

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
June 25, 2012

A meeting of the Planning Commission was held on June 25, 2012 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Mike Cypher, Wayne Steinhauer, 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 Rogen and seconded by Duffy to **approve** Items 1 thru 6 and 8 of the consent agenda and move Item 7 to the regular agenda. The motion passed unanimously.

ITEM 1. Approval of Minutes – May 21, 2012

A motion was made by Rogen and seconded by Duffy to **approve** the minutes from May 21, 2012. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #12-27 to transfer 1 residential building eligibility from Tract 3 Drymalski's Addition to Tract 1 Drymalski's Addition; all in SW1/4 of Section 2-T102N-R51W.

Petitioner: Teri Drymalski

Property Owner: same

Location: 2 miles Northeast of Hartford

General Information

Existing Land Use - Vacant

Current Zoning – A-1 Agriculture

Parcel Size – 7.73 Acres

Staff Report: Pat Herman

Staff Analysis

This is a request to transfer one residential building eligibility. The site is located in Section 2 of Hartford Township. There are a number of rural acreages in this part of Hartford Township with the remaining ground being in agricultural production. Skunk Creek runs through a portion of the receiving property.

There are 3 platted lots, Tracts 1, 2, & 3 Drymalski's Addition, which align the township road.

The petitioner would like to transfer the building eligibility from Tract 3 to Tract 1. These two lots meet at a point, satisfying the ordinance requirement for properties to be contiguous. After the eligibility is transferred, Tracts 2 & 3 will be sold as a package as both are pasture land.

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's request to transfer a building eligibility will not increase the number of dwellings allowed under density zoning. The transfer will move the eligibility from pasture land to crop ground. There are a number of residential acreages in this area and these homes do have impact of farm operations.

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. A small portion of the receiving property along Skunk Creek in within the 100 year flood plain.

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

The construction of new dwelling unit is required to be in conformance with the County's zoning, septic and building code. Hartford Township does not require culvert permits, but the petitioner should contact the Township before constructing a driveway.

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 #12-027 with the following condition:

1. A right to farm notice covenant shall be filed on the platted Tract 1 prior to the issuance of a building permit.

Action

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #12-27 with the stated conditions. The motion passed unanimously.

CUP #12-27- APPROVED

ITEM 3. CONDITIONAL USE PERMIT #12-28 to allow a Class 1 Major Home Occupation – woodworking business.

Petitioner: Kevin & Robin Hempel
Property Owner: same
Location: 25793 470th Avenue

General Information

Legal Description – E280.83' SE ¼ SE ¼ (Except Tract 1 Benson Addition & Except Lucas Addition) Section 10-T102N-R50W
Existing Land Use - Residential
Current Zoning – A-1 Agriculture
Parcel Size – 1.83 Acres

Staff Report: Scott Anderson

Staff Analysis

The applicant is proposing to operate a woodworking business as a home occupation. The business would make custom wood furniture and wood products to be sold at craft fairs and other shows. The applicant prepared a narrative outlining the business, which is included for your review. The business would be operated out of the 40 foot by 50 foot detached accessory building located north of the residence. All of the building will be used for the business, which exceeds the suggested criteria for a home occupation. The applicant indicated that approximately 350 square feet will be used to store wood and an additional area will also be dedicated to spraying finish onto the wood.

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 a cluster of five (5) residences located in the northwest quadrant of the intersection of County Highways 130 and 137. There are two residences located approximately 300 feet to the south and west and a residence located approximately 900 feet to the north. The applicant indicated in the narrative that business activity would occur on Monday through Friday from 8 am to 4:30 p.m. The small scale of the business and limited hours should not significantly impact the residences in the area nor interrupt the agricultural activities occurring in the general vicinity.

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

The proposed home occupation should not impede normal and orderly development in the area.

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

Utilities and access to the property is adequately provided. The subject property has direct access to a paved county highway.

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

There is ample off street parking provided on the site. The accessory building in which the business will occur has a paved apron for any customers to park on.

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 use should not create odors, dust, fumes, noise or vibrations in any amounts that would be considered a nuisance. There is approximately a 300 foot buffer between the proposed use and the closest residences in the area and the subject property is located on a paved county highway.

