

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
July 28, 2014

A meeting of the Planning Commission was held on July 28, 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, Jeff Barth, and Mike Cypher.

STAFF PRESENT:

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

The meeting was chaired by Wayne Steinhauer.

CONSENT AGENDA

Commissioner Barth asked to move Item 3 off of the consent agenda to the regular agenda because of questions of the Renner sanitary sewer hookups that was raised during the last meeting.

An audience member requested moving Item 7 to the regular agenda.

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to **approve** the consent agenda consisting of Items 1, 2, 4, 5, 6, 8, and 9. The motion passed unanimously.

ITEM 1. Approval of Minutes – June 23, 2014

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to **approve** the minutes from June 23, 2014. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #14-35 to exceed 1,200 square feet of total accessory building area – requesting 5,616 sq. ft. on the property legally described as Lot A, Tract 1 Bakker’s Tracts, Section 13-T101N-R48W.

Petitioner: Brian & Penny Bennett

Property Owner: same

Location: 26461 484th Ave. approximately 3.5 miles southeast of Brandon

Staff Report: David Heinold

To allow 5,616 square feet of total accessory building area.

General Information:

Legal Description – Lot A, Tract 1 Bakker’s Tracts, Section 13-T101N-R48W

Present Zoning – A-1 Agricultural

Existing Land Use – Residential

Parcel Size – 6.54 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 southeast of Brandon. The parcel is located on Lot A, Tract 1 Bakker’s Tracts, Section 13-T101N-R48W.

The petitioner would like to construct a 3,348 square foot accessory structure and will remove three of the following accessory buildings: 70’x28’, 50’x46’, and 20’x20’. Currently, the total accessory building area is 2,268 square feet. The petitioner’s requested total building area, 5,616 square feet, is relatively comparable to other accessory buildings on similar lot sizes. For example, the property owner at 26427 484th Ave. has a total accessory building area of 5,964 square feet on 17.23 acres, which consists of a 42’x60’ and 42’x82’ pole barn.

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 3,348 square foot 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 by an existing driveway off of County Highway 109. 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 finds that the proposed building size conforms to the general sizes of other accessory buildings on similar lot sizes in the area. Staff recommends **approval** of conditional use permit #14-35 with the following conditions:

- 1) That the total accessory building square footage shall not exceed 5,616 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 3,348 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 by Commissioner Barth and seconded by Commissioner Rogen to **approve** Conditional Use Permit #14-35. The motion passed unanimously.

Conditional Use Permit #14-35 - Approved

ITEM 4. CONDITIONAL USE PERMIT #14-36 to transfer 1 building eligibility from the NE1/4 SW1/4, Section 28-T103N-R50W to the SE1/4 SE1/4, Section 28-T103N-R50W.

Petitioner: Vince Hanson, Trustee

Property Owner: Vince Hanson Living Trust

Location: approximately 2.5 miles northwest of Crooks

Staff Report: Scott Anderson

To allow the transfer of one building eligibility.

General Information:

Present Zoning – A-1 Agricultural

Existing Land Use – Agriculture

Parcel Size – 40 Acres

Staff Report: Scott Anderson

Staff Analysis: The applicant wants to transfer a building eligibility from the NE ¼ of the SW ¼ to the SE ¼ of the SE ¼. The applicant has indicated that moving the eligibility would have better access to roads. Both the existing quarter section and the receiving quarter section have similar soil and topographic characteristics. The applicant has owned this property since 2007.

On July 2, 2014, staff conducted a site visit. There is an existing animal confinement operations located approximately ½ mile northeast of the proposed transfer site. The neighboring property to the west also has an existing feedlot with what appeared to be less than 250 animal units. The proposed relocation of the building eligibility will not move a residence significantly closer to an animal feeding operation.

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 to 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 does not increase the number of dwelling units allowed in this section.

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

Rural water is available in the area and a waste water system will be utilized. The applicant indicated that the proposed building site will use a driveway that will come off of a Township road. The applicant will need to obtain an Approach Permit from Benton Township prior to any building permit being issued.

