUNE 26, 2023

Action

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner VanDerVliet to **approve** Conditional Use Permit #23-25. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-25 – Approved



ITEM 6. CONDITIONAL USE PERMIT #23-28 to transfer two (2) building eligibilities from the SW¼ NE¼ and the NW¼ SE¼ to the NW¼ NE¼ and SW¼ SE¼ all in Section 5 T101N-R51W Wall Lake Township.

Petitioner: Rodney Hohn

Property Owner: Same

Location: Approximately 2 miles southwest of Hartford

Staff Report: Scott Anderson

General Information:

Legal Description – NE ¼ & the W ½ SE¼ all in Section 5 T101N-R51W Wall Lake Township

Present Zoning – A1 Agricultural

Existing Land Use – Farmland

Parcel Size – 244.41 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 2 miles southwest of Hartford near the intersection of 461st Avenue and 263rd Street. The applicant is requesting to move two building eligibilities. Both eligibilities are landlocked. One would be moved to the north and have access to 262nd Avenue and the other would be moved south and have access to 263rd Street. The area in which the building eligibilities are now located is used as cropland. The subject property is only 1 1/2 miles away from County Highway 151.

On June 2, 2023, staff conducted a site visit. There are several residences and a church located within 1 mile of the proposed location of the transfers.

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 the 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 Wall Lake Township. The siting of 2 building eligibilities 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 eligibilities. It is likely that rural water and electricity are already located in the ditch. There is already an approach onto the proposed building site. Wall Lake 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 the 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 #23-28 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 Wall Lake 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 Ralston and seconded by Commissioner VanDerVliet to **approve** Conditional Use Permit #23-28. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-28 – Approved



Regular Agenda

ITEM 7. REZONING #23-04 to rezone from the A-1 Agricultural District to the RR Rural Residential the property legally described as Tract 1 Schreur's Addition (Ex. Lot H-2) E½ Section 24 T103N-R49W Sverdrup Township.

Petitioner: Peter Bendorf

Property Owner: Same

Location: 25349 478th Avenue

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 1 Schreur's Addition (Ex. Lot H-2) E½ Section 24 T103N-R49W Sverdrup Township

Present Zoning – A-1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 15.00 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting to rezone the subject property from the A-1 Agricultural District to the RR Rural Residential District. The proposed area to be rezoned is currently a fifteen acre residential acreage with one single-family dwelling that is located along County Highway 121 (478th Avenue), and is approximately seven miles west of Garretson. Given that this rezoning is proposing a change to the RR Rural Residential Zoning District, if approved, it would allow for residential development and subdivision of the proposed property. Finally, the RR Rural Residential Zoning District has a minimum lot size of one acre, so this proposed rezoning would have the potential to add up to fifteen individual residential lots.

The site plan for this development is proposing a six-lot residential subdivision with each lot being approximately two acres in size. The site plan also indicates that these lots would be accessed via a new shared driveway off of the county highway, and this new access would need approval from the County Highway Department before development could occur. Additionally, since the proposed subdivision will contain more than four individual lots, if this rezoning is approved, the petitioner would then need to apply for a preliminary subdivision plan through the planning department. At that time, they would need to submit a more detailed subdivision plan that shows the lot sizes & dimensions, any access easements, a grading plan & contours, the location of the flood plain on the property, etc.

Planning staff has concerns with this request regarding density zoning and adding a cluster of residential properties in the agricultural production area of the county, where residential development should be limited to the available building eligibilities. Also, if this rezoning for a small parcel of land is approved, it could lead to similar requests across the county that do not comply with density zoning rules. There has been several instances in the recent past where the county has denied similar small lot rezonings like this request. This includes a request from last year, where a property owner requested to rezone their seven-acre acreage to the RR zoning



district, in order to create a five lot subdivision adjacent to the existing Songbird Acres subdivision near Hartford. Also in 2017, there was a request to rezone a twenty-acre acreage to the RR zoning district to allow for more dense development on a property that was only two miles north of Sioux Falls. Staff finds that this proposed rezoning shares similar issues with density zoning and spot zoning of small parcels as the two denied examples. Finally, the northeast corner of this property is also located within the 100-year flood plain, which could impact development on at least one of the proposed lots.

The Envision 2035 Comprehensive Plan for Minnehaha County includes the subject property within the agricultural production area of the county. The Envision 2035 Comprehensive Plan also states that the primary purpose of the agricultural production area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. Additionally, within the agricultural production area, residential development should continue to be limited in density to one residential building eligibility per forty acres. Furthermore, the two denied examples explained earlier were within the transition area for the city of Sioux Falls, and were still denied due to the lack of access to sanitary sewer and other concerns. Finally, this request does not meet these stated goals and objectives of the Envision 2035 Comprehensive Plan, and if approved, would encourage other similar requests that do not conform to density zoning.