Recommendation

Staff recommended approval of Conditional Use Permit #12-28 to allow a Class One Home Occupation with the following conditions:

1. The property shall obtain and maintain a sales tax license from the S.D. Department of Revenue.
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 applicant be limited to one (1) non-illuminated wall sign, which shall not exceed two (2) square feet and one (1) non-illuminated free-standing sign, which shall not exceed four (4) square feet each in area for the home occupation. A Sign Permit shall be obtained prior to the installation of any sign.
4. That the employees of the home occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
5. That no stock or trade shall be displayed or stored outside the enclosed structures located on the property.
6. That a minimum of two (2) off-street parking spaces be provided. Each parking space shall measure at least nine (9) feet by eighteen (18) feet and shall be kept in a dust free manner.
7. That the finish/painting area be ventilated so not to allow any build up of noxious fumes. All required fire and building codes must be met. A dry chemical extinguisher shall be required in the finishing area.
8. That the Chief Building Inspector conduct an inspection of the business prior to operation to determine that all fire and safety codes are met.
9. Any new exterior lighting shall be shoe box style that directs the lighting downward.
10. The hours of operation shall be Monday through Saturday from 7:30 am to 5:30 p.m.
11. That a maximum of 2018 square feet of accessory building be used for the home occupation.

Action

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #12-28 with the stated conditions. The motion passed unanimously.

CUP #12-28- APPROVED

ITEM 4. CONDITIONAL USE PERMIT #12-29 to exceed 1200 square feet of accessory building area – 1344 requested.

Petitioner: Tom Hanisch

Property Owner: same

Location: 26694 Prairie Avenue

General Information

Legal Description – Lot 1 Block 1 County Villa Estates Addition Section 26-T101N-R51W

Existing Land Use - Residential

Current Zoning – RR Rural Residential

Parcel Size – 1 Acre

Staff Report: Scott Anderson

Staff Analysis

The property is located approximately five (5) miles west of the Sioux Falls city limits, just off of County Highway 148 (41st Street). The parcel is part of Country Villa Estates in Wall Lake Township.

The petitioner would like to construct an accessory building on this site. In subdivisions or residential developments which exceed four lots in size, accessory building area is limited to 1200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner's requested size of 1,344 square feet is smaller than the largest existing accessory buildings in the area. There are several other large accessory buildings located in the area. The petitioner's requested size of 1,344 square feet would be consistent with the accessory building square footage on the other properties in the neighborhood. The largest existing accessory buildings in the area are located at 26693 Valdez Road (2160), 46482 Country Lane (1,800 square feet), 26680 Dayspring Circle (1,680 square feet), and 26693 Dayspring Circle (1,344).

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.

Given the existence of other larger accessory buildings in the area, 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 as an accessory structure to the established residential use and no commercial or business activities are allowed.

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

There is existing access from Prairie Avenue. As this is only an accessory structure, no other infrastructure is required.

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.

Staff finds that the requested conditional use is appropriate for this residential area. The recommended conditions of approval will help to ensure the over-sized building will be in character with the surrounding area. The Planning Department will perform a building inspection to measure the size of the structure. Measurements are taken of the outside perimeter.

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 #12-29 with the following conditions:

1. The total accessory building square footage shall not exceed 1,344 square feet.
2. The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
3. The accessory building shall not exceed one story in height.
4. A building inspection is required to determine that the building does not exceed 1,344 square feet measured from the outside perimeters.
5. A building permit is required
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 the Planning & Zoning Department reserves the right to enter and inspect accessory building at any time, after property 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 Rogen and seconded by Duffy to **approve** Conditional Use Permit #12-29 with the stated conditions. The motion passed unanimously.

CUP #12-29- APPROVED

ITEM 5. CONDITIONAL USE PERMIT #12-30 to allow a 1008 square foot firearms training facility.

Petitioner: Paul Niedringhaus; Minnehaha County Sheriff
Property Owner: Minnehaha County
Location: 46686 263rd Street

General Information

Legal Description – E ½ SE ¼ & NW ¼ SE ¼ (Except 2 Acre Strip & Except Railway) Section 6-T101N-R51W (Gravel PL)
Existing Land Use – Minnehaha County Gravel Pit
Current Zoning – A-1 Agriculture
Parcel Size – 118 Acres

Staff Report: Dustin Powers

Staff Analysis

The Minnehaha County Sheriff's Department is requesting a conditional use permit to construct a permanent structure for a private government training facility. This structure will allow officers to have a classroom for instruction prior to shooting and as a secure location for storage of range equipment. The property will be utilized by local, state and federal law enforcement agencies.

The property has been used for the past 30 years by the Minnehaha County Sheriff's Office as an outdoor range for firearms training. Changes are being made to the shooting range to enhance the safety of the property. Twenty-foot berms are being constructed in a horseshoe design to reduce the possibility of rounds leaving the site. The berms are being constructed by the National Rifle Association specifications.

