

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
May 21, 2012

A meeting of the Planning Commission was held on May 21, 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, Wayne Steinhauer, Becky Randall, Mark Rogen 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 Cypher and seconded by Steinhauer to **approve** Items 1 thru 10 of the consent agenda and move Item 11 to the regular agenda. Item 9 was deferred until the June 25, 2012 meeting. Item 10 was withdrawn by the petitioner. The motion passed unanimously.

ITEM 1. Approval of Minutes – April 23, 2012

A motion was made by Cypher and seconded by Steinhauer to **approve** the minutes from April 23, 2012. The motion passed unanimously.

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:

The petitioner is requesting approval of Conditional Use Permit #11-56 to allow a contractor's storage yard, shop and tree farm (Chris Hood Landscaping, Inc.). The subject property is located on the southwest side of Rowena in Section 26 of Split Rock Township. The petitioner is proposing this use on a two acre parcel described as "Hood's Addition Tract 1" that has yet to be platted.

No proper access to this property has been determined or acquired for the use of this property as a contractor's storage yard, shop and tree farm. Due to the fact that no access has been acquired the proposed plat (Hood's Addition Tract 1) cannot be filed. South Dakota State Codified Law states that a lot cannot be platted if the parcel will be landlocked. Planning staff has been advised by the State's Attorney's Office that a plat cannot be approved until there is a judicial determination for the status of Ledge Rock Avenue.

Staff has been working with the petitioner (Chris Hood) and the property owner (Jason Klein) since November of 2011, with no success in finding proper access to the proposed property. The conditional use permit has been deferred five (5) times as staff continued to work with the applicants. At this time staff feels that the property owners in the area need to work together to find common ground on access issues. If the property owner intends on developing this area for commercial or other uses proper access will need to be determined.

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.

To preserve the view from all roadways proper screening shall be erected around all outside storage areas. All outside storage is required to be screened from public view. The screening/fence shall be at a minimum of 8 feet in height with a minimum of 90% opacity maintained over the entire height of the fence. The fence shall be maintained in earth-tone colors such as browns or greens. The petitioner was informed that rock, brick, equipment and other materials and supplies are required to be screened.

This is a commercial zoned area, so the proposed use will blend well and should not impact the use and enjoyment of the other properties in the area. This type of business will not impact property values in the immediate vicinity.

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 be compatible with those types of uses that are predominate in the area. The proposed use is consistent with the types of uses found in commercial zoning districts.

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

No proper access to this property has been determined or acquired for the use of this property as a contractor's storage yard, shop and tree farm. Due to the fact that no access has been acquired the proposed plat (Hood's Addition Tract 1) cannot be filed. South Dakota State Codified Law states that a lot cannot be platted if the parcel will be landlocked.

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.

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

The Zoning Ordinance specifies two (2) parking spaces for each three employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection with

the business. This parking requirement assumes that the property is being used for storage and warehouse purposes and that no retail space or shop is constructed. In the event that a retail space and/or a contractors shop is constructed the owner may be required to provide parking that meets the retail parking requirement of one (1) parking space for each 300 square feet of floor area. Staff is requesting that a minimum of ten (10) parking spaces be provided for this use.

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

Nuisances consisting of dust, noise, and vibration should be expected in a commercial development. The owner shall take measures to control the amount of these nuisances so that adjacent property owners are not affected. All outside lighting shall be fully cut-off and fully-shielded with recessed lights that prohibit the spillage of light beyond the boundaries of the subject property.

Recommendation:

Staff recommended denial of Conditional Use Permit 11-56 due to the fact that the required information has not been supplied by the applicant.

Action

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

CUP #11-56- DENIED

ITEM 3. CONDITIONAL USE PERMIT #12-14 to exceed 1200 square feet of accessory building area – 2920 requested.

