

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
April 23, 2012

A meeting of the Planning Commission was held on April 23, 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 and Susie O'Hara.

STAFF PRESENT:

Scott Anderson, 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 Beninga and seconded by Cypher and **approve** Items 1 thru 4 of the consent agenda and move Item 5 to the regular agenda. Item 2 was deferred until the May 21, 2012 meeting. The motion passed unanimously.

**ITEM 1. Approval of Minutes – March 26, 2012**

A motion was made by Beninga and seconded by Cypher to **approve** the minutes from March 26, 2012. The motion passed unanimously.

**Deferred from March 26, 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 May 21, 2012 meeting.

**Action**

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

**CUP #11-56 - DEFERRED**

**ITEM 3. CONDITIONAL USE PERMIT #12-10 to transfer two building from the W ½ NW ¼ to Lot 3 of Swenson Addition, all in Section 15-T102N-R51W.**

Petitioner: City of Hartford, Teresa Sidel

Property Owner: Same

Location: North side of Hartford

**General Information**

Legal Description – W ½ NW ¼ (Except S400' W350' & H-2 & H-3) Section 15-T102N-R51W

Present Zoning – A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size – 75 Acres

**Staff Report:** Dustin Powers

**Staff Analysis**

This is a request to transfer two residential building eligibilities. The petitioner owns the W ½ NW ¼ of Section 15 in Hartford Township. This property currently contains two unused residential building eligibilities; one in the NW ¼ NW ¼ and another in the SW ¼ NW ¼.

The City of Hartford plans to split the 75 acres into 3 lots as is shown on the submitted plat. They plan to annex Lots 1 & 2 into the City of Hartford while leaving Lot 3 in County jurisdiction to try and sell the two eligibilities. Approval of the transfer request would move the unused eligibilities to the proposed Lot 3 Swenson Addition.

**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 surrounding land use is predominately agricultural crop ground. The petitioner's request to transfer a building eligibility will not increase the number of dwellings allowed under density zoning.

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

There should be no major effect upon the normal and orderly development of the area.

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

The construction of new dwelling units is required to be in conformance with the County's zoning, septic and building code. The petitioner will need to obtain a driveway permit from the County Highway Department before the County can issue a building permit.

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

The minimum required lot size for a residential dwelling is 1 acre. This is sufficient space to meet any parking needs for a single family home.

**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.**

These should not be at a level as to constitute a nuisance.

**Recommendation:**

Staff finds that the requested transfer is in conformance with the zoning ordinance and recommended approval of Conditional Use Permit #12-10 with the following conditions:

- 1) Each housing site shall be platted and a right-to-farm notice filed on the deed of each lot prior to the issuance of a building permit.
- 2) The County Highway Department shall approve any new driveway access.

**Action**

A motion was made by Beninga and seconded by Cypher to **approve** Conditional Use Permit #12-10 with stated conditions. The motion passed unanimously.

**CUP #12-10- APPROVED**

**ITEM 4. CONDITIONAL USE PERMIT #12-11 to exceed 1200 square feet of accessory building area – 4000 requested.**

Petitioner: Allan Hall

Property Owner: Same

Location: Indian Hills Estates, 1.5 miles east of Sioux Falls

**General Information**

Legal Description – Tract 3 Indian Hills Estates N ½ Section 8-T101N-R48W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 6 Acres

**Staff Report:** Scott Anderson

**Staff Analysis:** The applicant is requesting approval of a conditional use permit to construct a 4,000 square foot accessory structure. The proposed structure would be located northeast of the existing single family residence. The proposed building will be 50 feet by 80 feet

The subject property is located between Sioux Falls and Brandon. Staff conducted a site visit on April 10, 2012. The proposed site location of the accessory building would be situated near an established grove of trees, which would buffer the building from the traveling public along Maple Street. There are approximately seventeen (17) residences located within the same subdivision and area of the subject property. Additionally there are many more residences to the south.

The applicant wishes to construct an accessory structure in which to store an RV, boat, recreational vehicles, utility tractor, mower, car, and an area for a hobby shop. Furthermore, the parcel is a large lot consisting of nearly 6 acres.

**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 placement of an accessory structure exceeding 1,200 square feet should not impact the enjoyment or use of properties in the vicinity. Several properties in the area have accessory structures exceeding the 1,200 square foot maximum size requirements. There is a residence located at 2212 N. Indian Hills Trail that has accessory structures totaling 4,425 square feet and accessory buildings located at 2221 N. Indian Hills Trail that are 3,228 square feet in area. These parcels are located approximately 1/8 mile to the south and southwest. A map of their location is provided for the Planning Commission's review.