In addition to the berms the shooting direction will be changed from a northern direction to the westerly direction, in which there are no residential structures in the general area. An eight foot perimeter fence is being placed around the entire range to ensure the safety of our neighbors and those law enforcement agencies using the range.

The upgrades to the range will not change the number of officers or agencies utilizing the range and the hours of operation will not change. The usual hours of operation are Monday – Friday during the daytime hours except for special occasion when agencies do a low light shooting course after sunset.

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 Minnehaha County training range has been in use for over 30 years and staff is unaware of any complaints that have been filed against this property to date. The adding of the berms and change of direction of fire shall 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 changes being made should have no impact on further construction or development within the general area. This change 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.

There will be new rural water lines and wastewater system installed to the structure.

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

Article 15 of the Minnehaha County Zoning Ordinance requires one (1) parking space for each 300 square feet of floor area within non-residential buildings requiring parking. The minimum parking spaces for this new structure would be four (4) spaces. The property will have sufficient parking for the associated 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.

Most of the shooting is conducted during daylight hours, which with the combination of the new berms should reduce any nuisance on neighboring properties.

Recommendation

Staff finds that continuing use of this property as a private government training facility is consistent with the previous use of the property and the proposed changes will only enhance the safety of the facility. Staff recommended approval with the following conditions:

1. That an eight foot fence perimeter fence around the entire shooting range and facility.
2. That the site shall adhere to the site plan submitted on 5-22-2012.
3. That the applicant submits building plans to the County Building Inspector for review prior to issuance of a building permit.
4. That the applicant shall obtain a building permit prior to the erection of the training facility. Standard Commercial setbacks shall apply.
5. The applicant shall meet the minimum parking requirements (four spaces) that are outlined in Article 15 of the Zoning Ordinance.
6. All onsite wastewater systems shall be constructed and operated in conformance with state regulations and with the Minnehaha County On-Site Wastewater Treatment Ordinance. No dumping of any wastewater shall be allowed at the site unless disposed into a properly sized and maintained wastewater system.
7. 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.
8. That all materials, supplies, and products associated with the facility shall be stored within a building or screened appropriately.

Action

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #12-30 with the stated conditions. The motion passed unanimously.

CUP #12-30- APPROVED

ITEM 6. CONDITIONAL USE PERMIT #12-31 to exceed 1200 square feet of accessory building area – 4000 requested.

Petitioner: Greg Boggs

Property Owner: same

Location: 1.5 miles North of Hartford

General Information

Legal Description – Tract 3 Boggs' Addition of Section 10-T102N-R51W

Existing Land Use - Vacant

Current Zoning – A-1 Agriculture

Parcel Size – 4.71 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 46375 257th Street in Hartford Township. The property owner is requesting this conditional use permit to construct a 4,000 sq. ft. (50' x 80') storage building on the property. The property is located approximately 1.5 miles north of Hartford. This particular parcel is part of a group of residential lots platted as Boggs' Addition.

In this area there are two properties that exceed 1,200 square feet of accessory building area. The total accessory building areas are: 4,380 square feet currently owned by Mr. Boggs at his current residence and 2,016 square feet at 25723 464th Avenue. The property owner is in the process of constructing a new single family dwelling on the property and is requesting the larger accessory building for personal storage.

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 five 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 is a larger accessory structure 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 (257th 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 5-22-12.

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 #12-31 with the following conditions:

1. That the accessory building area on the property shall not exceed 4,000 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 Rogen and seconded by Duffy to **approve** Conditional Use Permit #12-31 with the stated conditions. The motion passed unanimously.

CUP #12-31- APPROVED

ITEM 8. CONDITIONAL USE PERMIT #12-33 to allow a boarding kennel and doggie day care.

Petitioner/Owner: Victoria Schroeder / F.G.G.A. Partners LLP

Location: 26707 466th Ave., 2.5 miles west of Sioux Falls

General Information

Legal Description- Lot A Tract 1 Matzen Addition NE1/4 of Section 36-T101N-R51W

Present zoning - C Commercial

Existing Land Use - Commercial

Parcel Size - 2.31 Acres

Report by: Pat Herman

Staff Analysis

The property is located at the intersection of State Highway 17 and County Highway 148, just south of the gas station. This is the former site of Second Chance Rescue. The site is zoned for commercial use as is the property to the immediate north and northeast. The remaining surrounding land is zoned for agricultural use. The closest residential dwellings are located on the north side of Co. Hwy 148 and approximately a ¼ mile to the west. The surrounding land use is predominately farm ground. Wild Water West is a ½ mile south of this location.

