



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
August 28, 2023**

A meeting of the Planning Commission was held on August 28, 2023 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, Mike Ralston, Doug Ode, Adam Mohrhauser, and Joe Kippley.

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 7:00 p.m.

PUBLIC COMMENT

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

CONSENT AGENDA

Commissioner Duffy read each item on the consent agenda and Item 7 was 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, 8, & 9 by Commissioner Randall and seconded by Commissioner Mohrhauser. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

ITEM 1. Approval of Minutes – July 24, 2023

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Mohrhauser to **approve** the meeting minutes from July 24, 2023. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.



Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #23-33 to exceed 3,600 square feet of accessory building area (requesting 4,300 square feet) on the properties legally described as Tract 4A & 4B Meyer's Addition NW¼ Section 15 T103N-R52W Clear Lake Township.

Petitioner: Jamie Bowen
Property Owner: Same
Location: 45705 252nd Street
Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 4A & 4B Meyer's Addition NW¼ Section 15 T103N-R52W Clear Lake Township
Present Zoning – A1 Agricultural
Existing Land Use – Residential Acreage
Parcel Size – 3.50 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to construct a 40 feet by 45 feet addition to the existing accessory building on the property located approximately five and a half miles north of Humboldt. The addition will result in a total accessory building area of 4,300 square feet in a rural subdivision. A conditional use permit is required to have more than 3,600 square feet of accessory building on the property.

The property is located on two lots adjacent to each other. The petitioner submitted a sketch site plan showing that the proposed addition is planned for the south side of the accessory building. The petitioner should be aware that if the two properties were sold separately the larger accessory building would become a non-conforming use until a single family dwelling is constructed on the site. The site is relatively newly developed and trees planted on the site are not yet big enough to screen the building from neighboring properties.

During the site visit, staff observed a pool on the property. The pool does not have a zoning permit. A zoning permit must be obtained prior to issuing a building permit for the proposed accessory building addition.

Conditional Use Permit Criteria:

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

The property is located in a line of subdivided lots. The petitioner owns two of the lots, and there is a potential to sell the lot with the accessory building as a separate property, but this would create a non-conforming use. The proposed addition to the existing building will take place toward the back yard of the property where it will be less noticeable from neighbors and those



driving by. The next nearest lot is currently vacant, and the nearest neighbor is several hundreds feet to the east. The proposed building will not likely affect enjoyment of property for the neighboring properties

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

The subject property is located within a subdivision which has potential for two more dwellings. One of the properties where another dwelling is permissible is where the proposed shed will be constructed. The proposed building may make an awkward access for the shed as it is oriented towards the existing house and not for future residential development. A larger shed will likely create a perception of need for larger sheds on the neighboring properties.

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

The property is already developed. Driveways and utilities exist on the property. The property owner will need to extend any required utilities for the proposed addition.

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

The property is large enough to accommodate off street parking. The proposed accessory building will not create any further need 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 property must meet all standards of the public nuisance ordinance. At the site visit, staff noticed several vehicles and campers parked outside on the property. Staff did not inspect if these vehicles were licensed. The proposed building may create more space for indoor storage of these types of items.

Any new lighting should be cutoff and directed downward to prevent light spillage onto neighboring properties.

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

The proposed accessory building will not negatively affect health, safety, general welfare of the public. The pool on the property is not permitted, and no inspections have been made to confirm required barriers exist for a pool within a subdivision. The petitioner must obtain a proper permit for the pool if it is to stay on the property.

Recommendation: Staff recommends **approval** of Conditional Use Permit #23-33 with the following conditions:

- 1) That the building location shall adhere to the submitted site plan.
- 2) That the total area of all accessory buildings may not exceed 4,300 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 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. No building permit shall be issued for the accessory building until a zoning permit is obtained for the existing pool.
- 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.

Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Mohrhauser to **approve** Conditional Use Permit #23-33. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-33 – Approved



ITEM 3. CONDITIONAL USE PERMIT #23-34 to make one (1) building eligibility available on the property legally described as Tract 2 Hanish's Addition (Ex. E1152.9') NE¼ Section 29 T103N-R52W Clear Lake Township.

Petitioner: Geraets Living Trust

Property Owner: Same

Location: Located approximately 4 miles north of Humboldt

Staff Report: Scott Anderson

General Information:

Legal Description – Tract 2 Hanish's Addition (Ex. E1152.9') NE¼ Section 29 T103N-R52W Clear Lake Township

Present Zoning – A1 Agricultural

Existing Land Use – Cropland

Parcel Size – 56 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 4 miles north of Humboldt, approximately 1 ½ miles west of the intersection of County Highway 122 and SD Highway 19. The applicant is requesting to make one building eligibility available. The area in which the building eligibility is now located is used as cropland.

On August 7, 2023, staff conducted a site visit. There are a few residences located within 1 mile of the proposed location of the transfer.

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.

Making the building eligibility available does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it near other residentially used property. Access would have to be approved by the Minnehaha County Highway Department. The siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

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

No other extra utilities or services will be required for this site to utilize the building eligibility. It is likely that rural water and electricity are already located in the ditch. There is an existing



driveway along the west property line and there is potential to share the driveway. Minnehaha County Highway Department will need to approve the location of any new driveway to be used for the new lot.

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

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

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

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

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

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

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #23-34 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 the Minnehaha County Highway Department 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 Mohrhauser to **approve** Conditional Use Permit #23-34. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-34 – Approved



ITEM 4. PRELIMINARY SUBDIVISION PLAN #23-02 to allow the subdivision of Lot 20 High Prairie Ranch Addition NW¼ Section 8 T102N-R49W Mapleton Township.

Petitioner: David Rogness

Property Owner: Dorothy Rogness

Location: Southeast of the 257th Street and 473rd Avenue Intersection

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 20 High Prairie Ranch Addition NW¼ Section 8 T102N-R49W Mapleton Township

Present Zoning – PD – High Prairie Ranch Planned Development (Subarea A)

Existing Land Use – Cropland

Parcel Size – 12.92 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The applicant submitted a preliminary plan for a property located approximately a mile and a half northeast of the Crooks/Renner Exit off Interstate 29. The property is located within the High Prairie Ranch Planned Development District. The subarea of the planned development was amended in the fall of 2022 to allow residential development. A preliminary subdivision plan is required to ensure the road and lots meet the subdivision ordinance. Once a preliminary subdivision plan is approved, either all of the lots, or a portion of the lots may be platted for approval by the Planning Director and Register of Deeds.

The proposal will create five tracts of land ranging in size from 1.7 acres to 2.8 acres. A new road is planned through the middle of the development with the name Arthur Lane. Haystack Place is an unimproved existing platted road.

