

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
June 23, 2014

A meeting of the Planning Commission was held on June 23, 2014 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Wayne Steinhauer, Mark Rogen, Bill Even, Jeff Barth, Mike Cypher, and Bonnie Duffy.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning

The meeting was chaired by Wayne Steinhauer.

CONSENT AGENDA

Commissioner Cypher raised a question on the recommended action for Item 5. After discussion with staff, the item was asked to be placed on the regular agenda.

Commissioner Steinhauer asked to move Item 6 to the regular agenda.

Commissioner Rogen commented that situations such as Item 2 should be considered to be agriculture and that there should be review of the conditional use permit for large buildings in areas such as this item. Item 2 remained on the consent agenda.

An audience concern removed Item 3 from the consent agenda and moved it to the regular agenda.

A motion was made by Commissioner Rogen and seconded by Commissioner Barth to **approve** the consent agenda. The motion passed unanimously.

ITEM 1. Approval of Minutes – May 19, 2014

A motion was made by Commissioner Rogen and seconded by Commissioner Barth to **approve** the meeting minutes from May 19, 2014. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #14-31 to exceed 1,200 square feet of total accessory building area – requesting 3,120 sq. ft. on the property legally described as Tract 1 Fix’s Addition, NW1/4, Section 23-T103N-R48W.

Petitioner: Charles & Lori Holzapfel

Property Owner: same

Location: 48229 253rd St. approximately 3 miles west of Garretson

Staff Report: David Heinold

To allow 3,120 square feet of total accessory building area.

General Information:

Legal Description – Tract 1 Fix’s Addn. NW1/4, Section 23-T2013N-R48W

Present Zoning – A-1 Agricultural

Existing Land Use – Residential

Parcel Size – 28.34 Acres

Staff Report: David Heinold

Staff Analysis:

The Zoning Ordinance for Minnehaha County regulates the size and location of accessory buildings in Section 12.07 (D). In regards to the A-1 zoning district, the Ordinance 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 permit has been approved.

The petitioner has applied for a conditional use permit to exceed 1,200 square feet of total accessory building area. The property is located approximately 3.5 miles west of Garretson. The parcel is located on Tract 1 Fix’s Addition NW1/4 in Section 23-T103N-R48W.

The petitioner would like to construct a 1,500 square foot accessory structure. Currently, the property owner has a total accessory building area of 1,620 square feet. The petitioner’s requested total building area, 3,120 square feet, is relatively comparable to other accessory buildings on similar lot sizes. The property owner at 25341 482nd Ave. has a total accessory building area of 3,942 square feet on 20.10 acres, which consists of a horse stable and storage building.

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 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, and no commercial or business activities will be allowed. This use will not affect the residential uses or agricultural land 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 accessory structure may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory structures in the immediate vicinity of the petitioner's property, a 1,500 sq. ft. accessory structure would be congruent with the land composition.

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

Access will be provided off of an existing driveway on the south side of 253rd St. No further utilities will need to be provided as a result of residential use of the proposed building.

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

No on-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be 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.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure.

Recommendation:

Staff found that the proposed building size conforms to the general sizes of other accessory buildings on similar lot sizes in the area. Staff recommended **approval** of conditional use permit #14-31 with the following conditions:

- 1) That the total accessory building square footage shall not exceed 3,120 square feet.
- 2) That the accessory building shall not exceed 35 feet in height.
- 3) That a building inspection is required to determine that the building does not exceed 3,120 square feet measured from the outside perimeters.
- 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 the accessory building 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 to approve Conditional Use Permit #14-31 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-31 - Approved

ITEM 4. CONDITIONAL USE PERMIT #14-33 to allow an automobile repair shop on the property legally described as E120' of Tract 2 Wold Tracts, NW1/4 NW1/4 in Section 27-T103N-R49W.

Petitioner: Bruce Vollan

Property Owner: same

Location: 25404 475th Ave. approximately 6 miles north of Sioux Falls

Staff Report: Scott Anderson

To allow an automobile repair shop.