This application is to allow a kennel and doggie day care named Dogs Days. There are two buildings on the property and this operation will be using the 10,000 sq. ft. structure. The building was constructed in 1997 to the standards of the adopted building code and readapted for the use as an animal shelter. The submitted interior plan depicts the division of the different uses in the building. The restrooms are designed to meet accessibility standards. The building inspector will need to do an inspection prior the commencement of the business.

The focus of the building will be long or short-term dog boarding as well as daily care of dogs. Full capacity of the kennel is 100 dogs. This number should only be exceeded in an emergency situation, should the facility be called upon to temporarily house dogs such as in the removal of animals from a puppy mill, and the Planning Department must be notified within 24 hours of the animal's arrival. The Planning Department shall issue a written statement as to the length of time the excessive animal count shall be allowed. The kennels shall be constructed to the standards of the Animal Welfare Act – Part 3, Sub-part A, Sections 3.1-3.12.

As shown on the submitted plans, there will be two indoor play rooms and two outside dog runs. The outdoor areas will have employee supervision. Outside play areas were allowed when the facility operated as 2nd Chance Rescue and the Planning Department did not receive any complaints about barking dogs.

The applicant has stated that the facility be will be from 7am to 7 pm daily for clients to drop off and pick up their pets. The outside kennel areas will be used from 6am to 10pm.

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

There are no eligibilities for the quarter-quarter the kennel is located in. The property is located at the intersection of two well traveled highways and zoned for commercial use. The gas station to the immediate north generates more traffic, is open longer hours, and has brighter lightening than the proposed animal shelter. Approval should not impact property values in the immediate vicinity nor impede development. It is probable that additional land will be zoned for further commercial development at this intersection.

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

Access is from Highway 17 using a driveway which is shared with the gas station. The lot is hard surfaced.

There is an existing septic system with a 1700 gallon tank on the east side of the building. This is sufficient to handle the waste from the restrooms and grooming areas. There is also a floor drain system in the kennel areas which empties into a 2000 gallon holding tank. The outdoor waste will be collected and disposed of with other garbage in accordance with the Solid Waste Ordinance.

There is a ground mounted sign on the east side of the property which will be utilized by the petitioner.

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

There are 28 parking spaces available for customer parking on the north side of the lot and there is space available for at least 10 additional vehicles on the west side of the lot. This exceeds the 30 spaces which are required by the Zoning Ordinance. Two handicapped spaces are required.

4) 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 existing lighting is of a shoe box design. Any additional lighting should meet the same design standard.

There will be no outside animal runs so noise should not be a problem with this use. The petitioner has stated that there is an air exchange system in the building which will help to alleviate odor and to minimize the change of control air borne diseases within the structure.

Recommendation

Staff finds that the request for an animal kennel is an appropriate use for this location and that the use will not have a negative impact on the surrounding development. Staff recommended approval of conditional use permit #12-33 with the following conditions:

- 1) Conditional Use Permit #12-33 is for a dog kennel and doggie daycare.
- 2) The kennel and daycare shall be open to the public from 7:00 a. m. to 7:00 p. m. daily.

- 3) There shall be no more than 100 dogs on the premise at any given time. This number shall only be exceeded in an emergency situation and the Planning Department must be notified within 24 hours of the animal's arrival. The Planning Department shall issue a written statement as to the length of time the excessive animal count shall be allowed.
- 4) The kennels shall be constructed to the standards of the Animal Welfare Act Part 3, Sub-part A, Sections 3.1-3.12.
- 5) All animals shall be kept inside the building except when in the designated outdoor play areas.
- 6) The outdoor play areas shall only be used between the hours of 6 am and 10 pm daily.
- 7) All lighting shall be a shoe box style design and not allow light spillage off of the property.
- 8) All waste shall be disposed of in conformance with the Solid Waste Ordinance.
- 9) That the applicant shall obtain a state sales tax license.
- 10) A building permit is required for any structural changes made to the building.
- 11) Approval from the Building Inspector is required prior to the commencement of business.

Action

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #12-33 with the stated conditions. The motion passed unanimously.

CUP #12-33- APPROVED

ITEM 7. CONDITIONAL USE PERMIT #12-32 to allow a temporary private government training facility.