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

The petitioner shall be made aware that the building can be used strictly for his personal storage of residential related items and no commercial or business activities or storage is allowed.

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

Access to the property is via Indian Hills Trail. No additional access onto the road should be allowed or is being requested by the applicant. All other utilities and drainage have been provided and no further improvements are needed.

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

There is ample area on the subject property for any parking as a result of residential activities. No on-street parking will be allowed. No commercial or business parking is allowed.

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

There should be no offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property. No other types of uses are allowed.

There are other accessory structures in the area that are as large or larger than the detached accessory structure proposed by the applicant. Therefore, staff can support this request and recommends approval with the following conditions.

**Recommendation:** Staff finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #12-11 with the following conditions:

1. The existing driveway onto the property shall be used for access to the building. No additional driveway access shall be allowed onto N. Indian Hills Trail or East Maple Street.
2. The building shall be used only for the petitioner's personal residential storage. No commercial or business uses or storage shall be allowed.
3. The building shall not exceed thirty-five (35) feet in height.
4. A building inspection is required to determine that the new building does not exceed 4,000 square feet measured from the outside.

**Action**

A motion was made by Beninga and seconded by Cypher to **approve** Conditional Use Permit #12-11 with stated conditions. The motion passed unanimously.

**CUP #12-11- APPROVED**

**ITEM 5. CONDITIONAL USE PERMIT #12-12 to allow a Class 1 Major Home**

**Occupation.**

Petitioner: Brad Hillman  
Property Owner: Same  
Location: 3 miles southwest of Baltic

**General Information**

Legal Description – Tract 3 Weber’s Addition SW ¼ NW ¼ Section 12-T103N-R50W  
Present Zoning – A-1 Agricultural  
Existing Land Use - Residential  
Parcel Size – 40 Acres

**Staff Report:** Dustin Powers

**Staff Analysis:**

The subject property is located in Section 12 of Lyons Township, approximately three (3) miles southwest of Baltic. This petitioner’s property is 40 acres in size and 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 applicant is requesting Conditional Use Permit #12-12 to allow for a Class 1 Major Home Occupation for an insulation application business (Northland Coatings). The proposed home-based occupation would allow for the petitioner to park and store his commercial trailers for his business in a detached accessory building to protect them from the weather elements.

Appointments are made thru phone calls or email. The operation of the business takes place at the customer’s property; therefore no customers will be visiting the site. Northland Coatings also has an office located within Sioux Falls.

The applicant has indicated the proposed home occupation will be conducted within the detached accessory building. Of the 4,080 square feet of the building, 2,880 square feet would be used strictly for the practice of equipment storage and loading area for business trailers. The applicant has indicated that he has six (6) employees, three (3) which are residents at the property. The employees will only be at the site during times when equipment needs to be loaded and unloaded into the trailers for a job.

**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 home occupation for an insulation application business should have limited effects on the uses already permitted in the area or on property values in the immediate vicinity; the site is only for storage of the commercial equipment and the operation takes place at the customer’s property.

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

The proposed conditional use permit should not impact the agricultural nature of the surrounding

properties. The applicant may not change the outside appearance of the residence to indicate any business activity. The proposed home 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 site is off of 471<sup>st</sup> Avenue. The graveled road (471<sup>st</sup> Avenue) is maintained in good condition by the township and will be able to provide the minimal increase in traffic due to the proposed home occupation. No new roads or accesses will be needed. All required utilities exist to the single-family residence and accessory building.

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

The property has sufficient parking areas for all proposed uses.

**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 applicant has indicated that the business conducted on the property will be an insulation application business. There shall be no odors or fumes on the property as the application process takes place at the customer's property. No hazardous chemicals or acids would be used in conjunction with the insulation application business.

If the home occupation is conducted within an enclosed structure located on the property and the traffic to and from the site is limited, the home occupation should create little of the above-listed elements in amounts that would constitute a nuisance.