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

Off-street parking requirements will be provided for once a single-family residence 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 odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #14-36 with the following condition:

1. The lot shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.
2. That the applicant shall obtain an Approach Permit from Benton Township prior to the issuance of a building permit.

ACTION

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to **approve** Conditional Use Permit #14-36. The motion passed unanimously.

Conditional Use Permit #14-36 – Approved

ITEM 5. ZONING ORDINANCE TEXT AMENDMENT #14-03 to amend Article 19.05 of the 1990 Revised Zoning Ordinance for Minnehaha County.

Petitioner: Planning Staff

Staff Report: Scott Anderson

To add conditional use permit criteria to aid the Planning Commission in their review of Conditional Use Permit applications.

Staff Report: Scott Anderson

Staff Analysis: This proposed amendment has been requested by the State's Attorney's Office. It has come to the attention of the State's Attorney's Office that Article 19 of the County's Zoning Ordinance does not currently have any criteria for what the Planning Commission should be considering when a conditional use permit application is before them. The consideration of criteria is a requirement of state law. Therefore, the State's Attorney's Office has asked that criteria be added to Article 19.05 as section (D). Staff researched what criteria other jurisdictions used and found the following:

Lincoln County – This appears to me to be the bare minimum version of criteria. This criteria are patterned off of what has been tried in court and proven to be affective.

19.09 Conditional Use Criteria. The following considerations shall be employed when acting upon requests for conditional uses:

A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.

Pennington County – This is the same factors that are reviewed in our staff reports only printed in the ordinance itself.

D. Findings:

The following factors may be considered by the Planning Commission in their review of Conditional Use Permit applications:

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

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

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

4. That the off-street parking and loading requirements of these Zoning Ordinances are met.

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.

Dane County, Wisconsin – This example is similar to the Pennington County example. This is a recommendation of format for the cities within the county.

The recommendations outline two different approaches to complying with the new requirement that town action on CUPs be accompanied by appropriate findings of fact to support the decision. The findings must, at a minimum, address the six standards in §10.255(2)(h), of the Dane County Code of Ordinances.

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare; and
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use; and
3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; and
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made; and
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

Clallam County, Washington – This provision is somewhere in the middle ground; not very complex, but a little more plan oriented than the Lincoln County criteria.

33.27.040 Hearing Examiner action.



(1) Any person interested in an application for a conditional use permit may appear at the hearing set for review thereof and comment on the application. After completion of its public hearing, the Hearing Examiner shall approve the application if the Hearing Examiner finds that:

- (a) The proposed action is consistent with the spirit and intent of the Clallam County Comprehensive Plan.
- (b) The proposed action is consistent with this title.
- (c) The proposed action is consistent with land uses within the zoning district in which it is located and in the vicinity of the subject property.
- (d) The proposed action will have no unreasonable adverse impact on the surrounding land uses which cannot be mitigated through the application of reasonable conditions.

Utah League of Cities and Towns – These criteria are based in city code but some of them may be translatable. Some of these criteria seem like they could be addressed simply in the ordinance.

1. **GENERAL REVIEW CRITERIA:** An applicant for a conditional use in the zone must demonstrate:

- a. The application complies with all applicable provisions of this chapter, state and federal law;
- b. The structures associated with the use are compatible with surrounding structures in terms of use, scale, mass and circulation;
- c. The use is not detrimental to the public health, safety and welfare;
- d. The use is consistent with the City General Plan as amended;
- e. Traffic conditions are not adversely effected by the proposed use including the existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets;
- f. There is sufficient utility capacity;
- g. There is sufficient emergency vehicle access;
- h. The location and design of off-street parking as well as compliance with off-street parking standards;
- i. A plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses;
- j. Exterior lighting that complies with the lighting standards of the zone.
- k. Within and adjoining the site, impacts on the aquifer, slope retention, and flood potential have been fully mitigated and is appropriate to the topography of the site.