Recommendation: Staff finds that the proposed rezoning is contrary to the goals and policies of the Envision 2035 Comprehensive Plan and recommends **denial** of Rezoning #23-04 to rezone the subject property from the A-1 Agricultural District to the RR Rural Residential District.

Public Testimony

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

The petitioner, Peter Bendorf of 25349 478th Avenue, Garretson, SD, came to the podium to address his proposal. Mr. Bendorf explained that the current access to the property is a temporary access that was installed when the adjacent highway bridge was rebuilt, and that the proposed access further to the south would avoid the low lying area on the property. Mr. Bendorf also commented that they have no issues with the requirement to develop a preliminary plan, and that as part of that plan, they would create a road maintenance agreement for the mutual access. Additionally, Mr. Bendorf explained that the land directly adjacent to the highway will be dedicated as a community park/garden area, which will buffer the proposed residential lots from the low lying area and flood plain. Mr. Bendorf then went on to explain that he believes the request conforms to the 2035 Envision Comprehensive Plan because the property is already not being used as productive agricultural land, and because it has access to Minnehaha Community Water and Sioux Valley Electric services. Finally, Mr. Bendorf explained that the previously denied examples should not impact this request, and that this proposal has unique features that separate it from the examples presented by staff.

Commissioner Mohrhauser asked the petitioner why he is proposing this development if he currently lives on the property. Peter Bendorf explained that this is a beautiful area, but that he is selling the property, and that he has received interest from many people who would love to build



houses in the area. Therefore, he explained that this proposal would allow for a quiet subdivision of houses in the area, and would also give him a better return when selling the property.

Brain Siemonsma, of 25391 478th Avenue, Garretson, SD, spoke to the commission regarding his issues with the proposal. Mr. Siemonsma stated that he agrees with the petitioner that this is a quiet area, and that he would like to keep it that way and not add additional housing. Additionally, Mr. Siemonsma stated that he has concerns with the condition of the property, including several unfinished and unsightly projects, and that if this rezoning is approved the condition of the property will only get worse. Finally, Mr. Siemonsma stated that there is already a county owned park within a half-mile of the property, and that this request would add more traffic to an area that currently has enough traffic.

Wayne Albers, of 25424 478th Avenue, Garretson, SD, stated that the condition of the property has not changed since the petitioner bought the property. Mr. Albers also stated that the petitioner is looking to sell the property so that it can become someone else's problem.

Al Sabers, of 25432 478th Avenue, Garretson, SD, stated that the petitioner only wants to sell the land and bail out, and questioned why the commission should give the petitioner additional building eligibilities for more housing. Mr. Sabers also commented that if he wanted to add an additional house on his property, he would have to pay a large sum of money per eligibility to a neighboring property owner, and that he does not see why the petitioner should essentially be given additional building eligibilities.

Karen Nielsen, of 1114 Wyland Drive, Dell Rapids, SD, commented to the commission that the subject property used to be an active farm, and that she is concerned that the productive farm ground in the county is being overtaken by houses. Mrs. Nielsen also questioned if this proposal would set a precedent, and if approved, would it allow anyone who owns multiple acres to sell off land for further development. Finally, Mrs. Nielson stated that Minnehaha County has productive farm ground that is rare in the United States, and that the farmers need to be able to farm this productive land.

The petitioner returned to the podium to address the concerns from the neighbors, and stated that he would disagree that no work has been done on the property. Mr. Bendorf also commented that the pallet fence across the driveway is to keep his dogs within the property, which he sees as a benefit to the neighbors. Finally, Mr. Bendorf explained that if the proposal is approved, the property will not look the same, because the current buildings will be removed, and the new lots will have new single-family dwellings similar to other houses in the area.

Discussion

Commissioner VanDerVliet commented that he would maybe consider this request if it were closer to town, but that given the location of the property, he cannot support the request.

Commissioner Ralston asked planning staff about the 2035 Envision Comprehensive Plan, and if the density zoning rules for building eligibilities is also included in any ordinances. Scott Anderson, the County Planning Director, explained that staff uses both the 2035 Envision



Comprehensive Plan and the county zoning ordinances to make recommendations to the commission. Mr. Anderson also stated that residential development should be limited to areas where city services are available, and given that this proposal is not within any planned annexations areas it should be denied. Finally, Commissioner Ralston commented that he does not agree with this development and that he agrees with the denial recommendation.