Petitioner: Byron Ostrom/Renner Fire Rescue
Property Owner: Mapleton Township
Location: South of ball field in Renner

General Information

Legal Description – L E Renner’s Addition G L Renner Addition Section 16-T102N-R49W Block 1
Existing Land Use – Ball field
Current Zoning – RC Recreation/Conservation
Parcel Size – 4.15 Acres

Staff Report: Dustin Powers

Staff Analysis

The Renner Fire Department is requesting to allow a temporary training facility to train the members of Renner Fire Rescue. Training would include live fire training, search and rescue, fire bail out drills, etc. The site would be located in Renner, SD directly south of the ball field. The Renner Fire Rescue Board of Directors have met with the Mapleton Township Board Members and deemed this site to be the most appropriate area to meet the needs of the Fire Department and affectively keep out-of-site from the public.

The site is located within the 100-year floodplain therefore the applicant must obtain a Floodplain Development Permit and No-Rise Certification prior to a building permit being issued. The building will only be used as a training facility for Renner Fire Rescue operations. No other use may be permitted for this building as it does not meet the International Building Code (IBC) requirements.

The applicant is proposing that this building be used up to twice a month, with training usually occurring on the 4th Monday of every month from 6 pm – 9 pm. The building would be constructed of 20 pre-built wall panels that would make for easy assembly and storage. The roof would be constructed of metal sheeting to provide protection from the weather elements. The applicant has indicated that there will be no exterior coverings, so the studs will be visible from the outside. This is to prevent any training fires from getting out of hand. Staff is recommending that these exterior walls are covered with sheeted metal as well. Sheeted metal can be easily removed prior to training and assembled again after the training period has closed.

Staff has expressed safety concerns to the applicant with the public having easy access to a building of its character. Staff is recommending that a six-foot security fence be constructed around the building to prevent immediate access to the building. Also staff is recommending that the applicant coordinate with the managers of the ball field to ensure that no burnings are taking place during times of use on the ball field. To further notify the public of when these burnings will take place, the applicant will need to post a notice at the Renner Fire Department one week prior to any burnings.

Staff finds that the proposed use would be an overall benefit to the surrounding community members by allowing hands-on training to the volunteer fire department. Staff does have concerns with the safety and location of the proposed structure but believes that the stated conditions reduce those concerns.

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.

When training is taking place, smoke emanating from the building may hinder the enjoyment of neighboring properties until the smoke has cleared. Staff is recommending that the exterior siding be required so the appearance of the building not negatively affect neighboring 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 general area. The building will only be used as a training facility for Renner Fire Rescue operations. No other use may be permitted for this building as it does not meet the IBC requirements.

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

Access to the proposed training building would be through the current access to the property. No other infrastructure improvements are required at this time.

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

The applicant has indicated that the only parking would be for the fire trucks that they are using for training. All other vehicles would be parked in the fire station parking lot.

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.

Due to the nature of the proposed use, there will likely be nuisances created by smoke emanating from the training building. This will only be for small periods of time a couple times a month. No other nuisances shall be created by this use.

Recommendation

Staff finds that the proposed use would be a benefit to the surrounding community members served by the Renner Fire Rescue. Staff recommended approval of Conditional Use Permit #12-32 with the following conditions:

1. That the applicant shall obtain a Floodplain Development Permit from the County Planning Office prior to issuance of a building permit.
2. That the applicant shall obtain a No-Rise Certificate prior to issuance of a building permit.
3. That the applicant shall obtain a County Building Permit.
4. The building will only be used as a training facility for Renner Fire Rescue operations. No other use shall be allowed.
5. That the building is required to have exterior siding on all sides of the building.

6. That the building is required to have a metal sheeted roof.
7. That a six-foot security fence is required to enclosed the training facility.
8. That the applicant is required to coordinate dates of burns with the baseball facility operations.
9. That the applicant is required to post a sign one week prior to any scheduled training dates which a burn will take place.
10. That one 32 square foot sign may be placed on the property.
11. That a sign permit is required prior to installation of any sign.
12. All vehicles shall be parked at the Renner Fire Hall parking lot, except for those vehicles being used in the training.
13. That when the building is disassembled that it shall be stored inside.
14. That the building shall be secured when not in use.

Public Testimony

Byron Ostrom, 5909 N Gold Nugget Avenue, stated that the Fire Department has issues with Condition #5 that requires metal siding and Condition #7 that requires a six-foot security fence. The metal siding would be an additional cost and would require more time for setup during training. Also the fence would require large gates to get the equipment in and out, which would increase the cost as well.