Minnehaha County Planning Commission has routinely identified criteria upon which decision are made. These criteria have been written into the staff reports presented to the Planning Commission. These criteria, along with another will be added into Article 19.05. A copy of the proposed Ordinance is attached for your review.

Recommendation: Staff recommends **approval** of the Zoning Text Amendment #14-03 adding Article 19.05(D) to the Minnehaha County Zoning Ordinance.

ACTION

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to **recommend approval** of the Zoning Text Amendment #14-03. The motion passed unanimously.

Zoning Text Amendment #14-03 – Approval Recommended

ITEM 6. CONDITIONAL USE PERMIT #14-37 to exceed 1,200 square feet of total accessory building area – requesting 1,928 sq. ft. on the property legally described as N596' W445.52' (Ex N316' & H-1) N1/2 SW1/4, Section 6-T102N-R49W.

Petitioner: Morton Buildings, Ron Tschetter

Property Owner: Dave Poppenga

Location: 25656 472nd Ave. approximately 2 miles east of Crooks

Staff Report: Kevin Hoekman

To allow 1,928 square feet of total accessory building area.

General Information:

Legal Description – N596' W445.52' (Ex N316' & H-1) N1/2 SW1/4, Section 6-T102N-R49W

Present Zoning – A-1 Agricultural

Existing Land Use – Residential

Parcel Size – 2.86 Acres

Staff Report: Kevin Hoekman

Staff Analysis: The property is located approximately three (3) miles east of Crooks on 472nd Avenue in the Mapleton Township. The site is located on the north end of more than four subdivided lots. In subdivisions or residential developments which exceed four 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.

The petitioner would like to construct a 30' x 12' and a 16' x 6' porch additions as part of a remodeling project to an existing 32' x 46' building. The existing building was constructed in 1979 before the current ordinance. The porch expansion will add 456 square feet to the existing 1,472 square feet building to create a structure with a total of 1,928 square feet. This addition will be an open air addition that is intended for gathering and temporary storage of vehicles. The large addition is located on the west side of the building away from the road.

The area of residences include many large size accessory buildings. To the northwest of the property there is a 3,000 square foot building and a 2,160 square foot building among other accessory buildings on the same lot. To the west of the property there is a building with the approximate area of 4,850 square feet. Buildings to the south and south west include one with the area of 2,268 square feet and another with 2,400 square feet. There are several more large buildings nearby that are not listed.

The appearance and usability of the current building is marginal because of its age. The remodeling and proposed addition will allow the owner greater use and it will also improve the aesthetics of the area.

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 addition accessory building should have little impact on surrounding properties. No new storage space will be added as the porches are not walled in. New siding, windows, and doors will improve the aesthetic of the building rather than hindering the overall appeal of the area. The remodel will change the building color to be composed of earth tones.

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

Many buildings in the area are as large as or larger than the proposed building so no precedent will be set because of this building. This is also an addition to an existing building in the form of a porch rather than additional storage space. No commercial activity will be allowed in the accessory building.

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

All needed infrastructure is in place. Access will be provided via the existing driveway. No other new infrastructure is required.

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

No off-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 at any 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.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

Recommendation:

Staff finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of Conditional Use Permit #14-37 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 1,928 square feet.
- 2.) That a building inspection is required to determine that the building does not exceed 1,928 square feet measured from the outside perimeter.
- 4.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 5.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 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 a building permit is required prior to construction of the accessory building.
- 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 full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

ACTION

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to **approve** Conditional Use Permit #14-37. The motion passed unanimously.

Conditional Use Permit #14-37 – Approved

ITEM 8. CONDITIONAL USE PERMIT #14-39 to transfer 1 building eligibility from the NW1/4 of the SE1/4 to the SW1/4 of the SE1/4, Section 27-T102N-R51W.

Petitioner: Dennis Muchow

Property Owner: same

Location: approximately 0.5 mile south of Hartford

Staff Report: Kevin Hoekman

To allow the transfer of one building eligibility.