Petitioner: Jon Maras

Property Owner: Same

Location: ½ mile east of Hartford

General Information

Legal Description – Tract 3 Ruhaak Addition NE ¼ Section 23-T102N-R51W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 6.91 Acres

Staff Report: Dustin Powers

Staff Analysis:

The property owner has applied for a conditional use permit to exceed the 1,200 sq. ft. accessory building area at 1900 E. 2nd Street in Hartford. The property owner is requesting this conditional use permit to construct a 2,800 sq. ft. (40' x 70') storage building; currently there is a 120 square foot shed on the property. The property is located approximately 1 mile east of Hartford. This particular parcel is part of a group of residential lots platted as Ruhaak Addition.

In this area there are three properties that exceed 1,200 square feet of accessory building area. The total accessory building areas are: 2,304 square feet at 2310 E. 2nd Street, 1,296 square feet at 25961 465th Avenue, and 5,202 square feet at 25963 465th Avenue. The largest accessory building of these properties is located at 25963 465th Avenue and is 3,906 square feet in size.

The property owner would like to construct this accessory building east of the primary structure. Regulations regarding accessory buildings found in *Article 12.07 Accessory Buildings and Uses* shall be met. Setbacks for an accessory building that is located in front of the primary structure in the A-1 Zoning District are front yard 50' (section line roadway setback), side yard 7', and rear yard 30'.

In residential developments which exceed four or more lots in size, accessory building area is limited to 1,200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

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 structures in the general area of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure should have little impact on neighboring properties. The construction of this accessory building should not impede on the enjoyment or use of the surrounding properties or effect 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 building should have no impact on further construction or

development within the subdivision or general area. The building will only be used for the owner's personal storage or residential related items and no commercial or business activities are allowed.

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

Access to the proposed accessory building would be through the current access to the primary structure (E. 2nd Street). 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 offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property. All outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.

The proposed building will only be used for personal storage and no commercial or business related activities will be allowed.

Staff has found that these conditions for approval will help ensure that over-sized accessory buildings will fit in with the character of the surrounding properties. The planning department will perform a building inspection to ensure that the accessory building adhered to the submitted site plan dated 4-6-12.

Recommendation

Staff found that the proposed accessory building size conforms to the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #12-14 with the following conditions:

1. That the accessory building area on the property shall not exceed 2,920 square feet.
2. That the building shall not exceed 35 feet 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 Steinhauer to **approve** Conditional Use Permit #12-14 with stated conditions. The motion passed unanimously.

CUP #12-14 - APPROVED

ITEM 4. CONDITIONAL USE PERMIT #12-17 to exceed 1200 square feet of accessory building area – 2400 requested.

Petitioner: Brad Nelson

Property Owner: Same

Location: 1.5 miles southwest of Hartford

General Information

Legal Description – Tract 1 Nelson's Addition W ½ SW ¼ Section 33-T102N-R51W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 18.48 Acres

Staff Report: Pat Herman

Staff Analysis:

The subject property is located at 26170 462nd Ave, 1.5 miles south of Hartford. There is a cluster of rural acreages to the south and east of the property and agriculture land uses to the north and west. This property is zoned A-1 Agricultural and has one single family dwelling.

Conditional Use Permit #12-17 is a request to exceed 1200 sq. ft. of accessory building area. The Minnehaha County Zoning Ordinance Section 12.07 (D) states:

- (D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:
 - (1). 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.

There are a number of existing accessory structures that have been constructed on the neighboring properties. Staff reviewed the building sizes on the following properties:

- 46208 262nd St. – 2,520 square feet
- 46216 262nd St. – 768 square feet
- 26208 462nd Ave. – 2,700 square feet
- 46233 262nd St. – 2,280 square feet.

The petitioner's request for 2,400 square feet of accessory building area is consistent with the existing accessory buildings in this subdivided area of the County. It has been the practice of the Planning Commission to consider the size of existing accessory structures when acting on conditional use permit requests.

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.

An accessory structure of this size will not affect property values nor have an impact on the use of properties in the area.

