

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
August 26, 2013

A meeting of the Planning Commission was held on August 26, 2013 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Susie O'Hara, Mike Cypher, Jeff Barth, Becky Randall, Mark Rogen and Bonnie Duffy.

STAFF PRESENT:

Scott Anderson, Pat Herman, and Travis Halm - County Planning

The meeting was chaired by Susie O'Hara.

CONSENT AGENDA

A request was made from the audience to place Item 3 on the regular agenda. A motion was made by Rogen and seconded by Cypher to **approve** the consent agenda (Item 3 removed). The motion passed unanimously.

ITEM 1. Approval of Minutes – July 22, 2013

A motion was made by Rogen and seconded by Randall to **approve** the minutes from July 22, 2013. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #13-042 to exceed 1200 square feet of accessory building area – 3700 requested.

Petitioner: Rodney and Cheryl Goeman

Property Owner: same

Location: 46856 Highway 38; two miles west of Sioux Falls

General Information

Legal Description – Tract 1 Steinborn's Addition W ½ SE ¼ Section 28-T102N-R50W

Present Zoning – A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size – 10 Acres

Staff Report: Travis Halm

Staff Analysis

This subject property is located in Section 28 of Benton Township. The petitioner has applied for a conditional use permit to exceed 1,200 square feet of accessory building area at 46856 Highway 38. The property owner is requesting this conditional use permit for 3,700 square feet of accessory building area.

A conditional use permit application is required by Section 12.07 (D) of the Minnehaha County

Zoning Ordinance which states:

In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

Larger accessory building areas can be found in the area that range from 576 square feet to 5,007 square feet in size. (See attached accessory building area map)

The property owner shall meet all regulations regarding accessory buildings. These regulations are found in *Article 12.07 Accessory Buildings and Uses*. Minimum setbacks required for accessory buildings in the A-1 Zoning District are: front yard, 50'; side yard, 3'; and rear yard, 3'. There is a minimum setback of 50' from any section line road or major arterial street.

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

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

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

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

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

Access to the proposed accessory building will be through a driveway located on 268th Street. This driveway will also provide access to the residential dwelling unit to be constructed at a later date.

No other infrastructure improvements are required at this time.

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

The property has sufficient parking for all residential activities.

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

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

Recommendation

Staff found that the proposed accessory building size conforms to the general sizes of other accessory building areas and recommended approval of Conditional Use Permit #13-042 with the following conditions:

- 1) That the accessory building area shall not exceed 3,700 square feet on the property.
- 2) That the building shall not exceed one story in height.
- 3) That a building inspection is required to measure the outside dimensions of the building.
- 4) That a building permit is required.
- 5) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 6) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
- 7) That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 8) That the Planning & Zoning Department reserves the right to enter and inspect accessory buildings at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

ACTION

A motion was made by Rogen and seconded by Cypher to **approve** Conditional Use Permit #13-042 with the conditions as stated. The motion passed unanimously.

Conditional Use Permit #13-042 - APPROVED

ITEM 4. CONDITIONAL USE PERMIT #13-040 to amend CUP #12-57 for a gas station and convenience store.

Petitioner: Jeff Harms

Property Owner: Real Estate Company 3

Location: 47155 250th Street 1.5 miles west of Baltic

General Information

Legal Description - Tract 1 Oyens Addn W1/2 NE1/4 in Section 1-T103N-R50W

Present Zoning – I-1 Light Industrial

Existing Land Use - Commercial

Parcel Size –5.0 Acres

Staff Report: Scott Anderson

Staff Analysis

The applicant is requesting to amend Conditional Use Permit #12-57 to allow for a full service convenience store with food accommodations and video lottery casino. The subject property is located in the southeast corner of the Baltic Exit on Interstate 29 and is legally described as Tract 1 Oyen's Addition W1/2 NE1/4 1-103-50 Lyons Township (47155 250th Street). The applicant was granted Conditional Use Permit #12-57 in October of 2012 to renovate the existing structure on the site, however has decided to construct a new building. Condition #1 of CUP #12-57 indicated that they needed to follow the site plan that was approved. A new building was not part of the original site plan and thus CUP #12-57 must be amended. The new site plan is included for the Planning Commission's review.