Commissioner O'Hara asked how long the building would be up during the year. Mr. Ostrom stated that they would like to keep the building as much as possible and during a mild winter the building may be up all year.

Commissioner Cypher asked staff about the thoughts on the security fence. Dustin Powers stated that there were safety concerns with children being able to access the building and the fact that it does not meet the International Building Code. Also this building may be up all year which would provide more opportunity for there to be safety issues.

Michael Schmidt, 47516 258th Street, stated that during a burn a safety officer will be on-site to monitor the whole site, and is responsible for shutting the training down if the site is not safe.

Bruce Anderson, 25790 Country Lane, does not want any additional cost on the Fire Department that would hinder them from building the training facility that will benefit the township residents.

Discussion

Commissioner Steinhauer indicated that the Fire Department should be practicing crowd control during their training therefore no need for the six-foot fence. He stated he would make the motion without Condition #7 requiring the six-foot fence. Commissioner Cypher stated that this is a special use and the six-foot fence may be a good idea but understood the burden the fence would impose on the training therefore would second the motion made by Commissioner Steinhauer. Both Commissioner Steinhauer and Commissioner Cypher indicated that the exterior siding should be required.

Action

A motion was made by Steinhauer and seconded by Cypher to **approve** Conditional Use Permit #12-32 with the following conditions:

1. That the applicant shall obtain a Floodplain Development Permit from the County Planning Office prior to issuance of a building permit.
2. That the applicant shall obtain a No-Rise Certificate prior to issuance of a building permit.
3. That the applicant shall obtain a County Building Permit.
4. The building will only be used as a training facility for Renner Fire Rescue operations. No other use shall be allowed.
5. That the building is required to have exterior siding on all sides of the building.
6. That the building is required to have a metal sheeted roof.
7. That the applicant is required to coordinate dates of burns with the baseball facility operations.
8. That the applicant is required to post a sign one week prior to any scheduled training dates which a burn will take place.
9. That one 32 square foot sign may be placed on the property.
10. That a sign permit is required prior to installation of any sign.
11. All vehicles shall be parked at the Renner Fire Hall parking lot, except for those vehicles being used in the training.
12. That when the building is disassembled that it shall be stored inside.
13. That the building shall be secured when not in use.

The motion passed unanimously.

CUP #12-32- 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

The applicant is requesting conditional use permit #12-022 to allow for storage condominium units on the property. The subject property is located on the west side of Rowena and is legally described as Tract 1 Smook Addition SE1/4 26-101-48 Split Rock Township (26664 Ledge Rock Avenue). The petitioner is proposing two buildings that will contain a total of 25 condominium units. Each building will be built in 3 phases as demand for the units are needed. The units will range in size from approximately 28' feet by 50' feet (1,400 sq. ft.) to 28' feet by 60' feet (1,680 sq. ft.) and will have 16' foot sidewalls.

The developer will provide a standard shell construction that is stick built with steel siding. The shell will contain one (1) bathroom (sink, toilet and shower), an overhead door, standard walk-in door, heating system, concrete floor, insulation and drywall. A shared septic system will be installed to be used by all units. A floor drain will be provided in the main shop area of each unit. The floor drain(s) will be connected to an individual or shared holding tank and will not be connected to the septic system. Once the condominium is purchased, the owner will then have the ability to finish the unit to his or her liking as long as it meets the conditions of this permit and the covenants placed by the association. Each unit will meet the adopted commercial building code.

An association (My Garage USA) will be created for this property and monthly fees will be collected for maintenance purposes. Covenants (permitted uses and use restrictions) will be filed for the property in order to control the uses and obligations of each unit owner. The applicant as indicated that the storage condominium units will be used for recreational/personal storage and hobby related uses only. For example, a unit could be used for personal hobbies that include woodworking, collecting, painting and tinkering; motorhome, RV and boat storage; multi-purpose warehouse space; or a used as a place to spend leisure time working on personal interests. No offices, commercial storage, commercial uses or residential housing will be allowed to occupy the premises.

The unincorporated community of Rowena is a mix of residential, commercial, and industrial uses and was originally developed along the railroad to provide basic convenience services to the agricultural community. The properties north of Highway 42 are zoning for commercial, industrial, agricultural and residential uses. Property directly south is zoned C Commercial. The

property to west is zoned A-1 Agricultural and is used for agricultural farming operations. The property to the east is zoned both A-1 Agricultural and R-1 Residential and is used mainly for residential purposes.