General Information:

Legal Description – E120' Tract 2 Wold Tracts NW1/4 NW1/4, Section 27-T103N-R49W

Present Zoning – C Commercial

Existing Land Use – Vacant

Parcel Size – 0.85 Acres

Staff Report: Scott Anderson

Recommendation: The applicant a conditional use permit an auto repair shop in the C Commercial District as specified in Article 6.04(E). The subject property is located in the southeast corner of what is commonly called “Midway Corner” which is at the intersection of SD Highway 115 and County Highway 122.

On June 4, 2014, staff conducted a site visit. The subject property, along with an adjacent parcel directly to the north and east, are zoned C Commercial. The remaining surrounding properties are zoned A-1 Agricultural and are mainly used for agricultural operations and single family dwellings. The applicant also owns the Vollan Bulk Fuel and Midway Corner service station and convenience store. Raven Industry’s test site and office complex is located to the east.

The applicant is proposing to construct a new auto body shop measuring 50’ x 60’. The site plan also show a new parking area to the north accommodating twelve (12) spaces.

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. The general vicinity has been used for commercial purposes for over 50 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 or agricultural development in the area.

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

Access to the property is off of 254th Street (County HWY 122). The driveway up to the proposed building site is currently graveled. The applicant will be required to hard-surface the driveway and the area that will be used for customer 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. The proposed building size is 3,000 square feet and would require ten (10) parking spaces. The applicant is proposing fourteen (14) parking spaces, which exceeds the minimum requirements.

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 #14-033 to allow an automobile repair shop 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 an auto body repair business.
- 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.
- 5) All signage shall follow Article 16.00 On-Premise Signs. A building permit is required for the installation of any sign.
- 6) That all driveways, parking and loading/unloading areas shall be hard-surfaced.
- 7) That the parking lot shall maintain a minimum setback of 10' feet from east property line and 15' from the west property line adjacent to the existing residence.
- 8) That no outdoor storage shall be allowed on the premises.
- 9) 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.
- 10) That any applicable International Fire Code and National Fire Protection Association regulations shall be adhered to.

ACTION

A motion was made to approve Conditional Use Permit #14-32 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #14-33 – Approved

Regular Agenda

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

ITEM 3. CONDITIONAL USE PERMIT #14-32 to transfer 2 building eligibilities from the NW1/4 SE1/4 & SW1/4 SE1/4 to the SE1/4 NE1/4 (Exs.) in Section 25-T102N-R51W.

Petitioner: Malcolm Melin

Property Owner: same

Location: approximately 2 miles east of Hartford near the intersection of I-90/Hwy 38

Staff Report: David Heinold

To allow the transfer of 2 building eligibilities.

General Information:

Legal Description – E1/2 (Ex. H-1, 2, 3, 4, 5, 6, & Ex. E481' N1016' NE1/4), Section 25-T102N-R51W

Present Zoning – A-1 Agricultural

Existing Land Use – Agriculture

Parcel Size – 245.39 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to transfer two building eligibilities from the NW1/4 SE1/4 & SW1/4 SE1/4 to the SE 1/4 NE1/4 (Exs.) in Section 25-T102N-R51W. The building eligibility will be taken from productive agricultural land to vacant ground that is located along 466th Avenue north of Interstate 90 and South Dakota Highway 38.

On May 27, 2014, staff contacted the City of Hartford and the Planning & Zoning Commission does not foresee any issues with the proposed transfer of the two building eligibilities.

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 right-to-farm notice covenant should be required to notify potential buyers about the realities of locating in an agricultural area.

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

The transfer of the building eligibility will not increase the number of dwelling units allowed in this section.

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

The transfer of building eligibility will result in the construction of single-family dwelling with a new driveway off of 466th Ave., which the applicant has obtained approval from the South Dakota

Department of Transportation to change the access approach from the I-90 Service Road to 466th Ave.

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

The off-street parking requirements will be accounted for once a single-family dwelling is constructed on the subject 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.

The proposed conditional use will not cause any odor, fumes, dust, noise, vibrations, or lighting in a way that would otherwise constitute a public nuisance.