Staff reviewed Section 4.01 of the Minnehaha County's Subdivision Ordinance to determine that all requirements have been met. The applicant provided all of the required information for a Preliminary Plan, including detailed topographic information, typical cross section for road construction, and a grading and drainage plan to largely maintain the current topography of the site with the exception of drainage around the new road.

Prior to a final plat being approved, the applicant shall either construct the roads to the County's road standards or post surety in an amount to cover the construction cost. A typical cross section road design has been provided. The applicant will be required to purchase appropriate road signage from the County Highway department for street names and any other signage such as stop signs and street names.

The proposed roads have six inches of gravel road surface. Arthur Lane extends between 473rd Ave and Haystack Road. Haystack Road is an unimproved road which meanders from 473rd Ave to 257th Street. Since the roads leading into the subdivision are surfaced with gravel, the two subdivision roads may also be surfaced with gravel. The county subdivision ordinance allows



the county to require hard surfacing if traffic is significant to require it. It will likely be a long time before either township section line road is hard surfaced.

In addition to the preliminary subdivision plans, the petitioner submitted a possible set of covenants for the subdivision. The covenants provided are for examples, and the petitioner noted that they will likely have minor changes before the final filing with the Register of Deeds.

The preliminary plan was provided to Mapleton Township for review. Planning staff was informed that the township will not construct any roads, and the developer may ask the township to take control of the development roads after the roads are constructed to township standards. Haystack Place and Arthur Lane will be built and maintained by the developer until the township acceptance of the roads.

Recommendation: Staff recommends **approval** of Preliminary Plan #23-02.

Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Mohrhauser to recommend **approval** of Preliminary Plan #23-02. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Preliminary Plan #23-02 – Approval Recommended



ITEM 5. CONDITIONAL USE PERMIT #23-38 to exceed 3,600 square feet of accessory building area (requesting 4,716 square feet) on the property legally described as Tract 3 Bruns Addition S½ Section 15 T101N-R48W Split Rock Township.

Petitioner: Justin Oakland

Property Owner: Linda Wells

Location: 26496 Bruns Place

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 3 Bruns Addition S½ Section 15 T101N-R48W Split Rock Township

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 25.63 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow 4,716 square feet of total accessory building on the subject property. Currently, there is 1,936 square feet of accessory building on the subject property, this includes a 36' x 46' garage and a few small sheds. This request would allow the petitioner to add a 50' x 54' addition and a 6' x 12' addition to the existing 36' x 46' building. Additionally, this property was approved for this same request in 2020 via a conditional use permit, and a building permit for the additions was obtained in March of 2021. However, no work was completed during the life of those permits, and therefore the conditional use permit and building permit have expired.

On August 7, 2023, staff conducted a site visit of the subject property and the surrounding area. The property is a large residential acreage with several rows of trees along the north and south property lines, which help to screen the property from the surrounding neighbors. Since the smallest residential lots in the immediate area are five acres, and several of these lots have similar sized accessory buildings, the proposed size of the accessory building is compatible with the surrounding area.

Conditional Use Permit Criteria:

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

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

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 existing residential subdivision with five ten-plus acre lots. Most of the remaining land in the area is farm ground, and the future growth of the surrounding



area is dependent on development of existing building eligibilities. Therefore, the proposed additions to the existing accessory building will not impact the surrounding vacant land.

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 is accessed by the same driveway as the current buildings on the property. Finally, the additions to the existing 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 addition to the 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, general welfare of the public will not be negatively affected by the construction of the proposed accessory building addition for personal use and storage. The proposed use of the accessory building is compatible with the existing accessory buildings in the surrounding area, and conforms to the goals of the 2035 Envision Comprehensive Plan.

Recommendation: Staff recommends **approval** of Conditional Use Permit #23-38 with the following conditions:

- 1) That the building location shall adhere to the submitted site plan.
- 2) That the total accessory building square footage shall not exceed 4,716 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That the building shall not to be used for commercial uses or as a dwelling at any time.
- 5) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit shall be required prior to construction of the accessory building.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit of approval and the Minnehaha County Zoning Ordinance.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

AUGUST 28, 2023

Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Mohrhauser to **approve** Conditional Use Permit #23-38. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-38 – Approved



ITEM 6. CONDITIONAL USE PERMIT #23-39 to transfer one (1) building eligibility from the NE¼ NW¼ to the NW¼ NE¼ all within Section 18 T103N-R48W Edison Township.

Petitioner: Dwayne Dugaard

Property Owner: Dorothy Dugaard

Location: Approximately 4 miles southeast of Baltic

Staff Report: Scott Anderson

General Information:

Legal Description – NW¼ NE¼ (Ex. Tract 1 Bower's Addition) & NE¼ NW¼ (Ex. H-1) Section 18 T103N-R48W Edison Township

Present Zoning – A1 Agricultural

Existing Land Use – Farmland

Parcel Size – 72.23 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 4 miles southeast of Baltic, approximately ½ mile east of the intersection of County Highways 121 and 118. The applicant is requesting to move one building eligibility to the east. The area in which the building eligibilities are now located is used as cropland with some pasture and is located within the Slip Up Creek floodplain. The move would locate the building eligibility out of the floodplain. The receiving parcel is located along County Highway 118

On August 8, 2023, staff conducted a site visit. There is a residence located across the road and EROS is located approximately ¾ of a mile to the east of the proposed location of the transfer.

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 eligibility does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it out of the floodplain. Access would have to be approved by the Minnehaha County Highway Department. The relocation and siting of one building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

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



No other extra utilities or services will be required for this site to utilize the building eligibility. It is likely that rural water and electricity are already located in the ditch. There is already an approach onto the proposed building site. Minnehaha County Highway Department will need to approve the location of any new driveway to be used for the new lot.

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

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

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

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

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

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

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #23-39 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 the Minnehaha County Highway Department 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 Mohrhauser to **approve** Conditional Use Permit #23-39. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-39 – Approved



ITEM 8. CONDITIONAL USE PERMIT #23-41 to transfer one (1) building eligibility from the NE¼ SE¼ (Ex. S428.46' E610') Section 16 to Tract 2 Cramer's Addition NW¼ SW¼ Section 15 all in T102N-R48W Brandon Township.