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

The majority of the rural acreages in this neighborhood have accessory structures. The smallest lot in this area is 9 acres and the petitioner's lot is 18+ acres. A structure exceeding 1200 square feet is not out of place on a large acreage.

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

All needed utilities exist on the property. Access will be from 462nd Ave., a township gravel road.

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

There are no additional parking or landing requirements for this structure.

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.

Use of the building is for personal storage and should not create a nuisance.

Petitioner's Note: A building inspection is required. The building inspector will measure the outside perimeter to determine the square footage maximum has not been exceeded.

Recommendation

Staff finds a 2400 sq. ft. building is consistent with existing accessory building areas in this neighborhood. Staff recommended approval of conditional use permit #12-17 with the following conditions:

1. The total accessory building square footage shall not exceed 2400 square feet.
2. The building shall be used only for the petitioner's personal residential storage. No commercial uses or commercial storage shall be allowed.
3. The building shall not exceed one story in height.
4. A building permit and a building inspection are required.

Action

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #12-17 with stated conditions. The motion passed unanimously.

CUP #12-17- APPROVED

ITEM 5. CONDITIONAL USE PERMIT #12-18 to transfer five residential building eligibilities to the SE ¼ SE ¼ in Section 4-T102N-R49W.

Petitioner: Richard Sweetman
Property Owner: Mom's Farm Partnership
Location: 3 miles north of Sioux Falls

General Information

Legal Description – SE ¼ SE ¼ (Proposed Tract 3) Section 4-T102N-R49W
Present Zoning – A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size – 40 Acres

Staff Report: Dustin Powers

Staff Analysis

This is a request to transfer five (5) residential building eligibilities. The petitioner owns the E ½ SW ¼ (2 eligibilities), the W ½ SE ¼ (2 eligibilities), the NE ¼ SE ¼ (1 eligibility), and the SE ¼ SE ¼ (1 used eligibility) all in Section 4 of Mapleton Township. The petitioner is requesting to transfer five (5) eligibilities to the SE ¼ SE ¼ (Proposed Tract 3), which would total six (6) eligibilities in that quarter-quarter.

Approval of the transfer request would move the unused eligibilities out of the 100 year floodplain to the proposed Tract 3 in the SE ¼ SE ¼ of Section 4 of Mapleton Township.

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 with residential subdivisions ¼ north and ½ mile south. 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. This would remove the eligibilities to land not located within the 100 year floodplain.

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 permits from the South Dakota Department of Transportation or Mapleton Township 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 #12-18 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 South Dakota Department of Transportation or Mapleton Township shall approve any new driveway access.

Action

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #12-18 with stated conditions. The motion passed unanimously.

CUP #12-18- APPROVED

ITEM 6. CONDITIONAL USE PERMIT #12-19 transfer 4 residential building eligibilities to the NE ¼ NE ¼ 9-T102N-R49W.

Petitioner: Richard Sweetman
Property Owner: Kathleen Sweetman Trust
Location: 3 miles north of Sioux Falls

General Information

Legal Description – NE ¼ NE ¼ (Proposed Tract 3) Section 9-T102N-R49W
Present Zoning – A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size – 40 Acres

Staff Report: Dustin Powers

Staff Analysis

This is a request to transfer four (4) residential building eligibilities. The petitioner owns the E ½ NW ¼ (2 eligibilities), the Part of the W ½ NW ¼ East of the Railway (1 eligibilities), the NW ¼ NE ¼ (1 eligibility), and the NE ¼ NE ¼ (1 used eligibility) all in Section 9 of Mapleton Township. The petitioner is requesting to transfer four (4) eligibilities to the NE ¼ NE ¼ (Proposed Tract 3), which would total five (5) eligibilities in that quarter-quarter.

Approval of the transfer request would move the unused eligibilities out of the 100 year floodplain to the proposed Tract 3 in the NE ¼ NE ¼ of Section 9 of Mapleton Township.