Commissioner Kippley stated that the one building eligibility per forty acres has been a part of the county ordinances since 1983 and is hardwired into how Minnehaha County handles housing. Commissioner Kippley also commented that building eligibilities are a real asset to the people who own them, and that the commission needs to be aware of that when considering this request. Finally, Commissioner Kippley stated that he would like to see more guidance provided to developers on what is needed to get to an approval for this type of proposal, instead of always having to deny these types of requests.

Action

A motion was made by Commissioner VanDerVliet to recommend **denial** of Rezoning #23-04. The motion was seconded by Commission Mohrhauser. The motion was approved unanimously with 4 votes in favor and 0 votes against the motion.

Rezoning #23-04 – Denial Recommended



Old Business

Scott Anderson, the County Planning Director, provided an updated to the commission regarding the Zoning Text Amendment for transmission pipelines that was heard at the April planning commission meeting. Mr. Anderson explained that the item had been heard by the county commission at two of their meetings, and that the ordinance was amended several times from what was approved at the planning commission. Finally, Mr. Anderson stated that the most substantial change that occurred at the county commission meetings was that the proposed setback from dwellings, churches, and businesses was reduced from 750 feet to 330 feet.

Kevin Hoekman, of county planning staff, provided an updated for the complaint regarding the Garretson Gun Club, which was brought to the commission's attention at the May meeting. Kevin explained that he visited the property on June 9th and was given a tour of the gun ranges that are on site.

Dean Sands, of 25531 486th Avenue, Garretson, SD, addressed the commission regarding his concerns with the Garretson Gun Club, and stated that he has not heard another ricochet since the last meeting where he brought the issue to the commission. Mr. Sands also commented that it is his opinion that the best course of action would be to require the gun range to hire a professional range consultant to determine if the actions being taken are adequate to prevent ricochets.

Chuck Brown, the treasurer for the Garretson Gun Club, addressed the commission and stated that the main concern of the gun club is always safety, and that they have taken action to improve the range anytime they have received a complaint regarding ricochets. Mr. Brown also commented that even if a bullet from the range were to ricochet, given the existing berms and other safety measures, it does not mean that the bullet is leaving the property boundaries. Additionally, Mr. Brown explained that the gun club has recently installed a powder quartzite material to their backstops, which should help prevent ricochets from occurring. Finally, Mr. Brown stated that the current hours of operation for the gun club are more restrictive than what was set in the conditional use permit, and that they also do not want people shooting at the club after hours.

Steve Bruce, of 406 Valley Drive, Valley Springs, SD, explained to the commission that he is the president of the Garretson Gun Club and that safety is talked about at every one of their gun club meetings. Mr. Bruce also commented that they want to provide a safe place for people to shoot guns, so that people are not shooting guns in fields and causing ricochets all over the county. Finally, Mr. Bruce stated that the Garretson Gun Club is one of the nicest gun ranges in the country and that they try to address any safety concerns that are brought to their attention.

Commissioner Mohrhauser asked Mr. Bruce how often they will have to replace the quartzite material based on the weather conditions. Mr. Bruce stated that the quartzite byproduct was only installed a month ago, so they do not have a good idea on how long the product will last before it needs to be replaced.

At this point, there was a discussion between the commissioners and planning staff on how to precede with this issue. Several commissioners raised concerns that this is a potential life and



safety issue with bullets leaving the range, and that they would not be comfortable waiting to take action on the operation. Additionally, several commissioners stated that they are not experts in range design, and that having an outside professional review the range would be beneficial for the commission and for the petitioner.

After this discussion, planning staff explained that in order to require a professional review of the gun range, the commission would need to vote to recall the conditional use permit. Then at the recall meeting, the commission could review the permit and add additional conditions regarding the professional range review. Scott Anderson, the County Planning Director, stated that it would be best for the commission to set the meeting date for the recall and review of the conditional use permit for at least sixty days from this meeting. Scott explained that this would give the petitioner time to find and consult with potential range design professionals.

A motion was made by Commissioner VanDerVliet to **recall** the Garretson Gun Club conditional use permit to the August 28, 2023 planning commission meeting for review. The motion was seconded by Commissioner Ralston. A roll call vote was taken and the motion passed with 3 votes in favor and 1 vote against the motion. Commissioner Kippley voted against the motion.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner VanDerVliet and seconded by Commissioner Ralston. The motion was approved unanimously. The meeting was adjourned at 9:22 p.m.