Recommendation:

Staff found that the transfer of building eligibility request is consistent with density zoning. Staff recommended **approval** of Conditional Use Permit #14-32 with the following conditions:

- 1.) That the lots shall be platted and a right-to-farm notice covenant shall be placed on the deeds prior to issuance of a building permit.

PUBLIC TESTIMONY

Staff presented a brief summary of the proposed transfer of two building eligibilities.

Malcom Melin, 26017 466th Ave., described his intent to transfer two building eligibilities from the south side of Interstate 90 to the north side. He mentioned that one potential buyer is already in place for the new location of the building eligibility.

Lee Goos, 46629 Benton St. and owner of Goos RV at 26036 466th Ave, stated that Myrl and Roy's Paving Company received a conditional use permit a few years ago to extract gravel nearby. This creates a substantial amount of truck traffic (3-4 trucks an hour) on the service road that the eligibilities would be located. ZCI has a gravel pit that creates even more traffic on the road. Another comment was made that Melin's trucking company adds traffic and has trucks running constantly. Mr. Goos noted that this environment is not safe for kids and the truck traffic has busted up the road. Automobile traffic would have a difficult time accessing the property off of the service road. Additional complaints were stated that there are burning of fires of black smoke and trucks that do not belong to them on Melin's property.

Russ Weber, 1011 W. Mickelson Rd., noted that if it wasn't for Melin the interstate and other development would not be happening in that area.

Commissioner Barth noted that this transaction is perfectly normal.

ACTION

A motion was made to **approve** Conditional Use Permit #14-32 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #14-32 - Approved

Regular Agenda

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

ITEM 5. REZONING #14-05 to rezone from the A-1 Agricultural District to the R-1 Residential and C Commercial District on the property legally described as Tract 1 Miller's Addition, SW1/4 in Section 10-T102N-R49W.

Petitioner: Eric Willadsen, P.E. (Willadsen Lund Engineering)

Property Owner: Sayd Abdul Qader Sadat

Location: 25768 475th Ave. approximately 3.5 miles north of Sioux Falls

Staff Report: Scott Anderson

To rezone from the A-1 Agricultural District to the R-1 Residential and C Commercial District.

General Information:

Legal Description – Tract 1 Miller's Addn. SW1/4, Section 10-T102N-R49W

Present Zoning – A-1 Agricultural

Existing Land Use – Agriculture

Parcel Size – 17.26 Acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is proposing to rezone a 17 acre parcel into two new zoning districts. The applicant is seeking to rezone a 4 acre portion to C Commercial and the balance of the 17 acres is proposed to be rezoned to RR Rural Residential District. The applicant submitted a general development plan of the subject property which indicates a commercial area and approximately ten (10) new residential lots on two cul-de-sacs that would be plated.

On June 4, 2014, staff conducted a site visit to the subject property. There is one area of commercially zoned property located approximately ¼ of a mile to the south at the Renner Corner. The applicant has not indicated any specific use or development plans for the portion of the property proposed to be rezoned to C Commercial District. The general area of the rezoning consists of residences. There are over 50 residences located within ¼ mile of the subject property.

The Minnehaha County Comprehensive Plan, adopted in 1998, has identified areas of future growth. Commercial and industrial growth areas are called "Rural Service Areas". The subject property is not located within an identified rural service area. The concept behind the rural service areas is to promote good planning ahead of commercial growth in the county. The subject property is located within an identified transition area and is located within the Renner Sanitary Sewer District. The subject property is also located along a major South Dakota highway.

Staff contacted Judy Peltier, agent for the Renner Sanitary District. Ms. Peltier indicated that the applicant would need to provide engineering data showing that they could hook into the existing system and that information would have to be reviewed and approved. In addition, there would be associated hook-up fees and service connection fees.

Transition areas are characterized by a mixed land use and areas that are expected to continue have a rural residential and residential acreage land use pattern. Transition areas typically are

not well suited for intensive agriculture uses as the land parcels can be smaller in size and fragmented around other existing non-agricultural uses. This area is serviced by a sanitary sewer district and community water.