On August 2, 2013, staff conducted a site visit. The subject property, along with an adjacent parcel directly to the east, are zoned C Commercial. The remaining properties to the north, south and east are zoned A-1 Agricultural and are mainly used for agricultural operations and single family dwellings. Interstate 29 borders the subject property on the west side. There is an existing manufacturing facility and mobile home park located on the west side of the interstate.

The applicant is proposing to construct a new convenience store with a video lottery casino. The petitioner plans to add underground storage tanks for gasoline and diesel products. Petroleum dispensing equipment will be placed under a canopy with lighting. The pumps and canopies are shown on the site plan and are going to be located along the north side of the new building.

The applicant indicated that a 30' foot price and identification pole sign will be located along 250th Street (County HWY 114) and is requesting a 70' foot pole sign will be located along the interstate right-of-way. The maximum height of an interstate sign is 60 feet and the applicant has applied for a variance to exceed the height and size. Hard-surfacing is planned for all parking and driving area. The applicant has indicated that no outside storage will be needed and all trash receptacles will be screened.

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 has been used for a variety of commercial uses over

the years. The proposed use will blend in quite well and should not impact the use and enjoyment of other property in the area. This type of facility 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.

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.

Access to the property is off of 250th Street (County HWY 114). The driveway up to the proposed building site is currently hard-surfaced. The applicant will be required to hard-surface all portions of the lot (adjacent to the north side of the building) that will be used for the filling stations, customer parking, truck parking and employee parking.

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

That Article 15.00 Parking & Loading Regulations shall require one (1) parking space for each 300 square feet of floor area in the convenient store. In the casino area it shall also require one (1) parking space for each 100 square feet of floor area or one (1) parking space per three fixed seats, whichever is greater. The proposed new building will be 56' x 80 equaling 4,480 square feet. The parking areas under the canopy or next to the petroleum dispensers will not be included in the figure to meet the parking and loading regulations.

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 and vibration due to traffic entering and exiting the property. The building 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 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 **approval** of Conditional Use Permit #13-040 to allow a full service convenience store and casino and amending Conditional Use Permit #12-57 with the following conditions:

- 1) That the property shall adhere to the submitted site plan unless otherwise stated in the conditions that are outlined in this permit.
- 2) That the conditional use permit shall allow for a full service convenience store, fueling station and a video lottery casino.
- 3) That 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.
- 4) That Article 15.00 Parking & Loading Regulations shall require one (1) parking space for each 300 square feet of floor area in the convenient store. In the casino area it shall also require one (1) parking space for each 100 square feet of floor area or one (1) parking space per three fixed seats, whichever is greater.

- 5) That the canopy signage shall be limited to one (1) logo per side.
- 6) That one (1) pole sign up to 60' feet in height and not exceeding 200 square feet in size shall be allowed along the interstate right-of-way (unless a variance is granted exceeding the allowable size and height) and one (1) pole sign up to 30' feet in height and not exceeding 200 square feet in size along 250th Street shall be allowed on the property. All signage shall follow Article 16.00 On-Premise Signs.
- 7) That sound from intercoms or speakers shall not carry beyond the boundaries of the property.
- 8) That all driveways, parking and loading/unloading areas shall be hard-surfaced.
- 9) That a storm water management plan shall be submitted and approved by the Planning & Zoning Department prior to the commencement of this use.
- 10) That a landscaping plan shall be submitted and approved by the Planning & Zoning Department prior to the commencement of this use.
- 11) That the parking lot shall maintain a minimum setback of 15' feet from north and west property lines to ensure that proper landscaping (i.e. trees & shrubs) can be installed.
- 12) That no outdoor storage shall be allowed on the premises.
- 13) That all trash receptacles shall be screened by a 6' foot fence with a minimum of 90% opacity or a solid enclosure that is 6' feet in height.
- 14) That the septic system shall be enclosed by a fence to ensure that the system is not damaged by vehicle traffic or used for parking purposes.
- 15) That any applicable International Fire Code and National Fire Protection Association regulations shall be adhered to.
- 16) That all applicable state and federal permits and approval shall be obtained for the installation of underground petroleum tank systems, dispensing equipment, refueling stations, signage and lighting.