Petitioner: Dale & Shelly Trigg

Property Owner: Same

Location: Approximately 1 mile north of Brandon

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 2 Cramer's Addition NW¼ SW¼ Section 15 & NE¼ SE¼ (Ex. S428.46' E610') Section 16 all in T102N-R48W Brandon Township

Present Zoning – A1 Agricultural

Existing Land Use – Farmland

Parcel Size – 69.88 Acres

Staff Report: Mason Steffen

Staff Analysis: This building eligibility is a conditional use building eligibility that requires a conditional use permit in order to be utilized, even if the location of the eligibility remains unchanged. On August 7, 2023, staff conducted a site visit of the subject property for the proposed building eligibility transfer. For this request, the proposed sending location is on the west side of 481st Avenue, at the end of an existing four-lot residential subdivision, and the petitioner is requesting to move the building eligibility across 481st Avenue to the east. This proposed receiving location is currently pasture land that overlooks Split Rock Creek. Finally, the proposed building eligibility transfer will not overly impact the surrounding properties, given the existing residential density in the area, and will allow the future dwelling to be built on a prime location overlooking Split Rock Creek.

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.

A right-to-farm notice covenant should be required in order to notify the owner of the realities of being located in an agricultural area. The additional residential use will not significantly affect the surrounding properties, given that there are several existing residential acreages in the area. The additional residential dwelling to an area that has fifteen to twenty existing dwellings will not overly impact the property values of the neighboring properties.

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

The subject property is located in an area that already has several existing residential acreages and subdivisions. The main use of the vacant land in the area will continue to be farmland for the near future, but there are several additional available building eligibilities in the area that could be developed. However, given the existing residential density, allowing the transfer of this building eligibility will not impact the continued use of the vacant land as farmland.



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

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

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

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

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

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

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

The proposed building eligibility transfer will have no effect on the health, safety and general welfare of the public. This building eligibility transfer will increase the number of eligibilities within the section, but given the existing residential density in the area, this should not have an impact on the goals of the 2035 Envision Comprehensive Plan.

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 #23-41 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) Any applicable driveway permits must be obtained from Brandon Township for the location of the 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 Mohrhauser to **approve** Conditional Use Permit #23-41. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-41 – Approved



ITEM 9. CONDITIONAL USE PERMIT #23-42 to transfer one (1) building eligibility from Lot C Callies Addition to Lot B Callies Addition all in the SW¼ Section 5 T101N-R48W Split Rock Township.

Petitioner: Kevin & Joyce Callies

Property Owner: Same

Location: Approximately 1 mile southwest of Brandon

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot B Callies Addition SW¼ Section 5 T101N-R48W Split Rock Township

Present Zoning – A1 Agricultural

Existing Land Use – Vacant Lot

Parcel Size – 1.31 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject property is located at the end of a private road on the east side of Six Mile Road. The petitioner is requesting to transfer and make available a building eligibility remaining on a large lot. The receiving parcel is a 1.31-acre lot in line with a row of residential acreages. It also has easy access onto Callies Place without blocking future potential growth.

The petitioner filled out the County questionnaire for transferring building eligibilities. The proposed transfer is the last building eligibility owned by the petitioner. One reason for the transfer is the small lot is better slopped for a single family dwelling than other places on the lot. The aerial imagery also shows that the large lot is divided by high voltage power lines which would make the lot less desirable to develop.

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 transfer involves property located at the end of a private road. Nine dwellings already exist along the private road. Most of these lots were developed as RR-Rural Residential lots. One Rural Residential building eligibility remains available on a lot larger than two acres. The proposed receiving parcel for this transfer is A1-Agriculture. the addition of a single family building site on the property may create some additional traffic but overall have minimal effect on the neighboring properties.

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

The property is located at the end of a mostly developed subdivision. Most of the building eligibilities in the area are used with one remaining to the north and one remaining to the southwest of the receiving parcel. Adding another single family dwelling will have minimal



effect on future development in the area.

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

The property is already accessible from a private road. The petitioner will be responsible for extending any needed utilities such as water, electricity, and the construction of an on-site wastewater treatment.

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

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

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

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

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

The proposed transfer will make available a residential building eligibility. The transfer will be from a larger parcel to a smaller parcel, and remaining land will stay in agricultural production for horses and grass hay production. Clustering building eligibilities like this meets goals of the comprehensive plan.

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 #23-42 with the following conditions:

- 1.) A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for a single-family dwelling.

Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Mohrhauser to **approve** Conditional Use Permit #23-42. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-42 – Approved



Regular Agenda

ITEM 7. CONDITIONAL USE PERMIT #23-40 to transfer two (2) building eligibilities from the NE¼ NE¼ & the SE¼ NE¼ to the NE¼ SE¼ all within Section 31 T104N-R48W Logan Township.

Petitioner: Dwayne Daugaard

Property Owner: Dorothy Daugaard

Location: Approximately 4 miles southeast of Baltic

Staff Report: Scott Anderson

General Information:

Legal Description – E½ E½ (Ex. S507' W860' & Ex. H-1) Section 31 T104N-R48W Logan Township

Present Zoning – A1 Agricultural

Existing Land Use – Farmland

Parcel Size – 164.88 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 4 miles east of Baltic at the intersection of 479th Avenue and County Highway 114. The applicant is requesting to move two building eligibilities to the south. The building eligibilities are being moved to accommodate the division of an estate. The area in which the building eligibilities are now located is used as cropland. The move would locate the building eligibilities near a family members residence.

On August 8, 2023, staff conducted a site visit. There are two residences located within 1 mile of the proposed location of the transfer.

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 Logan 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. 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 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 #23-40 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 Logan Township must be obtained for the location of any new driveways before a building permit is to be issued.

Public Testimony & Discussion

Scott Anderson, the County Planning Director, explained the staff report and recommended to the commission.

Commissioner Ode asked planning staff to confirm the nearest concentrated animal feeding operation to the proposed building eligibility location. Scott Anderson explained that the nearest CAFO is approximately one and half miles southwest of the subject property.

The petitioner, Dwayne Daugaard of 4801 Harbor View Road Hudson, WI, was present and available for questions from the commission. Commissioner Duffy asked if he was aware why the item was moved to the regular agenda for discussion, and Mr. Daugaard explained that he does not know why the neighbor is opposed to the request.



Darwin Daugaard, of 47876 250th Street Garretson, SD, explained that he is the nearest property to this request, and that this transfer will move the building eligibilities closer to his property. Darwin also stated that the proposed location for the building eligibilities, near the homestead, is more productive farmland than the current location.

Commissioner Duffy asked Darwin Daugaard if this is a family estate dispute between siblings of the family. Darwin explained that it is a family dispute and that the siblings who own the land do not live in South Dakota, and are only transferring the building eligibilities so that they can pay less taxes.

Grant Edgecomb, of 26685 Dayspring Circle Hartford, SD, asked if transferring these building eligibilities will impact the taxes on the property. Scott Anderson explained that taxes in the county are handled by the director of equalization, but that this proposed location change of the building eligibilities should not overly impact the taxes.