General Information:

Legal Description – SE1/4 (Ex H-1 & Ex E64 Rds. & Ex Tracts 1 & 2 Muchow's Addn.), Section 27-T102N-R51W

Present Zoning – A-1 Agricultural

Existing Land Use – Agriculture

Parcel Size – 102.82 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to transfer one building eligibility from the NW1/4 SE1/4 in Section 27-T102N-R51W to SW1/4 SE1/4 Muchow's Addn. in Section 27-T102N-R51W. The building eligibility will be taken from productive agricultural land with no accessibility from a road to the southern portion of the parcel that has road access. This move will locate this eligibility closer to other residences and leave a large farmable area to remain. It will also move the eligibility further from the potentially conflicting industrial districts in the Brower addition and the auto salvage to the northeast of the proposed location. The move will also locate this eligibility further away from Interstate 90 on the north end of the property.

On July 7, 2014, staff conducted a site visit and determined that there are approximately 7 houses and/or farmsteads located within a 1/2 mile radius of the subject property. A small confined animal feeding operation is located to the approximately a 1/2 mile to the west on the corner of 463rd Avenue and 261st Avenue. Two industrial zoning districts exist about 1/4 to 1/2 of mile to the northwest and the northeast of the proposed location for the eligibility. The remaining property surrounding the petitioner's property to the north and south within a 1/2 mile is either farmland or pasture.

The petitioner noted that the final location of a new parcel is undetermined at this time. The approximate size of the new parcel will likely be about 10 acres and located adjacent to one or both of the existing parcels with homes along 261th 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.

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. The transfer will allow for better clustering of lots and maintaining large areas of farmable land.

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

If the transfer of building eligibility results in a new home being constructed, a new driveway will likely be needed off of 261st Street.

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 finds that the transfer of building eligibility request is consistent with density zoning. Staff recommends **approval** of Conditional Use Permit #14-39 with the following conditions:

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

ACTION

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to **approve** Conditional Use Permit #14-39. The motion passed unanimously.

Conditional Use Permit #14-39 – Approved

ITEM 9. CONDITIONAL USE PERMIT #14-40 to exceed 1,200 square feet of total accessory building area – requesting 2,730 sq. ft. on the property legally described as Tract 2 Mader Addition SW1/4, Section 36-T104N-R51W.

Petitioner: Justin Koepp

Property Owner: same

Location: 24966 465th Ave. approximately 2.5 miles southeast of Colton

Staff Report: Kevin Hoekman

To allow 2,730 square feet of total accessory building area.

General Information:

Legal Description – Tract 2 Mader’s Addition SW1/4, Section 36-T104N-R51W

Present Zoning – A-1 Agricultural

Existing Land Use – Residential

Parcel Size – 2.34 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately two and a half (2.5) miles southeast of Colton on 465th Avenue in the Taopi Township. The site is located on the north end of more than four subdivided lots; however, the general area is mostly composed of farms and farmsteads. In subdivisions or residential developments which exceed four 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.

The petitioner would like to construct a 65’ x 42’ accessory building for personal storage and use. The total proposed building size is 2,730 square feet.

A similar sized accessory building was constructed to the west of the site in 2003 with a total of 2,856 square feet. The farmstead to the north of the site includes several large buildings in its operation. The lots to the south of the site have no similar sized structures, but the applicant owns a 16 acre tract of land between himself and the other residences.

The proposed building will be located on the northeast corner of the lot with the narrow side facing the road. The house is located a short distance to the south-southwest of the proposed building. The 2.34 acre lot provides sufficient space and scale for the size of the building. Several evergreen trees are located between the proposed building site and the road which will assist in screening and scaling of the 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 little impact on surrounding properties. The site has significant buffer distance from non-farm residence and will have no effect on the agricultural use nearby. The accessory structure shall not be used as a commercial operation at any time.

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 that the area is primarily surrounded by farmsteads with large accessory buildings, the proposed structure is congruent to the area. Many of the similar-sized buildings in the area are located on farmsteads and are used for agricultural purposes. Therefore, this building may set a minor precedent for the current and future residential uses in the area.