ACTION

A motion was made by Rogen and seconded by Cypherl to **approve** Conditional Use Permit #13-040 with the conditions as stated. The motion passed unanimously.

Conditional Use Permit #13-040 - APPROVED

REGULAR AGENDA

A motion was made by Barth and seconded by Cypher to approve the regular agenda. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #13-043 to allow a transportation terminal – wholesale refilling site.

Petitioner: Popkes, Inc.

Property Owner: Samuel Assam

Location: west edge of Rowena

General Information

Legal Description – west end of ICR Abandoned ROW SE1/4 (EX PT Located S of and adj to TR 1 Split Rock Feeds Addn) in Section 26-T10N-R48W

Present Zoning – C Commercial

Existing Land Use - Vacant

Parcel Size –0.86 Acres

Staff Report: Pat Herman

Staff Analysis

The site for this conditional use permit request is located at the west end of Rowena, north side of Highway 42. It encompasses 0.86 acres of the abandoned railroad right-of-way and is zoned C Commercial. Property to the immediate north, south and west is zoned A-1 Agricultural while the commercial zoning continues to the east.

The petitioner is requesting a transportation terminal – wholesale refilling site. There will be two (2) twelve thousand gallon bulk propane tanks installed on the north end of the site. The distance from the tanks to the nearest single family residence is approximately 400 feet to the southeast. A six foot high fence will be installed around the tanks. No free standing signs are requested at this time but the tanks will be marked with the owners name and number as shown on the site plan.

There are two other propane refilling sites located in the rural Minnehaha County. One is located in the industrial park at the I-29/Dell Rapids interchange while the other is in the industrial park at the I-29/Crooks exit. Both of these site are on property zoned I-1 Light Industrial and did not require a conditional use permit.

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

The property abuts vacant property and is located on the edge of Rowena.

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

Staff will recommend that the property be platted. The site is located in the Red Rock Corridor and the property must meet the requirements of that overlay district. A fifteen foot landscape

buffer is required on the east side of the lot and must contain five trees for every 100 lineal foot of property. This buffer and the required trees are shown on the submitted site plan. A landscaping plan is required for approval by the Planning Department and the landscaping must be in place prior to the start of operations, unless an extension is approved the Planning Department.

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

The site will be accessed from a new road which will enter Highway 42. The petitioner is in the process of working with the SDDOT to gain approval for the access. Brooke White, Access Management Engineer, has stated that a 40 foot wide approach is being considered and that this width will be sufficient to handle truck traffic into the site.

Staff will require that the access road be named as a private roadway. This road will continue onto the petitioner's property and extend to the east, eventually providing access to additional development in this area. The submitted site plan depicts a 60 foot wide right-of-way as required by the Minnehaha County Subdivision Ordinance Section 8.02 A. If the 40 foot wide access approach is approved by SDDOT the property owner has been informed that a subdivision variance is required to reduce the width of the required right-of-way to a 40 foot width matching the approach.

The private road is required to be hard surfaced as it takes access from Highway 42. Hard surfacing has been indicated on the submitted site plan. There is some leeway in the zoning ordinance in requiring hard surfacing for truck terminals and areas of maneuvering. Staff will recommend that 50 feet from the access road north for both the entrance and exit driveways for the tanks be hard surfaced.

The access onto Highway 42 is located in the area where the speed limit is reduced to 30 miles per hour.

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

The Minnehaha County Zoning Ordinance does not specify a required number of parking spaces for this type of use. It is not anticipated that there will be vehicles parked at the site. Trucks will arrive, fill their tanks, and leave the site. The submitted site plan details the traffic pattern flow on the site and provides sufficient space to meet the use of the property.

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

Staff does not anticipate that this use will constitute a nuisance to the surrounding land uses. Any lighting will be required to shine directly downward onto the property. One security light is indicated on the site plan.

Recommendation

Staff found that the request for a transportation terminal wholesale refilling site is consistent with the Comprehensive Plan and Red Rock Corridor Overlay District and recommended approval of Conditional Use Permit #13-43 with the following conditions:

- 1) Conditional Use Permit #13-43 is for a transportation terminal wholesale refilling operation.