Dwayne Daugaard returned to the podium and explained that the building eligibilities are moving to the forty acre piece of land that has an existing farmstead. He also explained that this forty acres does not access onto the county highway and accesses onto the gravel 479th Avenue.

Commissioner Ralston commented that the purpose of the planning commission is to determine land use, and that he sees this building eligibility transfer as an appropriate land use.

Action

A motion was made by Commissioner Ralston and seconded by Commission Kippley to approve Conditional Use Permit #23-40. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-40 – Approved



ITEM 10. CONDITIONAL USE PERMIT #23-31 to exceed 1,600 square feet of accessory building area (requesting 3,240 square feet) on the property legally described as Lot 3A High Country Estates (Ex. N12' W99.91') Section 7 T102N-R49W Mapleton Township.

Petitioner: Matthew Leiss

Property Owner: Same

Location: 25793 Country Lane

Staff Report: Mason Steffen

General Information:

Legal Description – Lot 3A High Country Estates (Ex. N12' W99.91') Section 7 T102N-R49W Mapleton Township

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – .64 Acres

Staff Report: Mason Steffen

Staff Analysis: This request was first heard by the planning commission at the July meeting, where several neighbors were present and expressed their concerns with the size of the proposed building. The main concern from this discussion was the potential snow removal issues on the property if the proposed building is constructed. At that meeting, the planning commission deferred the item to this meeting in order for the neighbors and the petitioner to work together on a potential size for the structure that would be acceptable for both parties. As of August 16, 2023, planning staff has been in contact with the petitioner, and the petitioner has explained that they have contacted the neighbors, but that there has not been an agreement on a smaller building size.

The petitioner is proposing a 36' x 90' building that will be built to the south of the existing dwelling on the property. Given that this property is less than one-acre in size, the property is limited to 1,600 square feet of accessory building area, and therefore a conditional use permit is required for this request. On July 5 & August 7, 2023, staff conducted site visits of the subject property and the surrounding area. The property is located in the eight-lot High Country Estates Subdivision, which is directly east of Renberg School. Additionally, this property has several existing shelter belts of trees that will help to screen the proposed building from the neighboring residences. Also, the site plan indicates that the building will be seven feet from the south property line, and eight and a half feet from the west property. Since the proposed building location will be in the required rear yard, and set back at least ten feet from the main dwelling, the side and rear yard setbacks may be reduced to three feet. This is defined in Article 12.07(C)(2) of the 1990 Revised Zoning Ordinance for Minnehaha County, and therefore the proposed building will meet all of the required setbacks. Finally, there are currently several vehicles parked on the property where the proposed accessory building will be located, and so this request would allow for any vehicles on the property to be properly stored inside.

Conditional Use Permit Criteria:



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

The property values in the area should not be negatively impacted due to the personal use of the proposed accessory building. The proposed accessory building will allow the petitioner to store their vehicles within an enclosed structure, which will generally benefit the surrounding properties.

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

The proposed site of the accessory building is located in a residential subdivision with several similar sized acreages in the immediate surrounding area, but these subdivisions were subdivided prior to density zoning. Currently, there are no available building eligibilities within a half-mile of this property, and so the vacant land in the area will remain agricultural in use for the foreseeable future. Therefore, this proposed accessory building should have minimal anticipated impacts on the development of this vacant land, and the proposed size of the accessory building is generally compatible with other agricultural uses.

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 drainage in the area generally flows to the southeast towards the Big Sioux River, and this accessory building should not overly impact the drainage on the site.

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. This proposed accessory building will also add additional parking and storage to the property, which will allow the petitioner to move existing vehicles on the property to within this enclosed building.

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 should not be overly impacted by the construction of the proposed accessory building. The construction of the proposed accessory building would require the removal of several vehicles currently stored outdoors on the property, which will generally help the overall look of the property. Finally, the proposed personal use of the accessory building on a residential lot will not impact the goals of the 2035 Envision Comprehensive Plan.



Recommendation: Staff recommends **approval** of Conditional Use Permit #23-31 with the following conditions:

- 1) That the building location shall adhere to the submitted site plan.
- 2) That the total area of all accessory buildings may not exceed 3,240 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 unlicensed motor vehicles on the site shall be stored within the accessory building upon the completion of the building.
- 6) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7) That a building permit shall be required prior to construction of the accessory building.
- 8) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony

Mason Steffen, of county planning staff, explained the staff report and stated that since the meeting in July, the petitioner has not been able to come to an agreement with the neighbors on the size of the proposed building.

The petitioner, Matthew Leiss of 25793 Country Lane Renner, SD, was present and explained that he had met with the neighbors prior to this meeting. Mr. Leiss stated that at least one of the neighbors is still opposed to the structure based on their conversations. He also stated that he has consulted with several building contractors in the area on how to control potential water runoff, and he believes the installation of french drains will limit any drainage concerns. Finally, Mr. Leiss commented that he would install three of these french drains on the building and that these types of drains are expensive.

Commission Ode asked the petitioner about the height of the proposed accessory building. Mr. Leiss explained that the original height of the building was planned to have eighteen foot side walls, but that he has reduced this to fourteen or sixteen feet, in order to compromise with the neighbors. Mr. Leiss also stated that he has only met each neighbor once and that a potential smaller size has not been agreed to.

Don Ahschlager, a Mapleton Township Supervisor, reiterated the building's potential to damage the township road in this subdivision. Mr. Ahschlager also commented that he would like to see an engineering study for the area, prior to the building being built, in order to determine how the building would impact the drainage. Finally, Mr. Ahschlager stated that the petitioner has already had to push snow across the township road, due to a lack of space on the property, and that this building will only make this more of an issue.



Dennis Seivert, of 25795 Country Lane Renner, SD, explained that he has met with the petitioner, but that he is still concerned about the height and roof pitch of the building. Mr. Seivert stated that he has concerns that the lights on the proposed building will impact his ability to enjoy his property. Finally, he explained that this building will cause water runoff issues onto his property, and that he does not believe he should have to deal with these consequences.

Jordan Dvorak, of 25789 Country Lane Renner, SD, explained that he is still not in favor of the proposed size of the building, and that the issue with the water runoff has not been sufficiently answered. Mr. Dvorak also commented that the conversations between the neighbors have not progressed, and that he wants the item to be denied at this time, so that the issues with the building can be solved prior to the building being constructed.

Matthew Leiss stated to the commission that the building has to be engineered and so the engineering study would be included with the building permit. Scott Anderson, the County Planning Director, clarified that the building itself has to be engineered in order to obtain a building permit, but that this does not include an engineered site study that determines water runoff and other site conditions.