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

All needed infrastructure is in place. Access will be provided via the existing driveway. No other new infrastructure is required.

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

No off-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 at any 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.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

Recommendation:

Staff finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of Conditional Use Permit #14-40 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,730 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height and meet the setback requirements for the zoning district.
- 3.) That a building inspection is required to determine that the building does not exceed 2,730 square feet measured from the outside perimeter.
- 4.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 5.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 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 a building permit is required prior to construction of the accessory building.
- 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 full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

ACTION

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to **approve** Conditional Use Permit #14-40. The motion passed unanimously.

Conditional Use Permit #14-40 – Approved

Regular Agenda

ITEM 3. REZONING #14-06 to rezone from the RC Recreation/Conservation District to the C Commercial District.

Petitioner: Richard Sorum, Dean Sorum, and Linda Clausen

Property Owner: same

Location: Directly south of Renner Corner

Staff Report: Scott Anderson

To rezone from the RC Recreation/Conservation District to the C Commercial District.

General Information:

Legal Description – (Ex S25’ W25’) Berry’s Sub., Lots 1-4, Block 3 (Ex H-1) & S430’ N863’ E476’ (Ex H-2) NE1/4 NE1/4, All in Section 16-T102N-R49W

Present Zoning – RC Recreation/Conservation

Existing Land Use – Agriculture

Parcel Size – 6.64 Acres

Staff Report: Scott Anderson

Staff Analysis: On July 16, 2014 staff conducted a site visit to the subject property. There is some existing commercial development located directly to the north of the subject property, at the Renner Corner. The subject property is located at the intersection County Highway 130 and SD Highway 115. The applicant has not indicated a specific use for the property.

The Comprehensive Plan recognizes that the continued growth of Sioux Falls will exert a strong influence on land use. Staff believes that the subject property is influenced by growth occurring in Sioux Falls. The rezoning proposal meets the policies and objectives of the Comprehensive Plan. The site is located along a major South Dakota and County Highway. The proposed rezoning site has a convenient siting for future commercial uses. The site builds onto an existing established commercial area known throughout the county. Staff can support this rezoning request as it meets the criteria and development concepts of the Comprehensive Plan.

Recommendation: Staff recommends **approval** of Rezoning #14-06 to rezone the subject property from RC Recreation/Conservation District to C Commercial District.

PUBLIC TESTIMONY

Staff presented a brief summary of the proposed rezoning including site analysis and relation to the comprehensive plan.

Commissioner Barth and staff had a brief dialog about the site and its location to the floodplain and the capacity of the sanitary sewer. It was noted that capacity is limited in the area and more capacity may be needed in the long run.

Richard Sorum, 25787 Lyndale Road, spoke on behalf of the co-owners of the property. He noted that he had a surveyor look at the sight for floodplain issues. He also commented that to his knowledge there were 42 hookups remaining for the sanitary sewer hookup. Commissioner

Barth asked about access to the site and Richard Sorum responded that primary access would be the existing road off of the SD Highway with a secondary access off of the county road on the northwest.

Craig Jucht, 25838 465th Ave., questioned the access and noted that people live on the proposed road access on the south side of the site. He also had concern with traffic along the highway due to high speeds and added traffic. At this time Commissioner Barth commented that speed really is a concern on this stretch of highway as development continues.

Brook White, Access Management Engineer for SD DOT, was asked to comment since she was present for Item 10. She noted that each request is evaluated individually base on use and site plan. She explained that this highway is classified as rural and that this limits accesses to 5 per mile per side, if another highway is available to use then it would take precedence over the SD highway, and that the road access improvements are up to the developer.

ACTION

A motion was made by Commissioner Rogen and seconded by Commissioner Cypher to **Approve** the Rezoning #14-06. The motion passed unanimously.

Rezoning #14-06 – Approved

ITEM 7. CONDITIONAL USE PERMIT #14-38 to allow a single-family dwelling on the property legally described as NW1/4 (Ex Co. Aud. Tract 1 & Ex Hanisch Addn. & Ex W1457'), Section 10-T102N-R52W.

