

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
March 26, 2012

A meeting of the Planning Commission was held on March 26, 2012 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Gerald Beninga, Bonnie Duffy, Mike Cypher, Susie O'Hara and Becky Randall.

STAFF PRESENT:

Pat Herman, Ryan Streff and Dustin Powers - County Planning
Kersten Kappmeyer – Office of the State's Attorney

The meeting was chaired by Susie O'Hara.

CONSENT AGENDA

A motion was made by Cypher and seconded by Beninga and **approve** Items 1 thru 4 and 6 of the consent agenda and move Item 5 to the regular agenda. Item 2 was deferred until the April 23, 2012 meeting. The motion passed unanimously.

ITEM 1. Approval of Minutes – February 27, 2012

A motion was made by Cypher and seconded by Beninga to **approve** the minutes from February 27, 2012. The motion passed unanimously.

Deferred from February 27, 2012.

ITEM 2. CONDITIONAL USE PERMIT #11-56 to allow a contractor storage yard for a landscaping business.

Petitioner: Chris Hood

Property Owner: Jason Klein

Location: West side of Rowena

General Information

Legal Description – Hood's Addition Tract 1 Section 26-T101N-R48W

Present Zoning – C Commercial

Existing Land Use - Agricultural

Parcel Size – 2 Acres

Staff Report: Ryan Streff

Staff Analysis:

Staff recommended that this item be deferred to the April 23, 2012 meeting.

Action

A motion was made by Cypher and seconded by Beninga to **defer** Conditional Use Permit #11-56. The motion passed unanimously.

CUP #11-56 - DEFERRED

ITEM 3. CONDITIONAL USE PERMIT #12-07 to transfer 1 building eligibility from the NE ¼ NW ¼ to the NW ¼ NW ¼ (proposed Tract 3 of Johnson's Addition), all in Section 33-T104N-R49W.

Petitioner: Tom Schwebach

Owner: Vera Mae Johnson

Location: ½ mile north of Baltic

General Information

Legal Description – N ½ NW ¼ (Except Johnson's Addition) Section 33-T104N-R49W

Present Zoning – A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size –77.39 Acres

Staff Report: Pat Herman

Staff Analysis

The property is located north of Baltic in an area of agricultural production. The surrounding properties are zoned A-1 Agricultural. The petitioner is requesting a transfer of building eligibility from an interior quarter-quarter to a site that adjacent to the roadway. Transfer of building eligibility is regulated in the zoning ordinance in Section 3.04 (Y).

- 3.04 (Y). The transfer of a building eligibility from one parcel to another parcel when all the following conditions are met: (*amended by MC16-69-04 3/16/04*)
- 1). The transfer of building eligibility shall occur only between contiguous parcels under the same ownership. For purposes of this section, same ownership means: Two or more parcels of land owned or controlled by an individual or combination of individuals, corporations, partnerships, or other legal entities; with said owners described uniformly on the deed or other legally binding conveyance of each parcel. (*amended 16-87-06 8/19/06*)
 - 2). Suitability as a building site based on the following factors:
 - a). Agricultural productivity of the soil.
 - b). Soil limitations.
 - c). Orientation of the building site(s) with respect to road circulation and access to public rights-of-way.
 - 3). The minimum lot size shall be one acre but a larger area may be required when soil conditions warrant.
 - 4). The parcel from which the eligibility is transferred shall continue as agricultural land or remain in its present use.
 - 5). Approval has been granted by the appropriate governing entity for access onto a public road.

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 petitioner is proposing the eligibility be placed on a 2 acre tract, 251 feet south of the northwest quarter corner. There are three residential acreages just south of this location. An

additional acreage will not affect property values.

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

Transfer of the building eligibility does not increase the number of single family dwellings allowed by density zoning.

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

Access to the property is from 474th Avenue. Dell Rapids Township does not require a driveway permit. A septic system will be used on the site.

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

Two acres is sufficient area to meet all off-street parking requirements for a single family dwelling.

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.

None of the listed items should be at levels as to constitute a nuisance.

Recommendation

Staff finds that the request to transfer one residential building eligibility is consistent with density zoning and meets the requirements of section 3.04(Y) of the 1990 Minnehaha County Zoning Ordinance. Staff recommended approval of Conditional Use Permit #12-07 with the following condition:

1. The lot shall be platted and a right-to-farm notice covenant filed on the deed of the lot prior to the issuance of a building permit.

Action

A motion was made by Cypher and seconded by Beninga to **approve** Conditional Use Permit #12-07 with stated conditions. The motion passed unanimously.

CUP #12-07- APPROVED

ITEM 4. CONDITIONAL USE PERMIT #12-08 to exceed 1200 square feet of accessory building area – 2400 requested.