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 with residential subdivisions ¼ north and ½ mile south. 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. This would remove the eligibilities to land not located within the 100 year floodplain.

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 South Dakota Department of Transportation or Mapleton Township 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 #12-19 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 South Dakota Department of Transportation or Mapleton Township shall approve any new driveway access.

Action

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #12-19 with stated conditions. The motion passed unanimously.

CUP #12-19- APPROVED

ITEM 7. CONDITIONAL USE PERMIT #12-20 to exceed 1200 square feet of accessory building area – 2544 requested.

Petitioner: Thomas & Gayle Schuster
Property Owner: Same
Location: 2 miles west of Wall Lake

General Information

Legal Description – Tract 1A Grave's Second Addition Section 18-T101N-R51W
Present Zoning – A-1 Agricultural
Existing Land Use - Residential
Parcel Size – 2.83 Acres

Staff Report: Pat Herman

The petitioner is requesting to exceed 1200 sq. ft. of accessory building area. The site is located two miles northwest of Wall Lake. The parcel is part of a five lot subdivision which, as defined in the Minnehaha County Zoning Ordinance, requires conditional use permit approval for accessory building area in excess of 1200 square feet.

The petitioner would like to construct a 2544 square foot accessory building (40 x 60) to be used for personal storage. There is a small 12 x 12 shed existing on the property.

There is an existing 2400 square foot accessory building to the east of this site at 46026 265th Street, which sits on a lot which is two acres larger than the subject property. In 2007 the Planning Commission heard a request to allow 2760 square feet at 26496 459th Avenue, the western most lot of the subdivision. That request was approved to allow only 2400 square feet of accessory building area, a decision which was upheld on appeal to the County Commission. The Planning Commission has been consistent in not approving accessory buildings which exceed the largest existing accessory square footage area in the subdivision.

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 construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The building can only be used for the personal storage of the petitioner's residential related items and no commercial or business activities are allowed.

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

Access onto Highway 42 is restricted to the existing driveway.

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

There is sufficient parking for any 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 offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property.

Petitioner's Note: A building inspection is required. The building inspector will measure the outside perimeter to determine the square footage maximum has not been exceeded.

Recommendation

Staff finds a 2400 sq. ft. building will conform to the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #12-20 with the following conditions:

1. The total accessory building square footage shall not exceed 2400 square feet.
2. The building shall be used only for the petitioner's personal residential storage. No commercial uses or commercial storage shall be allowed.
3. The building shall not exceed one story in height.
4. A building permit and a building inspection are required.

Action

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #12-20 with stated conditions. The motion passed unanimously.

CUP #12-20- APPROVED

ITEM 8. CONDITIONAL USE PERMIT #12-21 to allow a single family dwelling.

Petitioner: Lloyd & Linda Arends
Property Owner: Same
Location: 2 miles west of Baltic

General Information

Legal Description – Tract 1 Arend’s Addition Section 2-T103N-R50W
Present Zoning – A-1 Agricultural
Existing Land Use - Vacant
Parcel Size – 2.34 Acres

Staff Report: Pat Herman

Staff Analysis:

Lloyd & Linda Arends have submitted an application to allow a single family dwelling on a platted lot. The lot is 2.34 acres in size and is zoned A-1 Agricultural. The location is 8/10th of a mile west of the Baltic/I-29 exit. Surrounding land use is a mixture of agriculture and rural acreages.

Between 1979 and 1988 a portion of the W1/2 NE1/4 in Section was platted off as an acreage. The remaining portion of ground had one residential building eligibility that the Arends would like to use on the platted lot. The Minnehaha County Zoning Ordinance requires conditional use permit approval for any building eligibilities residing on a lot created during the 1979 to 1988 timeframe.