Commissioner Ode asked the petitioner what a french drain is and how it would work to mitigate water runoff. Matthew Leiss explained that a french drain is a trench with pea gravel and perforated pipe that disperses the surface water into the ground. Commissioner Ode also asked the petitioner if he would be opposed to an engineered study of the site, and Mr. Leiss stated that he would not be opposed to that as a condition on this permit.

Discussion & Action

Commissioner Randall made a motion to **deny** Conditional Use Permit #23-31 for the sake of discussion, and the motion was seconded by Commissioner Kippley.

Commissioner Randall stated that she is concerned about the size and location of the proposed building, and she believes there needs to at least be an engineering study done before the building is built. Commissioner Randall also commented that this is a small lot with drainage issues, and that means maybe this large of a building should not be built on the site.

Commissioner Kippley also commented that he is concerned with the size and location of the building, and that he is concerned that not enough progress was made in the last month between the neighbors. Then Commissioner Kippley stated that he would defer to the township representatives in regards to the road concerns, and until those questions are answered he is not comfortable with approving this request.

Commissioner Duffy stated that she has sat on a township board in the past, and that drainage issues are difficult to fix. Commissioner Duffy also commented that the larger the problem becomes the harder they are to fix, and that this issue needs to be resolved at the beginning of this process.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

AUGUST 28, 2023

The motion to **deny** Conditional Use Permit #23-31 was passed with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-31 – Denied



ITEM 11. REVIEW OF CONDITIONAL USE PERMIT #06-07 to allow a Gun Club/Sportsman's Club on properties legally described as Tract 1 in the NW¼ NW ¼ and Tract 1 Garretson Gun Club Addition in the NW ¼ all in Section 33 T103N-R47W Palisade Township.

Property Owner: Garretson Sportsman's Club

Location: 48605 255th St.; Approximately 1.25 miles South of Garretson

Staff Report: Kevin Hoekman

General Information:

Legal Description – W½ NE¼ Lying North of RR & West of River & NW¼ (Ex. That Part E915' Lying North of RR ROW But Including N380' Thereof) Section 33 T102N-R48W Brandon Township.

Present Zoning – RC Recreational/Conservation District

Existing Land Use – Pasture Land

Parcel Size – 43.90 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

This item came the attention of the Planning Commission on May 22, 2023 when Dean Sands raised concerns of ricocheted bullets leaving the rifle range at the Garretson Sportsman's Club. Staff visited the club on June 9th, and reported to the Planning Commission at the June 26, 2023 meeting some findings about the club. The Planning Commission considered the findings and the complaint, and the commission voted to bring conditional use permit #06-07 to a public review on August 28, 2023.

The Garretson Sportsman's Club hired a Range Technical Team from the NRA to review the conditions of the outdoor rifle range portion of the facility. The report is available for your review. The NRA Range Technical Team made no suggestions regarding physical conditions of the range. A suggestion was made to create a written maintenance, operations, safety and environmental plans for the club. The conclusion of the reports states that "due to the concrete construction, baffles and the use of the closed-circuit cameras at each shooting position, projectile escapement from the rifle or pistol ranges is unlikely."

The conditions approved by the Planning Commission for the gunclub/sportsman's club CUP #06-07 included

- 1) The site will be platted.
- 2) That a minimum of 10 parking spaces (1 handicapped) be maintained for the gun club.
- 3) That any outdoor shooting take place between the hours of 7 a.m. and 11 p.m.
- 4) That the approved uses for this conditional use permit are a shooting range and events associated with the gun club.



Staff included several documents attached with this staff report for your review.

- A location map of the property.
- The NRA review of the Garretson Sportsman's Club
- Documents submitted by Dean Sands from the May 22nd public testimony. (This includes the minutes from the February 2006 Planning Commission Hearing for CUP #06-07.)
- Staff list of observations from the June 9th site visit. (This was presented at the June 26th, 2023 Planning Commission Meeting under Old Business.)

All neighbors within 500 feet of the properties were notified by staff of this hearing.

Actions:

This hearing is for recall and review. At a recall and review hearing, the Planning Commission has the authority to amend, revise, delete or add conditions to the conditional use permit. They also have the authority to revoke the conditional use permit for failure to comply with the terms, conditions, or requirements of the permit.

Public Testimony & Discussion

Kevin Hoekman, of county planning staff, explained the staff report and prior history regarding this conditional use permit.

Chuck Brown, of 48165 256th Street Brandon, SD, explained that he is the president of the gun club and that they hired an NRA consultant to inspect the gun range. Mr. Brown also commented that the NRA consultant did not have any range alteration recommendations, and that the gun club has taken every step to minimize ricochets, including the newly installed sand on the berms.

Dean Sands, of 25531 486th Avenue, stated that he is glad that the NRA has inspected the range, but that the NRA only gives guidance and does not do range design. Mr. Sands also commented that he still would like a range master plan, and that there are more than 1,100 members in the gun club. Mr. Sands stated that most gun ranges, including the Brandon gun range, have full time range masters on site. Finally, he stated that he believes the gun range needs more planning and that he does not want the gun range shutdown, he only wants it to safely operate.

Tom Brown, a Garretson Gun Club Board Member, stated that the gun club has been in operation since 1952, and that they have made many changes to make the range safer including the concrete barriers. Mr. Brown also commented that the neighbor was aware that the gun club existed when they bought the house, and that the gun club has range masters on site during the busy weekends. Finally, he commented that not every member of the gun club uses the facility year-round, and not everybody uses the rifle range.

Steve Davis, 27308 Meadow Ridge Road Harrisburg, SD, stated that he was president of the gun club in 2017, and that he was trained alongside the NRA consultant who inspected the range. He also commented that he declined to perform the range review due to his connection to the gun club. Mr. Davis further commented that the only way to make the range safer would be to move the range indoors, which is rare in the Midwest. Finally, he stated that many of the members only



use the range right before hunting season in order to sight in their rifle, and that they have range masters at the range during the busy times in order to stop people from shooting non-paper targets.

Commissioner Kippley asked Chuck Brown about the hours of operation for the gun club. Mr. Brown explained that the conditions for the permit allow for the hours of operation to be from 7:00 am to 11:00 pm, but that their hours have been 8:00 am to 8:00 pm on weekdays and 8:00 am to 6:00 pm on weekends. Mr. Brown also commented that some people have stayed later than these hours, and that board members have the authority to remove a person's membership if they violate the rules of the range. Commissioner Kippley then asked about the video camera systems that monitor the gun range. Chuck Brown explained that the video camera system constantly monitors the range and allows the board members to review footage if they know somebody violated the rules. Mr. Brown also stated that range cameras are placed at the end of each range, so that members can see the target without having to walk down range.