- 2) The SDDOT access permit shall be obtained and the access easement recorded with the Register of Deeds prior to the commencement of operation.
- 3) Access to the site is from a hard surfaced road and the access road and 50 feet extending north from the access road on the entrance and exit drives are required to be hard surfaced in accordance with Section 15.04 of the Minnehaha County Zoning Ordinance.
- 4) The hard surfacing shall be completed by June 1, 2014.
- 5) The property shall be platted and the plat filed with the Register of Deeds by December 1, 2013.
- 6) The property shall adhere to the site plan submitted on August 13, 2013.
- 7) The access road shall be a private roadway and shall be a named roadway as dictated in Section 5.03 of the Minnehaha County Subdivision Ordinance.
- 8) The private roadway shall adhere to the requirements of the Minnehaha County Subdivision Ordinance unless a subdivision variance is approved.
- 9) A building permit is required for the installation of the two LP tanks.
- 10) Signage shall be installed to the requirements of Section 11.10 Red Rock Corridor Overlay District.
- 11) All outdoor lighting shall be of a full-cut off and fully shielded design to prevent direct spillage of light beyond the property boundaries.
- 12) A landscaping plan shall be submitted to the Planning Department for approval by November 1, 2013.
- 13) The site shall meet all federal and state regulations for the placement of propane tanks.

PUBLIC TESTIMONY

The petitioner, Greg Popkes, stated that his company has two sites in Iowa and have been looking for a site to expand into South Dakota. He anticipates there will be two straight trucks a day coming to the site and 2 semi-trucks a week. It takes one semi-truck to fill each tank. Mr. Pokes explained that any leak from an LP tank turns to vapor and dissipates. There will be a security light on the property and the valves will be surrounding by a locked fence. He said that the tanks are equipped with safety valves that slam shut with any tampering.

Rich Harwig, 26626 Brownstone Ave., raised concerns about tanker trucks having to fight a fire at this site. He also questioned the future use of his property and Ms. Herman noted this would not hamper his development plans.

No one else wished to speak to the item and the floor was closed to public testimony. Commissioner Cypher stated that he was not in favor of the company name being on the tanks as that would be like a billboard, something that is not allowed in the Red Rock Corridor.

ACTION

A motion was made by Cypher and seconded by Duffy to **approve** Conditional Use Permit #13-040 with an amendment to condition #10. The motion passed unanimously.

Conditional Use Permit #13-040 - APPROVED

- 1) Conditional Use Permit #13-43 is for a transportation terminal wholesale refilling operation.

- 2) The SDDOT access permit shall be obtained and the access easement recorded with the Register of Deeds prior to the commencement of operation.
- 3) Access to the site is from a hard surfaced road and the access road and 50 feet extending north from the access road on the entrance and exit drives are required to be hard surfaced in accordance with Section 15.04 of the Minnehaha County Zoning Ordinance.
- 4) The hard surfacing shall be completed by June 1, 2014.
- 5) The property shall be platted and the plat filed with the Register of Deeds by December 1, 2013.
- 6) The property shall adhere to the site plan submitted on August 13, 2013.
- 7) The access road shall be a private roadway and shall be a named roadway as dictated in Section 5.03 of the Minnehaha County Subdivision Ordinance.
- 8) The private roadway shall adhere to the requirements of the Minnehaha County Subdivision Ordinance unless a subdivision variance is approved.
- 9) A building permit is required for the installation of the two LP tanks.
- 10) Signage shall be installed to the requirements of Section 11.10 Red Rock Corridor Overlay District. No signage may be placed on the tanks.
- 11) All outdoor lighting shall be of a full-cut off and fully shielded design to prevent direct spillage of light beyond the property boundaries.
- 12) A landscaping plan shall be submitted to the Planning Department for approval by November 1, 2013.
- 13) The site shall meet all federal and state regulations for the placement of propane tanks.

ITEM 5. VARIANCE 13-005 to increase size and height of an interstate highway interchange sign.