3.04 (D) A single-family dwelling on a parcel which is not a lot of record provided:

- 1). The deed to the land or the agreement to convey the parcel was recorded with the Register of Deeds prior to September 27, 1988.
- 2). There are no other dwellings located on the parcel, except a parcel of 80 acres or more shall have building eligibility determined as follows:
 - a). The acreage of the parcel shall be divided by 40 acres. The resulting whole number minus the number of existing dwellings on the parcel shall represent the building eligibility.
 - b). Each building site shall consist of a minimum of one acre.
- 3). The building site shall not conflict with other existing or potential land use activities or the prevailing pattern of development.
- 4). The soil conditions are acceptable for a building site.
- 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.

A single family will not negatively affect property values on surrounding properties. Farming is occurring in the area and a house does have an impacting on that use. However, single family dwellings are an allowed us in the A-1 Agricultural zoning district.

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

Approval of this conditional use will not increase the number of houses allowed under density zoning. No eligibilities will remain on the W1/2 NE1/4.

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

The dwelling will use a septic system and rural water. Access is onto County Highway 114 and driveway approval from the Highway Department is required prior to the issuance of a building permit.

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

The lot size is sufficient to handle any 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.

No of the above should be at a level as to constitute a nuisance.

Recommendation:

Staff finds the request to be in conformance with density zoning and recommended approval of Conditional Use Permit #12-21 with the following conditions:

1. A right-to-farm notice covenant shall be filed on the deed prior to the issuance of building permit.
2. Written approval for driveway access from the County Highway Department prior to the issuance of a building permit.

Action

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #12-21 with stated conditions. The motion passed unanimously.

CUP #12-21- APPROVED

ITEM 9. CONDITIONAL USE PERMIT #12-22 to allow condo-storage units.

Petitioner: Doug Smook
Property Owner: Prairie Creek Developers
Location: West side of Rowena

General Information

Legal Description – Tract 1 Smook Addition SE ¼ Section 26-T101N-R48W
Present Zoning – C Commercial
Existing Land Use - Commercial
Parcel Size – 5 Acres

Staff Report: Ryan Streff

Staff Analysis:

Staff recommended that this item be deferred to the June 25, 2012 meeting.

Action

A motion was made by Cypher and seconded by Steinhauer to **defer** Conditional Use Permit #12-22 with stated conditions. The motion passed unanimously.

CUP #12-22- DEFERRED

ITEM 10. CONDITIONAL USE PERMIT #12-24 transfer 2 residential building eligibilities to the NE ¼ NE ¼ 25-T104N-R48W.

Petitioner: Dan Smith

Property Owner: Leona E. Kummerfeldt Estate

Location: 4 miles northwest of Sherman, SD

General Information

Legal Description – NE ¼ NE ¼ Section 25-T104N-R48W

Present Zoning – A-1 Agriculture

Existing Land Use - Agricultural

Parcel Size – 40 Acres

Staff Report: Ryan Streff

Staff Analysis

The applicant has requested that this item be withdrawn. Staff recommended that this item be withdrawn.

Action

A motion was made by Cypher and seconded by Steinhauer to **withdraw** Conditional Use Permit #12-24. The motion passed unanimously.

CUP #12-24- WITHDRAWN

ITEM 11. CONDITIONAL USE PERMIT #12-26 to allow a temporary fireworks stand.

Petitioner: Mike Denning

Property Owner: Constance Johnson

Location: Corson Exit from I-90

General Information

Legal Description – SW ¼ NW ¼ (Except Lot H-1, H-2 & Except W447.82' N370'
of Section 26-T102N-R48W

Existing Land Use - Vacant

Current Zoning – A-1 Agriculture

Parcel Size – 33.45 Acres

Staff Report: Dustin Powers

Staff Analysis

The subject property is located in the northeast corner of I-90 and SD HWY 11. This property is in the A-1 Agricultural District. The properties to the east, south and north are zoned A-1 Agricultural, property to the west is zoned I-2 General Industrial.

The petitioner has applied for this conditional use permit to allow an annual nine-day fireworks sale from June 27th to July 5th. Fireworks will be sold from a tent, trailer or portable POD located at the site and placed in the northwest corner of the property along SD HWY 11. The parking on the site would be located on the subject property and will not be allowed in the right-of-way of SD HWY 11.