During the site inspection, staff noted that there was limited sight distance to the north along S.D. Highway 115. Staff contacted the S.D. Department of Transportation and spoke to Brian VanDam, who manages new approaches and site distances for the S.D. DOT. Mr. VanDam indicated that the applicant would need to obtain a Change of Use Permit from the DOT as the existing approach is now considered a field or single residential approach and the proposed road changes the use into a subdivision road. Should the DOT deny the Change of Use Permit for the subject property, then staff would have concerns supporting the proposed rezoning request.

The rezoning proposal generally meets the policies and objectives of the Comprehensive Plan. Staff however does not support rezoning any of the subject property to C Commercial. This land use is not consistent with the established residential development pattern of the area. The site is located within a transition area and has access to a community water and sewer system and potentially more suited to residential development. Staff can't make a recommendation at this time until it is determined that the S.D. Department of Transportation will allow a new road to access S.D. Highway 115. Staff recommends that the Planning Commission continue this item until the DOT provides a written determination on a Change of Use Permit.

Recommendation: Staff recommended that Rezoning #14-05 be continued to the July 28, 2014 Planning Commission meeting.

PUBLIC TESTIMONY

Staff presented a brief summary of the proposed rezoning of the A-1 Agricultural District to the R-1 Residential and C Commercial Districts. In this presentation, it was further recommended to approve the rezoning to R-1 Residential, but not the strip of land adjacent to South Dakota State Highway 115 to C Commercial. Reasons for this include the number of homes in the area make the commercial use of the land an inappropriate use, and the location is far from the intersection of two paved highways.

Commissioner Even asked if there was a rule of thumb for commercial development. Staff referred to the 1998 Comprehensive Development Plan to explain the concept of a Rural Service Area that is usually located at the intersection of two major highways or in developments such as Rowena and Lyons.

Commissioner Cypher noted that there may be potential access to the Renner Sanitary Sewer District. In addition, he mentioned that 10 years ago the county stopped expanding development to areas that do not have access to sanitary sewer. Staff replied that the development is within the sanitary sewer district so that a hook up would be required before a building permit is issued.

Eric Willadsen of Willadsen Lund Engineering, 902 S. Cleveland Ave., the petitioner's engineer and representative. Mr. Willadsen stated that the commercial zone was designed to be a buffer from the highway to the residential use to the east. He mentioned that the South Dakota Department of Transportation (SDDOT) is still reviewing the change of use for the driveway. Mr. Willadsen described the sewer hook up 200 feet to the south. His position of the comprehensive plan stressed the mix of land uses, and that the commercial use would benefit the residents of this area. He noted that there are other commercial uses in the area that benefit the

area. Mr. Willadsen responded to a question of stormwater runoff from Commissioner Barth that they would construct detention or retention pond if needed. Commissioner Barth questioned about the road that it would be open for further development and maintained through some sort of road district. Mr. Willadsen stated that the road would not be continued to the east and will be maintained by a road district association. Commissioner Steinhauer asked, if the lot adjacent to the highway is not rezoned commercial, then what would the use of the land be? Mr. Willadsen responded that the land would be unusable if not zoned for commercial use.

Randy Hofer, 48749 Concord Ave., noted that he tried to rezone his property across the street, but was not allowed to because of the spread of zoning. He noted a concern with the hill and speed of traffic.

Josh Zimmerman, 25778 475th Ave., commented that he lives next door to the property and heard that the owner wanted a sheep slaughter house at the commercial section of the zoning.

Doretta Schuldt, 25757 475th Ave., commented that nobody travels 55 miles per hour along that strip of highway making turning a safety hazard. She also noted that the existing trees will make a good buffer for the proposed residential neighborhood.

Richard Sorum, 25787 Lyndale Rd., questioned if the property was truly located in the sanitary sewer district and that it needed further research.

Darrell Hoyer, 25755 Lindbergh Ave, noted that there are currently 100 plus platted lots around proposed commercial area and that the trees make a good buffer for the lots.