Petitioner: Monte Burggraff

Owner: same

Location: ¾ mile east of Crooks

General Information

Legal Description – Tract 1 Dawson's Second Addition SE ¼ SW ¼ Section 12-T102N-R50W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 2.5 Acres

Staff Report: Ryan Streff

Staff Analysis

This subject property is located in Section 12 of Benton Township, approximately ¾ of a mile west of the Crooks/Renner Exit. The petitioner's property is 2.5 acres in size and is located in the A-1 Agricultural Zoning District. Adjacent properties that surround this site are zoned A-1 Agricultural and are mainly used as residential acreages and for agricultural farming operations.

The petitioner has applied for Conditional Use Permit #12-08 to exceed 1,200 sq. ft. of accessory building area at 47130 258th Street. The property owner is requesting this conditional use permit to construct a 2,400 sq. ft. (40'x60') accessory storage building. This would be the only accessory building on the property. A conditional use permit application is required by Section 12.07 (D) of the Minnehaha County Zoning Ordinance which states: *In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.*

Larger accessory buildings areas can be found within the general vicinity and range in size from 576 sq. ft. to 6,000 square feet. (See attached accessory building area map)

The property owner shall meet all regulations regarding accessory buildings. These regulations are found in *Article 12.07 Accessory Buildings and Uses*. Minimum setbacks required for accessory buildings in the A-1 Zoning District that are located within 10 feet of the main building are front yard 30 feet, side yard 7 feet and rear yard 30 feet. Accessory building that are not considered part of the main building shall be no closer than 3 feet to the side and rear property lines. There is a minimum setback of 50 feet from any section line road or major arterial street.

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 are larger accessory building areas in the general vicinity of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure will not impact the neighboring properties. The construction of this accessory building should not impede on the enjoyment or use of the surrounding properties or affect property values.

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 accessory building should have no impact on further

construction or development within the general area. The building will only be used for the owner's personal storage, residential related items, and no commercial or business activities will be allowed. This use will not affect the residential uses or agricultural land in the area.

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

Access to the proposed accessory building will be through a driveway located at 47130 258th Street. This driveway also provides access to the residential dwelling unit on the property.

No other infrastructure improvements are required at this time.

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

The property has sufficient parking for all residential activities.

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.

There should be no uses in the building which should constitute these types of nuisances.

Recommendation

Staff found that the proposed accessory building size conforms to the general sizes of other accessory building areas in the vicinity and recommended approval of Conditional Use Permit #12-08 with the following conditions:

- 1) That the accessory building area on the property shall not exceed 2,400 square feet.
- 2) That the building shall not exceed one story in height.
- 3) That a building inspection is required to measure the outside dimensions of the building.
- 4) That a building permit is required.
- 5) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 6) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
- 7) That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 8) That the Planning & Zoning Department reserves the right to enter and inspect accessory buildings at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

Action

A motion was made by Cypher and seconded by Beninga to **approve** Conditional Use Permit #12-08 with stated conditions. The motion passed unanimously.

CUP #12-08 - APPROVED

ITEM 6. REZONING #12-04 from R-1 Residential District to C Commercial District.

Petitioner: Lou Krohn

Owner: same

Location: Rowena, SD

General Information

Legal Description – Lot 5 Block 2 Rowena Original Section 26-T101N-R48W

Present Zoning – R-1 Residential

Existing Land Use - Vacant

Parcel Size – < 1 Acre

Staff Report: Dustin Powers

Staff Analysis

The subject property is located on the north side of SD Highway 42 in Rowena, SD. The property is currently zoned R-1 Residential and has been used as a yard for the neighboring residential property which petitioner has purchased a portion to expand the existing automotive repair business. Land to the north and west is currently zoned commercial, and land to the south and east is zoned residential. This request is to rezone the property from R-1 Residential to C Commercial for cold-storage of the automotive repair business.

The 1990 Revised Zoning Ordinance does not allow commercial storage in the R-1 Residential Zoning District, thus the need to rezone the property. The C Commercial Zoning District provides the supportive zoning district for what is planned for the subject property. According to the Red Rock Corridor Future Land Use Map this property is represented by the commercial zoning district which will allow for uses the petitioner has requested.

Access to the property would be from the existing driveway off of Highway 42.

Recommendation

The request to rezone this property to commercial is consistent with the guidelines set forth in the Red Rock Corridor Plan. Staff recommended approval of Rezoning #12-04 from R-1 Residential to C Commercial.

Action

A motion was made by Cypher and seconded by Beninga to **recommend approval** of Rezoning #12-04. The motion passed unanimously.