The subject property is currently under enforcement for the dilapidated state of the existing buildings on the property that could be a potential hazard if entered. The petitioner is responsible for keeping potential customers out of the area of these buildings, and the County accepts no responsibility for anything that may happen if the potential customers access any areas that appear to be in a dilapidated state. The petitioner stated that there are plans to rope the dilapidated area off to keep customers away from the subject buildings.

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.

Due to the limited time frame for the fireworks sales, the use should have no effect on the enjoyment of the surrounding property or on property values in the area. The hours of operation should be limited from 9:00 am to 10:30 pm. This is consistent with other firework sales approved by conditional use permit in the area.

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

Given the temporary nature of the proposed use, there should be no impact on future development of the area.

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

Access to the site will be from SD HWY 11. This access also serves as the main entrance to

subject property. That if needed the petitioner will provide a portable restroom at the site.

No other new utilities, access roads, drainage or facilities will be needed.

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

There is ample parking available on this site to handle the vehicle load generated by this temporary land use.

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

This temporary use should not create any nuisances that are listed above.

Recommendation

Staff recommends **approval** of Conditional Use Permit #12-26 with the following conditions:

1. That the temporary sales of fireworks shall be allowed to operate annually between June 27th and July 5th.
2. That access shall be from SD HWY 11.
3. That the business shall be allowed to operate between the hours of 9:00 am and 10:30 pm.
4. That one site sign is permitted and shall not exceed 32 square feet in size. Two signs or banners are permitted on the proposed tent and shall not exceed 15 square feet each. No other signs, banners or flags, with the exception of the American flag, shall be permitted in conjunction with the use.
5. That sign(s) shall not be placed on the property prior to June 23rd and shall be removed by July 8th of each year.
6. That fireworks shall be sold from a tent, trailer or portable POD located at the site and placed in the southwest corner of the lot.
7. That parking shall not be allowed within the right-of-way of SD HWY 11. All parking shall be contained to the parking area on the site plan.
8. That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
9. That the applicant is responsible for any accidents/injuries that may occur due to the dilapidated state of the property, and that Minnehaha County is not liable.

Discussion

Dustin Powers indicated that the South Dakota Department of Transportation requested that staff add an additional condition that states:

That the applicant shall obtain any required access permits for the South Dakota Department of Transportation.

Dustin Powers stated that the applicant has obtained the required permits but would recommend adding this condition.

Action

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #12-26 with the following conditions:

1. That the temporary sales of fireworks shall be allowed to operate annually between June 27th and July 5th.
2. That access shall be from SD HWY 11.
3. That the business shall be allowed to operate between the hours of 9:00 am and 10:30 pm.
4. That one site sign is permitted and shall not exceed 32 square feet in size. Two signs or banners are permitted on the proposed tent and shall not exceed 15 square feet each. No other signs, banners or flags, with the exception of the American flag, shall be permitted in conjunction with the use.
5. That sign(s) shall not be placed on the property prior to June 23rd and shall be removed by July 8th of each year.
6. That fireworks shall be sold from a tent, trailer or portable POD located at the site and placed in the southwest corner of the lot.
7. That parking shall not be allowed within the right-of-way of SD HWY 11. All parking shall be contained to the parking area on the site plan.
8. That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
9. That the applicant is responsible for any accidents/injuries that may occur due to the dilapidated state of the property, and that Minnehaha County is not liable.
10. That the applicant shall obtain any required access permits for the South Dakota Department of Transportation.

The motion passed unanimously.

CUP #12-26- APPROVED

Old Business

No Items.

New Business

Pat Herman gave a briefing on the Envision 2035 Comprehensive Plan.

Pat Herman stated that staff would compile a history of all the major home occupations in Minnehaha County for the Commissions review.

County Commission Items

No Items.