Dennis Hoffman, 25755 475th Ave., noted that he was a board member for the Renner Sanitary Sewer for 10 plus years. He was under the impression that any development within 200 feet of a sewer hookup was mandated to hook up to the sewer, and that any major additions to the sanitary sewer would have to get approval from the City of Sioux Falls. Any new sewer hookups would be on a first come first serve basis. He also added that he was unsure that there would be available water for the new homes and thought that there was a moratorium on new hookups. Other comments from Mr. Hoffman include that traffic is a problem and that necessary parties must cooperate.

Commissioner Steinhauer closed the floor to public testimony when no one else approached the podium.

DISCUSSION

Commissioner Cypher noted that hooking up to the sanitary sewer should be a must need situation. He noted that there should be more research done to better understand the situation.

Commissioner Barth noted that at the last meeting an approval was made in the Renner Sanitary Sewer District with no discussion on sewer issues. He mentioned that the distant future may look very different in this area with a four lane highway and McDonalds on the street by the end of the century. He also commented that further thought should be given to the traffic situation.

Commissioner Barth made one final comment that this unincorporated area is larger than the incorporated area of Sherman and that county regulations rule what goes on in a virtual town.

ACTION

A motion was made by Commissioner Cypher and seconded by Commissioner Barth to **defer** rezoning #14-05 to July 28th meeting to allow for more research to be done to gain additional information on the sewer district and traffic situation. The motion passed unanimously.

Rezoning #14-05 – Deferred until the July 28th, 2014 Planning Commission Meeting

Regular Agenda

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

ITEM 6. ZONING ORDINANCE TEXT AMENDMENT #14-02 to amend Section 3.04, 6.04, 7.04, 8.04, 9.04, 12.05, and 26.02 of the 1990 Revised Zoning Ordinance for Minnehaha County.

Petitioner: Planning Staff

Staff Report: Scott Anderson

To amend the 1990 Revised Zoning Ordinance for Minnehaha County to allow Solar Energy Conversion Systems as a conditional use in the A-1 Agricultural, C Commercial, I-1 Light Industrial, I-2 General Industrial, and RC Recreation/Conservation District.

Staff Report: Scott Anderson

Staff Analysis:

Staff is proposing an ordinance amendment that would add a section to Article 12 Additional Use Regulations for Solar Energy Conversion System (SECS). A SECS would then be allowed as a conditional use in the A-1 Agriculture District, C Commercial District, I-1 Light Industrial District, I-2 General Industrial District, RC Recreation/Conservation District and provide a new definition for “Solar Energy Conversion System (SECS)” in Section 26.02 Definitions.

Staff used much of the existing requirements for Wind Energy Conversion Systems to model the proposed ordinance amendment. This was done to attempt to keep a level playing field for each use.

A copy of the proposed Ordinance is attached for review. It provides the new definition for “Solar Energy Conversion System (SECS)”; provides the guideline and requirements for solar energy conversion systems into Article 15; and adds “Solar Energy Conversion System as a conditional use in the A-1, C, I-1, I-2 and RC Districts.

Recommendation: Staff recommended **approval** of the Zoning Text Amendment #14-02 adding “Solar energy conversion system in conformance with Article 12.15” to Article 3.04, 6.04, 7.04, 8.04 and 9.04 Conditional Uses; adding Article 12.15 Solar Energy Conversion System to Additional Use Regulations and adding “624. Solar Energy Conversion System (SECS)” to Section 26.02 Definitions.

DISCUSSION

Staff provided a brief summary of the text amendment.

Commissioner Steinhauer asked for clarification of how commercial use of a SECS is defined. His concern would be that there may be too many conditional use permit applications. Staff responded that any SECS that is not an accessory use to the primary use, then it would be a commercial use. Any accessory use SECS would be permitted.

ACTION

A motion was made to **recommend approval** of Zoning Text Amendment #14-02 by Commissioner Barth and seconded by Commissioner Cypher. The motion passed unanimously.

Zoning Text Amendment #14-02 – Approval Recommended

Old Business

None.

New Business

Discussion of building permit moratorium for Brower Addition. It was generally accepted that the issue was the road districts problem. Commissioner Steinhauer feared that this would be a set up for a law suit for taking the land.

Scott Anderson introduced Kevin Hoekman as a new planning staff member.

Adjourn

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to **adjourn**. The motion passed unanimously.