RZ #12-04 – APPROVAL RECOMMENDED

ITEM 5. CONDITIONAL USE PERMIT #12-09 to allow a wholesale trade business.

Petitioner: Mark Ernste
Owner: F&K Assam Family, LLC
Location: Rowena

General Information

Legal Description –ICR Abandoned ROW SE ¼ (Except Part located South of and adjacent to Tract 1 Split Rock Feeds Addition) Section 26-T101N-R48W
Present Zoning – C Commercial
Existing Land Use - Vacant
Parcel Size –11.72 Acres

Staff Report: Dustin Powers

Staff Analysis:

The subject property is located on the north side of Highway 42 in Rowena, South Dakota. The applicant is requesting to operate a wholesale trade business. The business would have truck loads of landscaping boulders dumped onto the site, which then he will sort and package for transportation. The applicant will then load the package rock onto a semitrailer which will then deliver the product to the distributors.

The entire operation will be located outside and no structures are being built for this operation. Due to the noise contributed by the dumping of boulders and operation of a skid loader, staff is recommending the hours of operation be between 7 a.m. and 9 p.m. Access to the property will be located on Douglas Avenue. The township has required the applicant to put in a larger culvert to accommodate the semi-trucks coming in and out of the property. The township will be building up the roadway to alleviate any pooling of water near the proposed driveway.

According to the Red Rock Corridor Overlay District, there is to be a 30-foot buffer between commercial and residential uses. The petitioner plans to utilize the existing trees between the properties as is shown on the site plan. The applicant will be doing an extensive clean-up and grading of the property to make it operational for the wholesale trade business. With the appearance of the site changing there is some uncertainty to the extent of which screening will be needed. Staff is proposing that once the site has become operational and running, a site visit be conducted to determine the need of, if any, additional screening requirements.

The applicant has also expressed interest in expanding the business to include retail sales once the wholesale trade business takes off. Staff has informed the applicant that would include amending the current conditional use permit and further conditions and requirements will have to be met at that time.

Staff conducted a site visit on March 9, 2012. The property is surrounded by a mix of land uses including commercial and residential. The petitioner has provided a site plan and description explaining how the operation will work. A copy of the site plan is attached for your review.

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

The proposed wholesale trade business should not impact the other uses in the area, property values, or the enjoyment of properties in the vicinity. This type of use is appropriate in a commercially zoned development.

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

The proposed use should not impact the uses of the surrounding properties. The proposed occupation will have minimal impact on the development and improvement of any vacant properties in the area.

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

Access to the property is provided off of Douglas Avenue which is a township roadway. The township has required the applicant to put in a larger culvert due accommodate that semi-trucks coming in and out of the property. The township will be building up the roadway to alleviate any pooling of water near the proposed driveway. The township will be adding the clay to Douglas Avenue this spring. The applicant will need to work with the township to meet the needs of Douglas Avenue.

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

There is ample space on the property to meet all parking needs of the occupation. The applicant shall meet all of the parking requirements as outlined in Article 15 of Minnehaha County's Zoning Ordinance.

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

There will be some noise originating from the site due to the intermittent dumping of boulders and the operation of a skid loader. The applicant has indicated that the dumping and loading of boulders will be conducted on the property in the designated area shown on the site plan. Dust control should be applied as needed. Any signage on the property is required to comply with the requirements of the Red Rock Corridor Overlay District.

Recommendation

Staff recommended approval of Conditional Use Permit #12-09 to allow a wholesale trade business with the following conditions:

1. That the lot shall adhere to the submitted site plan and application dated 3-2-12.
2. That the normal hours of operation shall be from 7 A.M. – 9 P.M.
3. That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
4. That if dust becomes a nuisance the petitioner will apply a dust control agent at the intersection of Highway 42 and Douglas Avenue and extended to the entrance and along the driveway of the proposed site.
5. That a sign permit shall be obtained prior to the installation of any sign.
6. The applicant shall obtain and/or maintain a South Dakota State Sales Tax License as required by the Department of Revenue.
7. That the applicant notifies Split Rock Township of the proposed use and determines what is needed for driveway approaches.
8. That all natural drainage shall be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water.
9. That if the petitioner decides to change the layout of the property a new site plan shall be

- submitted to the Planning Department for approval.
10. That a minimum of a 30 foot green space/landscaping buffer shall be provided and maintained from the neighboring residential lot, as is shown on the submitted site plan.
 11. That once operation has begun, a site visit by the Planning Department will determine the need of any additional screening.
 12. That driveways and parking areas shall be constructed with a hard surface when the property is accessed from a hard surfaced road.
 13. That one 14' x 35' designated loading space and two (2) off-street parking spaces are provided.
 14. That all setbacks for the property shall conform to all requirements stated in *Article 6.00 C Commercial District*.
 15. That the property shall conform to the requirements stated in *Article 11.10 Red Rock Corridor Overlay District*.