Please see the attached map, petitioner narrative, site plan and association covenants for more details regarding the business plans and location of the use.

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.

This is a commercially zoned property that presently consists of over 120 mini storage units with additional outside storage. The proposed use will blend in quite well and should not impact the use and enjoyment of the property in the area. This type of business will not impact property values.

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

This expanded use is located in an existing commercial 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. The proposed use should not impede future or existing commercial development in the area.

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

An access road off of State Highway 42 provides access to the existing site as well as the proposed storage condominium units. In the future, the applicant as indicated that an additional access will be created along the south property line of the existing mini-storage facility to create an internal access/loop road to accommodate larger vehicles. The applicant informed staff that the driveway and parking areas would be hard surfaced as each phase is built. The driveway will have a hard surface width of a minimum of 24 feet. The parking area in front of the storage units will also be hard surfaced.

The units will share a septic system that will be fenced and located near the SE corner of the property. No floor drains, contaminated waste water or runoff will be allowed to enter the shared septic system. Holding tanks will be used to catch all other contaminated waste water or runoff that is collected because of the associated uses within the condominium units.

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.

Rural water and electrical will be provide to each of the units.

No other utilities or facilities area being proposed at this time.

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

The application has indicated that three (3) parking spaces will be created in front of each condominium unit. An overflow parking area has also been created and will contain 25-30

additional parking spaces. Article 15.00 Parking & Loading Regulations requires one (1) space for each 300 square feet of floor area. Staff has determined that the amount of parking required has been met at this time.

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 applicants use may periodically produce some noise. The area is located within a commercial area and should not be out of line with noises typically found in similar commercial areas. The owner(s) shall take measures to control the amount of this nuisance 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 approval of Conditional Use Permit #12-022 to allow for storage condominium units with the following conditions:

- 1) That the property shall follow the approved site plan and if change occurs a new site plan shall be submitted to the Planning Department for approval.
- 2) That a landscaping plan shall be submitted to the Planning Department for approval.
- 3) That the site plan is subject to approval of Variance #12-002 from the Zoning Board of Adjustment. If Variance #12-002 is not approved all construction shall abide by the Minnehaha County Zoning Ordinance.
- 4) That the Condominium units shall be used for personal hobbies that include woodworking, collecting, painting and tinkering; motorhome, RV and boat storage; multi-purpose warehouse space; or a used as a place to spend leisure time work on personal interests
- 5) That no outside storage shall be allowed on the premises.
- 6) That no offices, commercial storage or commercial uses will be allowed to occupy the premises.
- 7) That no permanent or temporary living quarters shall be constructed or allowed.
- 8) That no overnight occupancy shall be allowed.
- 9) That trash receptacles shall be screened or kept within the condominium unit.
- 10) That the each unit may have the maximum of one (1) bathroom with a sink, toilet and shower only.
- 11) That an overhead door and standard walk-in door shall be provided.
- 12) That a shared septic system shall be installed and fenced to insure that this area is not used for driving or parking purposes. That no floor drains, contaminated waste water or runoff shall be allowed to enter the shared septic system.
- 13) That a floor drain be provided in the main shop area to collect all contaminated waste water or runoff that is collected from within the condominium units. That the floor drain shall not be connected to the septic system.
- 14) That the fencing shall be a minimum of 6 feet in height with a minimum of 90% opacity maintained over the entire height of the fence.
- 15) That the facility shall meet the requirements of one (1) parking space for each 300 square feet of floor area as outlined in Article 15.00 Parking & Loading Regulations.
- 16) That each unit shall meet the adopted commercial building code.

- 17) That any new exterior lighting shall be shoe box style that directs the lighting downward.
- 18) That no on-premise signage shall be allowed for the individual condominium units.
- 19) That the driveway and parking areas shall be hard surfaced as each unit is built. The driveway shall have a hard surfaced width of a minimum of 24 feet. The parking area in front of the storage units shall be hard surfaced.

Public Testimony

Commissioner Steinhauer asked if the County can enforce covenants on the storage units. Ryan Streff indicated that the storage unit association would enforce them. He also stated the draft covenants still need to be looked at to meet the conditions set forth in the staff report and zoning ordinance.

Doug Smook, 4300 S. Bond Avenue, stated there is a demand for this type of units and is similar to the current use in the area. Commissioner Cypher asked about the access to the property being off of Ledgerock Avenue. Ryan Streff indicated that the applicant has legal access off of Highway 42.