Commissioner Randall asked Chuck Brown if the security camera footage is constantly monitored. Mr. Brown explained that the cameras are always recording, and that they review the footage if they are informed of a problem, but that they do not check the cameras on a daily basis. Commissioner Randall also asked how the process for removing a membership works if a person violates the range rules. Mr. Brown explained that if a person violates the rules then any board member of the gun club can remove their membership. Then Commissioner Randall asked them to explain how ricochets can still happen. Mr. Brown explained that bullets can still ricochet off of the ground or the concrete barriers, but that the range is designed so that these ricochets do not leave the property.

Commissioner Ralston stated that he is not an expert on range design and guns, but questioned what other experts there would be in this field besides the NRA. Commissioner Ralston also commented that the petitioner did what the commission asked of them, and that the commission should consider adding a condition to the permit that requires them to follow through with the NRA suggestions.

Commissioner Kippley stated that he appreciates having a formal report on the gun range, and that the gun club should have written policies, which could help in future disputes.

Commissioner Ode commented that the gun club is doing what they can to make the range as safe as possible, but that it is good the public is aware of this report because he would also be scared if he heard ricochets at his property.

Commissioner Duffy commented that the operators of the gun club completed what was asked of them by the commission.

Action

A motion was made by Commissioner Kippley to add a fifth condition to Conditional Use Permit #06-07, and the motion was seconded by Commissioner Ralston. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.



Conditional Use Permit #06-07 – Amended with the following conditions:

- 1) The site will be platted.
- 2) That a minimum of 10 parking spaces (1 handicapped) be maintained for the gun club.
- 3) That any outdoor shooting take place between the hours of 7 a.m. and 11 p.m.
- 4) That the approved uses for this conditional use permit are a shooting range and events associated with the gun club.
- 5) That the gun club create written maintenance, operations, safety, and environmental plans.



ITEM 12. CONDITIONAL USE PERMIT #23-43 to allow a Rubble Dump (Tree Grinding Operation) on the property legally described as the NW¼ (Ex. R-1 & Ex. S½ NW¼ & Ex. E17' W50') Section 35 T101N-R51W Wall Lake Township.

Petitioner: Mueller Pallets

Property Owner: Pine Knoll, Inc.

Location: Located at the intersection of 267th Street & 464th Avenue, approximately 4 miles west of Sioux Falls

Staff Report: Mason Steffen

General Information:

Legal Description – NW¼ (Ex. R-1 & Ex. S½ NW¼ & Ex. E17' W50') Section 35 T101N-R51W Wall Lake Township.

Present Zoning – A1 Agricultural

Existing Land Use – Pasture

Parcel Size – 77.17 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting to operate a tree grinding operation as a rubble dump site on the subject property. This request is largely the same as Mueller Pallet's previous request earlier this year on the same property, but this request includes a site plan showing access to the site via 267th Street instead of 464th Avenue. The previous request was withdrawn by the petitioner at the county commission meeting on August 15th, due to the city of Sioux Falls not providing access onto 464th Avenue. Finally, planning staff has sent this plan to the County Highway Department for review, given the updated access off of the county highway, and has also discussed the operation with the State Department of Agriculture and Natural Resources (DANR).

The narrative explains that the site would be used to collect tress, tree branches, dimensional lumber, and other non-treated wood from the public in order to grind the wood and move to an off-site location. The hours of operation listed in the narrative are Monday through Friday from 7:00 am – 5:00 pm and Saturday from 7:00 am – 12:00 pm. The petitioner has also explained that there will be a gated entrance to the property, along with a guard shack and security system, which will limit the concerns of any unlawful dumping occurring on the property. Additionally, the County Highway Department has informed planning staff that they will require the petitioner to hire a professional engineer to complete a traffic impact study of the area, in order for the petitioner to utilize the existing highway access. This study will help determine what improvements will be needed on the county highway for the operation to safely use the existing access, and this requirement has been added as a condition on this permit. Finally, the State DANR has explained to planning staff that the operation is not required to obtain any permits through their office, given that there will be no alterations to or filling of wetlands on the site.

On August 7th, 2023 staff conducted a site visit of the subject property and the surrounding area. The subject property is a seventy-seven acre piece of property that is located directly north of the regional landfill, and the site plan indicates that the proposed operation will utilize approximately



fifteen acres on the west side of the subject property. There is also an existing shelter belt of trees along the north property line that will screen the operation from the nearby residences to the north and northeast. Allowing this operation on a vacant agricultural lot will allow for a sustainable disposable site of natural wood products that will be located in close proximity to the existing regional landfill. Finally, previously approved conditional use permits in the county for this type of land use have had sunset clauses that required new conditional use permits after ten years, and therefore this permit should have a similar condition in order to remain consistent with these previously approved permits.

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 is an existing residential subdivision to the northeast of the property that includes approximately fifty dwellings, as well as one residential acreage directly north of the proposed operation location. The subdivision to the northeast was subdivided prior to density zoning, and is located within the agricultural production area of the county where new housing is now limited to the available building eligibilities. In addition, this proposed operation will be located directly north of the existing regional landfill, and a majority of the traffic that will travel to this proposed operation is likely already travelling to the landfill to dispose of their wood products. Therefore, the increased traffic and dust from this operation should not overly impact these surrounding properties more than the existing landfill that is already in operation. Finally, the required traffic impact study for the operation will help determine what traffic issues this operation may cause, and what improvements the petitioner will be required to make to the highway, which will help limit traffic effects on the surrounding properties.

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

The subject property is currently a vacant agricultural lot and the other vacant land in the surrounding area is mostly agricultural land or used for the existing landfill. Any additional development on this vacant land will be limited to the availability of building eligibilities in the area, given that the property is located within the agricultural production area of the county. The proposed wood grinding operation should not have an overly negative effect on the normal and orderly development of the surrounding vacant property.

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

The site plan indicates that the operation will be accessed by an existing access onto the county highway. The petitioner will be required to conduct a traffic impact study for the operation, and submit this study for review to County Highway Department before they may utilize this existing access. The traffic impact study will inform the petitioner and the County Highway Department what impacts the operation will cause to the highway in the area, and what will need to be installed to mitigate these impacts, such as a left-turn lane, shoulder widening, etc. Additionally, the site plan indicates that the petitioner will be providing the other necessary utilities for the operation including a sign, outdoor lighting, a fuel tank, and an outdoor toilet. Finally, the driveway into the operation will have a gated entry, which will limit concerns of unauthorized



access and dumping of materials on the site.