Public Testimony

Mark Ernste, 26694 483rd, stated that he is comfortable with the conditions that have been set forth by staff.

Greg Anderson, 26663 Brownstone, expressed his concerns with the hours of operation.

Mark Ernste stated that his operation would be behind the existing storage units and they would buffer a lot of the noise from Mr. Anderson's property. He stated that most of the operation would be during normal business hours. Also that the loudest time would be when the boulders were being dumped and he would manage that time around mid-day.

Lou Krohn, 26664 Douglas Avenue, asked what the buffer requirements were and expressed his concerns about the children in the neighborhood and truck traffic. Dustin Powers stated that the Red Rock Corridor Overlay District requires a 30 foot green space and 8 trees per 100 linear feet of property line.

Mary Harwig, 26662 Brownstone, wanted to know what was going to happen in the area between the antique shop and storage units. Dustin Powers indicated that the applicant may wish to do retail sales in that area in the future but would need to come back to the Planning Commission at that time and amend the conditional use permit.

Paul Rowe, 26646 Douglas, wanted to see if the hours of operation could be made 8am – 5pm Monday thru Friday with no weekend hours.

Anna Percy, 26669 Brownstone, stated that she is concerned about the hours of operation because she puts her kids to bed early and also has concerns with the truck traffic and noise. She wondered if some sort of sound barrier would be an option. Lou Krohn stated that if the hours of operation were changed that would alleviate the need of a sound barrier.

Discussion

Commissioner Beninga stated that his definition and the applicant's definition of screening may be different and wanted it clarified what was meant by screening. Dustin Powers stated that the

Red Rock Corridor Overlay District requires a 30 foot buffer between commercial and residential land use and 8 trees per 100 linear feet of that buffer.

Commissioner Cypher stated that he would be more supportive of a 7am – 7pm timeframe without Sunday operation and maybe a modified schedule on Saturday. He also stated that the issues of noise and truck traffic is not going to be much greater than the current noise coming from the State Highway running through Rowena.

Commissioner Beninga asked if the modified hours would work for his operation. Mr. Ernste stated that he would like to keep the hours open as much as possible but would accept the suggested modified hours.

Commissioner Cypher stated that he would make a motion to have the hours of operation from 7am – 8pm Monday thru Friday and 9am – 5pm on Saturday with no operation on Sunday.

Commissioner Randall asked about the Condition #11 and the legality of that condition.

Kersten Kappmeyer, Deputy States Attorney, stated that it would be up to the Commission's discretion to determine whether or not that condition should stay as is, or if it would be best to just address the buffering now.

Action

A motion was made by Cypher and seconded by Beninga to **approve** of Conditional Use Permit #12-09 with the following conditions:

1. That the lot shall adhere to the submitted site plan and application dated 3-2-12.
2. That the normal hours of operation shall be from 7 A.M. – 8 P.M. Monday thru Friday, 9 A.M. – 5 P.M. on Saturday, and no operation on Sunday.
3. That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
4. That if dust becomes a nuisance the petitioner will apply a dust control agent at the intersection of Highway 42 and Douglas Avenue and extended to the entrance and along the driveway of the proposed site.
5. That a sign permit shall be obtained prior to the installation of any sign.
6. The applicant shall obtain and/or maintain a South Dakota State Sales Tax License as required by the Department of Revenue.
7. That the applicant notifies Split Rock Township of the proposed use and determines what is needed for driveway approaches.
8. That all natural drainage shall be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water.
9. That if the petitioner decides to change the layout of the property a new site plan shall be submitted to the Planning Department for approval.
10. That a minimum of a 30 foot green space/landscaping buffer shall be provided and maintained from the neighboring residential lot, as is shown on the submitted site plan.
11. That once operation has begun, a site visit by the Planning Department will determine the

- need of any additional screening.
12. That driveways and parking areas shall be constructed with a hard surface when the property is accessed from a hard surfaced road.
 13. That one 14' x 35' designated loading space and two (2) off-street parking spaces are provided.
 14. That all setbacks for the property shall conform to all requirements stated in *Article 6.00 C Commercial District*.
 15. That the property shall conform to the requirements stated in *Article 11.10 Red Rock Corridor Overlay District*.

The motion passed unanimously.

CUP #12-09 – APPROVED

Old Business

No Items.

New Business

Ryan Streff gave a briefing on the Envision 2035 Comprehensive Plan.

Pat Herman discussed the Planning Commission Dinner.

County Commission Items

No Items.