Petitioner: Jeff Harms

Property Owner: Real Estate Company 3

Location: 47155 250th Street 1.5 miles west of Baltic

General Information

Legal Description - Tract 1 Oyens Addn W1/2 NE1/4 in Section 1-T103N-R50W

Present Zoning – I-1 Light Industrial

Existing Land Use - Commercial

Parcel Size –5.0 Acres

Staff Report: Scott Anderson

Staff Analysis

The applicant is requesting to increase the size and height of a sign located at an interstate interchange. Article 16.04(B) of the Minnehaha County Zoning Ordinance limits the size of interstate interchange signs to 200 square feet and the height to a maximum of 60 feet. The applicant is requesting to increase the size to 240 square feet and the maximum height to 70 feet.

On August 2, 2013, staff conducted the site visit. Generally, the subject property has a very good site distance from the north flowing traffic. The property can easily be seen for more than ½ mile while traveling on the interstate towards the north. The southbound lane however does not provide a good site distance. The property is visible from the Interstate sign indicating that the Baltic exit is 1 mile away. As the traveler drives between the ½ mile mark and the off ramp, the subject property is not visible due to the rolling topography and general construction of the off ramps and overpass. The east/west traffic movement is similar. The site generally has good visibility for traffic traveling west, but the terrain and interstate overpass blocks the view for the east bound travelers.

The Zoning Board of Adjustment shall make its decision on findings based on the evidence presented to it that the request meets all of the following criteria.

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

The general area consists of an area of gently rolling hills as you drop into the Big Sioux River valley to the east. The parcel itself contains five (5) acres and there are several suitable areas for development.

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.

A larger and taller sign would likely not diminish or impair the property values in the area. An interstate interchange sign is allowed with the issuance of a sign permit.

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

The rolling hills and interstate ramp system are existing conditions which impact the visibility. It is unlikely that the extent of the topography combined with the applicant's ability to construct a sixty (60) foot tall sign constitutes an unwarranted hardship.

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.

Granting of this variance is not in the public's interest. It potentially will set a precedent for every business at an interchange to desire a taller and larger sign just to increase visibility. The State of South Dakota provides options for business owners to advertise their services. The applicant can utilize this service and meet the requirements 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.

As staff has noted, there are specific topographic circumstances which do not lend it to good visibility traveling from the north to south and west to east. These conditions however are not so extreme that they would preclude the reasonable use of the property. The site can be developed and other measures can be implemented to help inform the traveling public of the new gas station. The applicant will have reasonable use of the property without a variance for a taller and larger sign.

The Zoning Board of Adjustment is to review each request and determine that all of the above identified issues and criteria have been met in order to approve a variance. While the topography poses an inconvenience, it does not rise to the level of a significant hardship.

Recommendation

Staff recommended denial of Variance #13-05 to increase the height of an interstate interchange sign from sixty (60) feet to seventy (70) feet and to increase the maximum size from 200 square feet to 240 square feet.

Public Testimony

The petitioner, Jeff Harms, stated that the larger interstate sign would be placed in the southwest corner of the property. Normally, as costs increase along with sign size, he would not request a variance but he doesn't want to make the investment on a gas station and not have the needed visibility. Mr. Harms stated that the Flying J Truck Stop in Sioux Falls has a sign that is 75' in height and due to its placement on flat grade it appears 85' to the eye.

Mr. Harms explained that Pride Neon Signs had brought boom trucks to the sign to figure out what the needed height and size of a sign should be to provide the needed visibility. He noted that his price sign on the county highway would be 88 square feet smaller than the allowed size and wondered if the difference couldn't be applied to the interstate sign.

In response to questions from the Commission, Mr. Harms that the interstate exit ramp signs were available to advertise his business but a high rise sign is a different thing, especially in the rural area.

No one else wished to address the item and the floor was closed to public testimony.

Commissioner Cypher stated that he agreed with the assessment presented by Mr. Anderson saying that the county has a good ordinance and that the Board of Adjustment needed to follow that ordinance. Commissioner Barth stated that he could vote either way. Commissioner O'Hara stated that approving this request would set a precedence.

ACTION

A motion was made by Cypher and seconded by Randall to **Deny** variance request #13-005. The motion passed unanimously.

Variance #13-005 DENIED