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

With this type of operation, a majority of the traffic to the site will be for deliveries and pickups, and the applicant should provide a truck turnaround point within the proposed rubble dump site. The site plan also indicates that employee parking will be provided on the site, to the west of the proposed driveway, and the petitioner should provide at least two parking spaces per three employees on the maximum shift for the operation. Finally, the site is large enough to accommodate these parking needs and no parking shall be allowed within the public right-of-way.

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

The grinding and processing of trees will create noise and dust that could have the potential to disturb single-family dwellings in the surrounding area. The nearest dwelling is across the highway from the access point to this operation, and there is an existing shelter belt of trees along the north property line that screens the property. In addition, limiting the hours the operation will reduce concerns with dust, noise, or light disturbances becoming nuisances to the surrounding properties. Finally, the traffic impact study will allow the County Highway Department to require the petitioner to construct the proper highway alterations, so that the traffic to the operation does not become an issue in the future.

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

The wood processing will only take place on limit days throughout each month, which limits the concerns of dust becoming a health and safety concern. There are also existing shelter belts of trees on the property that will help screen the public from the operation, and it is in the petitioner's interest to keep as much material on-site as possible. This operation is also located in close proximity to the existing regional landfill, and will provide citizens with an alternative location to dispose of untreated wood products. Finally, the proposed operation is located within the agricultural production area of the 2035 Envision Comprehensive Plan, and this operation will not have a negative impact on the existing agricultural production in the area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #23-43 with the following conditions:

- 1) That the property shall adhere to the submitted site plan.
- 2) That the process of grinding wood shall only take place during the hours of 7:00 am to 5:00 pm Monday through Friday and 7:00 am to 12:00 pm on Saturdays.
- 3) That only clean, untreated, unpainted, and unstained wood shall be accepted for processing. No other materials shall be accepted.
- 4) That the petitioner shall hire a professional engineer to complete a traffic impact study for the operation, and this study must be submitted to the Minnehaha County Highway Department for review. The traffic impact study must be approved by the Minnehaha County Highway Department, and any highway improvements must be completed prior to operations beginning on the site.



- 5) That the petitioner shall be required to apply for an access permit from the County Highway Department, prior to operations beginning on the property.
- 6) That all driveways, including loading and unloading areas, shall be gravel surfaced. These areas are also required to be treated with a dust control agent, and maintained in a manner to limit the production of dust from the gravel surfaces.
- 7) That a building permit shall be required for any buildings built in conjunction with the tree grinding operation.
- 8) That one on-premise sign shall be permitted and shall not exceed 32 square feet in size. A building permit must be obtained prior to installation, and the sign may not be located within the right-of-way.
- 9) That the operation shall maintain a gate or a person on the site during drop off hours to prevent the dumping of non-wood products.
- 10) That no parking shall be allowed within the public right-of-way at any time.
- 11) That the operation will be allowed to operate under the conditions of this permit until January 31, 2033. The business owner will be required to obtain another conditional use permit before this date if they wish to continue operating at this location
- 12) 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.

Public Testimony

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

Commissioner Kippley asked planning staff about the traffic study condition and if all the requirements of the traffic study would be up to the highway department to determine. Mason Steffen explained that the purpose of the traffic study is to understand what impacts this operation will have on the traffic in the area, and that neither planning staff nor highway department staff, would know exactly what needs to be required until the traffic study is completed by a professional engineer.

Commissioner Ode asked planning staff if they knew when the housing development to the northeast was developed. Mason Steffen explained that the Country Villa Estates subdivision was platted in the 1970's, prior to density zoning and the zoning ordinances, and that it was rezoned to RR Rural Residential in the 1990s. Commissioner Ode then asked when the landfill was first approved in this location. Planning staff explained that the first permit for a landfill in the area was for 1978, and that the city also applied for expansion permits in 1995 and 2001.

The petitioner, Margie Mueller of 27059 Mueller Place Sioux Falls, SD, was present and addressed the commission with her comments on the proposed operation. Mrs. Mueller explained that her business collects wood products from three states in the area, and that they help save landfills from being overrun with disposal of these products. She also stated that their existing drop off location in Tea shutdown on May 22nd of this year, and that this meant more traffic is already heading to the landfill. Additionally, she commented that she would like to hear ideas



from the neighbors on how to mitigate their concerns, but that she has not heard from the neighbors since June. Mrs. Mueller then stated that her business provides a service for the community, and that she has been in contact with the city of Sioux Falls several times in hopes of finding other potential locations for this business.

Paul Tschetter, the attorney for the petitioner, addressed the commission with his comments regarding the request. Mr. Tschetter stated that the city of Sioux Falls did not provide access onto 464th strictly because it would impact the landfills expansion plans, and that they did not state any position on the overall safety of the traffic to the operation. He also commented that most of the opposition from the neighbors is the same as the previous request that the commission approved, and that he has had talks with HDR Engineering in regards to the required traffic impact study. Finally, Mr. Tschetter explained that the public has the control to bring a conditional use permit back before the commission if the conditions are being broken, and that the neighbors should take their concerns regarding the landfill to the commission.

Commissioner Mohrhauser asked where the grinder would be located on the property when grinding is taking place. Mr. Tschetter explained that the grinder would move within the property during the grinding process, and that the city of Sioux Falls has existing tree grinders directly south of this property. Mr. Tschetter also stated that the petitioner agrees to the condition to gravel surface the driveway, but that they do not want the area underneath the piles to be gravel surfaced. He explained that this is so gravel is not accidentally mixed into the mulch product, or into the wood grinders.

Commissioner Kippley asked Mr. Tschetter about the traffic study and how long he would expect it to take before HDR Engineering is done with the study. Mr. Tschetter explained that the traffic study is at least six weeks out, and that the petitioner is comfortable with the county highway department being the entity that approves the traffic study. Finally, Mr. Tschetter stated that most of the traffic and issues in this area are caused by the city of Sioux Falls landfill, so he believes it should be their responsibility to conduct the traffic study, but that the petitioner is willing to take on this responsibility in order to move this request forward.