**Recommendation**

Staff recommended approval of Conditional Use Permit #12-12 to allow a commercial storage as a Class 1 Major Home Occupation with the following conditions:

- 1) That the occupation shall be conducted entirely within a dwelling or accessory building and clearly incidental to the use of the structure for residential purposes.
- 2) That no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential or agricultural use.
- 3) That the occupation shall be operated by a member of the family residing in the dwelling.
- 4) That in addition to the dwelling, up to 2,880 square feet of accessory building space may be used for the home occupation.
- 5) That the occupation shall not create vibration, glare, fumes, odor, electrical interference or other noise that may pose a nuisance or be detectable to the normal senses off the property.
- 6) Toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials are prohibited.
- 7) That no outside storage, display of goods or merchandise, or external evidence of the occupation shall occur on the property.
- 8) That there shall be only limited and incidental sale of products conducted on the premise.
- 9) That the applicant be limited to one (1) non-illuminated nameplate not exceeding four

- (4) square feet in area may be placed on the dwelling or accessory building. No off premise signs shall be used. A Sign Permit shall be obtained prior to the installation of any sign.
- 10) That the occupation shall not generate more than four (4) visits per day from clients or customers averaged over a period of seven (7) consecutive days.
  - 11) That the number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.
  - 12) That the home occupation shall be limited to the storage of commercial equipment within the detached accessory building. Any expansion beyond this will require the Conditional Use Permit to be reviewed.
  - 13) That a building plan shall be reviewed and approved by the Chief Building Inspector prior to issuance of a building permit.
  - 14) That all applicable state plumbing and electrical permits and required inspections shall be obtained for this structure.

### **Public Testimony**

Dustin Powers presented the item. He stated that the applicant has changed the request from 2,880 square feet to 3,300 square feet of the accessory building space to be used for the home occupation. Staff is recommending approval with that change to condition #4.

Brad Hillman, 25148 471<sup>st</sup> Avenue, stated that they are looking at storing couple of work trailers to help regulate the temperature of the spray foam so that it doesn't get too hot or cold. He stated that deliveries come once a week to once every two or three weeks depending on order size and number of jobs during a given time.

Commissioner Cypher, stated that he has concerns with approving a building four times the size of the recommended criteria. He also has concerns with increased traffic on the township road. He stated that this is an agricultural and residential area not a commercial area therefore is not in support of this request.

Commissioner Beninga, stated that it all comes back to arbitrary and capricious because the statute that states 750 square feet.

Pat Herman stated that these are criteria and are not set in stone, they are only a guide. The struggle here is how to balance the commercial use with the residential use of the property and at what stage is it too large. We have approved some and denied some in the past but every case is different and the criteria affect each one differently.

Commissioner O'Hara asked if there were larger buildings in the area.

Dustin Powers stated that there are larger buildings surrounding this property that are used for agricultural uses and agricultural business. It is not a question of the size of the building, because the applicant could build a larger building if it is for personal storage, the question we are looking at is the amount of the building that can be used for the business. If we believe that this use would change the character or appearance of this property as a residential use then it

does not meet the home occupation definition, however if it does not change the character or appearance then we use the 11 criteria to determine if it fits as a home occupation.

Commissioner Beninga stated that he at first believed that this was a black and white and now it seems to be more of a suggestion on the commission's decision. He stated that because these are not set in stone rules he has changed his decision and would recommend approval with the stated conditions.

**Action**

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

- 1) That the occupation shall be conducted entirely within a dwelling or accessory building and clearly incidental to the use of the structure for residential purposes.
- 2) That no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential or agricultural use.
- 3) That the occupation shall be operated by a member of the family residing in the dwelling.
- 4) That in addition to the dwelling, up to 3,300 square feet of accessory building space may be used for the home occupation.
- 5) That the occupation shall not create vibration, glare, fumes, odor, electrical interference or other noise that may pose a nuisance or be detectable to the normal senses off the property.
- 6) Toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials are prohibited.
- 7) That no outside storage, display of goods or merchandise, or external evidence of the occupation shall occur on the property.
- 8) That there shall be only limited and incidental sale of products conducted on the premise.
- 9) That the applicant be limited to one (1) non-illuminated nameplate not exceeding four (4) square feet in area may be placed on the dwelling or accessory building. No off premise signs shall be used. A Sign Permit shall be obtained prior to the installation of any sign.
- 10) That the occupation shall not generate more than four (4) visits per day from clients or customers averaged over a period of seven (7) consecutive days.
- 11) That the number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.
- 12) That the home occupation shall be limited to the storage of commercial equipment within the detached accessory building. Any expansion beyond this will require the Conditional Use Permit to be reviewed.
- 13) That a building plan shall be reviewed and approved by the Chief Building Inspector prior to issuance of a building permit.
- 14) That all applicable state plumbing and electrical permits and required inspections shall be obtained for this structure.

The motion passed 3-1 (Cypher voted No).

**CUP #12-12- APPROVED**

**Old Business**

No Items.

**New Business**

Kersten Kappmeyer gave a briefing about email correspondence between staff and the Planning Commission.

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

**County Commission Items**

No Items.