Commissioner Duffy indicated that Split Rock Township is still maintaining Ledgerock Avenue on a courtesy basis until the Ledgerock Avenue ownership is settled. Also there are concerns with the additional traffic that will be created by the additional units.

RJ Wright, 48198 267th Street, represented the Split Rock Township Fire Dept. and asked how the Fire Dept. would have access to the property in the event of a fire since the site is gated. Doug Smook replied the Fire Department would get the combination code to the gate from him.

Action

A motion was made by Cypher and seconded by Duffy to **approve** Conditional Use Permit #12-22 with the stated conditions. The motion passed 4-1 (Steinhauer No).

CUP #12-22- APPROVED

ITEM 10. VARIANCE #12-02 to allow a reduced front and rear yard setback for 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:

The applicant is requesting a reduction of a front yard and rear yard setback in the C Commercial Zoning District. The entire subject property is currently described as *Tract 1 Smook Addition SE ¼ 26-101-48*. At this time the current parcel or lot meets the C Commercial Zoning District Setback requirements. The applicant is proposing to create a separate lot described as *Ledge Rock Addition 1A* on the east 1/3 of *Tract 1 Smook Addition*.

The variance is being requested to reduce the front yard setback of *Ledge Rock Addition 1A* from 30' feet to 1' foot and to reduce the rear yard setback of *Tract 1 Smook Addition* from 20' feet to 1' foot. This variance request would allow for a building separation of 2' feet. The required setbacks for structures in the C Commercial Zoning District are 30' feet front yard, 10' feet site yard and 20' feet rear yard.

The current use of the property as a mini-storage unit facility was approved by Conditional Use Permit #01-098. There are currently over 120 mini-storage units on this property with room to expand to the east. The proposed use of the property described as *Ledge Rock Addition 1A* has a similar proposed use for 25 condominium storage units. The proposed lot is being created in order to sell the property to the association that will take over ownership once the storage condominium units are built. The primary use for these two lots would remain the same.

1. That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.

Not all situations can be covered by a zoning ordinance and thus a mechanism is put in place in which the public can seek a variation to the regulations. This variance is needed to separate these two very similar uses in order to create a lot that can be used to construct storage condominium units and then sold to the association for ownership purposes. If the applicant would decided to change the site plan and access the property from a different direction these new setbacks would then place more of a burden on the adjacent residential lots to the east.

2. That the Variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.

The proposed variance does not grant a use which is excluded from this zoning district, nor will

it affect property values in the area. The proposed lot *Ledge Rock Addition 1A* is being created for a similar use that already exists on the property, but in order to sell the storage condominiums a separate lot for this use is being requested.

3. That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.

Requiring the petitioner to meet the regulations of the zoning ordinance would result in a hardship. The required setbacks would create an unusable 50' foot wide separation area between the nearly identical uses making it virtually impossible to develop the lot for its intended use.

4. That the granting of a Variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.

Approval of the variance will allow for the creation of a new lot which will reflect a similar use and relationship between the proposed lot *Ledge Rock Addition 1A* and the remaining portion of the adjoining lot *Tract 1 Smook Addition*. This variance is not contrary to the public interest, nor does it clash with the general purposes of this zoning district or with the intent of the Zoning Ordinance.

5. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

The submitted site plan details the petitioner's attempt to create a lot as close to conformity with the zoning requirements as is possible with the existing conditions and size of the lots. The use of this property for storage condominium units if approved will need to meet the conditions of approval for Conditional Use Permit #12-022. It will meet all other zoning requirements set forth in the Minnehaha County Zoning Ordinance.

Recommendation:

Staff recommended approval of Variance #12-002 to reduce the front yard setback of *Ledge Rock Addition 1A* from 30' feet to 1' foot and to reduce the rear yard setback of *Tract 1 Smook Addition* from 20' feet to 1' foot.

Public Testimony

RJ Wright asked if the building would be fire walled to prevent fire from spreading from one building to another. Ryan Streff stated they are metal buildings which is a sufficient fire separation as required by the building code.

Action

A motion was made by Rogen and seconded by Cypher to **approve** Variance #12-02. The motion passed unanimously.

VARIANCE #12-02- APPROVED

Old Business

No items.

New Business

Ryan Streff gave a briefing on the Envision 2035 Plan.

County Commission Items

Dustin Powers indicated that County Commission and City Council upheld the Planning Commission's decision to deny Conditional Use Permit #12-25 for an annual nine-day sale of fireworks at the W. 12th Street and Ellis Road intersection.