Several residents in the area of the subject property, as well as employees from Mueller Pallets spoke on this item. Some of the concerns from this discussion included the potential traffic related issues with the access now being located on the county highway, as well as concerns with the potential dust from the operation. The residents also brought up concerns with the proximity of the operation to the many residences in the area, along with concerns regarding tree branches and other materials falling onto the highway. The list of the residents who spoke in regards to the operation are listed below:

Dan Brandt, 46408 267th Street Hartford, SD
Wanda Scott, 26693 Valdez Road Hartford, SD
Rebecca Jongeling, 4200 N Interlachen Trail Sioux Falls, SD
Glenn Fuerstenberg, 46524 267th Street Sioux Falls, SD
Grant Edgecomb, 26685 Dayspring Circle Hartford, SD
Chuck Runge, 26731 465th Avenue Hartford, SD



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

AUGUST 28, 2023

Diane Runge, 46473 267th Street Hartford, SD
Leonard Waldner, 26685 Prairie Avenue Hartford, SD
Chet Hofer, 26662 465th Avenue Hartford, SD
Nathan Jongeling, 4200 N Interlachen Trail Sioux Falls, SD
Casey Lemme, 2100 E 29th N Sioux Falls, SD

At this time, Paul Tschetter returned to the podium to address the concerns that were raised from the neighbors. Mr. Tschetter stated that eighty to ninety percent of the traffic in the area is to the landfill, and that the staff conditions regarding the traffic study will help mitigate traffic concerns. Mr. Tschetter also stated that most of the public testimony was the same as the previous request in the spring, and that the petitioner has invited the neighbors to discuss the operation but that this was not reciprocated. He also stated that it is in the petitioner's economic interest to keep the dust on the property. Finally, he explained that in the past the petitioner has held off on grinding at their previous location until the winds were blowing away from the nearest residences, and that this would likely continue at this site.

Commissioner Randall asked Paul Tschetter if the petitioner would be open to a condition that requires more trees on the north and east property line, and that these trees be kept in an alive state. Mr. Tschetter stated that they would agree to this type of condition at this site, given the proximity to residences, but that he does not want that agreement to set a precedent for trees at any other potential sites. Commissioner Randall also asked Mr. Tschetter where the turnaround point will be located within site, since it is not labelled on the site plan. Mr. Tschetter stated that the blue box on the site plan, located in the eastern portion of the site, would be utilized as the turnaround location.

Commissioner Kippley asked Mr. Tschetter to explain what efforts have been made to find other locations for the proposed operation. Mr. Tschetter stated that between private ownership locations and locations owned by the city of Sioux Falls, the petitioner has evaluated approximately eighteen different sites. Mr. Tschetter also commented that most of the sites that were initially offered by the city of Sioux Falls have disappeared over the last few months. Commissioner Kippley then asked Mr. Tschetter about the city's decision to deny access onto 464th Avenue. Mr. Tschetter explained that the city did make comments regarding safety when they denied access onto 464th Avenue, but that these comments only related to 464th Avenue and not 267th Street.

Then Commissioner Kippley commented that he still has concerns with traffic along 267th Street. Commissioner Kippley also commented that the county commission deferred action on the request using the 464th Avenue access, in order for the city to negotiate in good faith with the petitioner, and he finds it frustrating that the city did not use that time to come to a resolution.

Commissioner Ode asked if the petitioner has considered obtaining a wind graph for the prevailing winds in this area because that would give them more information on when or if the dust will impact the neighbors. Commissioner Ode also commented that he believes the main issue with this request is that the neighbors are afraid of the unknown, and he questioned if the landfill would be approved today if it did not already exist.



Faith Treague, of 46465 Inca Drive Hartford, SD, stated that she has lived in the area since 1978 and that she has seen a huge increase in traffic since they have lived in the area.

Discussion

Commissioner Kippely stated that his main concern is regarding the traffic, and that he is not sure placing the decision on the traffic study solely on the highway department is the best route. Commissioner Kippely also commented that he would expect this item to be appealed to the full county commission, regardless of the planning commission's decision, so he is interested in hearing the other planning commissioner's comments. He also stated that he believes the prior site plan with access onto 464th Avenue was overall a better layout than this current site plan with access onto 267th Street. Finally, he commented that the greatest proportion of traffic to this area will be the city landfill, and that he was hoping the city would have been a more constructive partner to this project.

Commissioner Mohrhauser commented that the plan from the April meeting with access onto 464th Avenue was a better option than this current plan. He also stated that the traffic on 267th Street is already hectic and this operation will only add to the traffic in the area.

Commissioner Ode stated that Sioux Falls and the surrounding area is constantly growing and so traffic will continue to increase everywhere. He also commented that traffic is scary and that the commission does not want accidents to happen, but that accidents are going to continue to happen. Finally, he stated that he recently visited the site and the existing trees did provide screening from the road and neighboring residences.

Commissioner Randall stated that she was in favor of this request in April when the access was proposed off of 464th Avenue, but with the change in access she is not comfortable with approving this new request.

Commissioner Ralston commented that the commission needs to balance what is an appropriate land use for this property based on the existing land uses, and that this property is a tough situation given the location between the landfill and the residential subdivision. He also stated that the landfill is setback further from the road, and that they have installed measures such as berms to screen the operation. Finally, he stated that his initial reaction to this new site plan is that the access onto 267th Street is not appropriate for this land use, and that the approval earlier this year with access to the west would have been more appropriate.

Commissioner Duffy commented that it is the role of the planning commission to make the hard decisions that do not agree with everyone, and that she also believes that the first plan with access onto 464th Avenue was the better location. Finally, she stated that she is concerned with safety, but that she is also concerned that the local government agencies cannot work together on this issue.



Action

A motion was made by Commissioner Kippley to **approve** Conditional Use Permit #23-43 with the staff recommended conditions. The motion was seconded by Commissioner Ode. A roll call vote was taken and the motion failed with 3 votes against the motion and 2 votes in favor of the motion. Commissioners Ode and Kippley voted in favor and Commissioners Ralston, Mohrhauser, and Randall voted against the motion.

A new motion was made by Commissioner Mohrhauser to **deny** Conditional Use Permit #23-43, and the motion was seconded by Commissioner Randall. A roll call vote was taken and the motion passed with 3 votes in favor and 2 votes against the motion. Commissioners Ralston, Mohrhauser, and Randall voted in favor of the motion and Commissioners Ode and Kippley voted against the motion.

Conditional Use Permit #23-43 – Denied



Old Business

Kevin Hoekman, of county planning staff, presented an update on the potential ordinance amendment regarding shipping containers. He explained to the commission that he has drafted a proposed ordinance that could be brought before the commission for consideration if they deem it necessary. After the discussion between planning staff and the commission, it was decided to bring the proposed ordinance to the planning commission at their meeting on October 23, 2023.

New Business

Scott Anderson, the County Planning Director, presented a brief overview of the timeline for the proposed updates the 2035 Envision Comprehensive Plan. He stated that each step in this process will take several months, and that he is seeking guidance from the commission on how to proceed with the updates. After discussion, it was determined that planning staff will continue to work on these updates and present each chapter to the planning commission as they are written, and that since this process is only updating the comprehensive plan, a taskforce does not need to be created to handle these updates.

Adjourn

A motion was made to **adjourn** by Commissioner Ralston and seconded by Commissioner Randall. The motion was approved unanimously. The meeting was adjourned at 9:55 p.m.