Petitioner: Mike Grace

Property Owner: same

Location: approximately 0.5 mile northeast of Humboldt

Staff Report: David Heinold

To allow a single-family dwelling.

General Information:

Legal Description – NW1/4 (Ex Co. Aud. Tract 1 & Ex Hanisch Addn. & Ex W1457'), Section 10-T102N-R52W

Present Zoning – A-1 Agricultural

Existing Land Use – Residential

Parcel Size – 59.56 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to specify the location of one (1) building eligibility in the NW1/4 (Ex. Co. Aud. Tr. 1 & Ex. Hanisch Addn. & Ex. W1457') of Section 10 of Humboldt Township to allow for the development of a residence. The existing building eligibility on this parcel requires conditional use permit approval prior to the allowance of a building permit for a new single-family dwelling.

On July 3, 2014, staff met with Mr. Grace and determined that the proposed location for a new single family dwelling is consistent with the 1998 Comprehensive Development Plan. There are no confined animal feeding operations in the vicinity. There are two (2) existing farmstead dwellings and one (1) single-family dwelling within a half mile radius of the subject property. The petitioner will utilize an existing driveway off of 257th St., which is the main access for the farmstead site to the immediate south.

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 to 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 placement of a single-family residence would increase the number of dwelling units allowed in this section; however, a greater number of dwellings can be expected due to the existence of previously described lots and parcels. These properties are known as lots of record and each parcel qualifies as a building site under the zoning regulations, which may increase residential densities in some areas. Currently, there are seven (7) houses located in this section outside of the incorporated area of Humboldt and ten (10) building eligibilities remaining.

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

The applicant plans to utilize a septic system and rural water connection. Access will be provided off of the existing driveway. Staff believes that a drainage plan would be necessary to ensure that the proper flow of water is maintained with the addition of a new roof top, which will undoubtedly increase the amount of surface runoff from the property.

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

Off-street parking requirements will be provided for once a single-family residence 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 odor, fumes, dust, noise, vibrations, or lighting in any amounts that would otherwise constitute a nuisance.

Recommendation:

Staff finds that the transfer of building eligibility request is consistent with density zoning and the 1998 Comprehensive Development Plan. Staff recommends **approval** of Conditional Use Permit #14-38 with the following conditions:

- 1.) That the lots shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to issuance of a building permit.
- 2.) That a drainage plan shall be submitted to the Planning Director for review prior to the approval of a building permit to construct a single-family dwelling.

PUBLIC TESTIMONY

Staff presented a brief summary of the proposed allowing a building eligibility.

Mike Grace, 45743 257th St, spoke as the petitioner and commented that he just thought that the site would be good for a house with trees on two sides and the area being too small to farm or bring to pasture.

Tom Huls, 45859 257th St, spoke against the placing of the building eligibility because of area cattle farming and the potential for continued agriculture use on the site. He also noted that there is potential for drainage problems on the site and that he simply did not want any new acreages in the area.

Commissioner Steinhauer asked staff to explain the right to farm covenant that is required for all new houses in the county.

ACTION

A motion was made by Commissioner Cypher and seconded by Commissioner Rogen to **approve** the Conditional Use Permit # 14-38. The motion passed unanimously.

Conditional Use Permit #14-38 – Approved

ITEM 10. 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 platted.

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 recommends **denial** of the rezone to C Commercial and **approval** of the rezone to R-1 Residential for Rezoning #14-05.

PUBLIC TESTIMONY

Staff presented a brief summary of the proposed rezoning and new developments since the last meeting. Commissioner Steinhauer asked if staff would approve rezoning the parcel to all residential. Staff's response was yes. Other conversation between commissioners and staff revolved around nearby development and long term growth of the area.

Eric Willadsen, Willadsen Engineering, spoke on behalf of the applicant. Eric assured that there would be sewer hookups available. According to Eric's conversations with the district and the Sioux Falls Engineering, there are 19 hookups available on a first come first serve basis. He also reiterated that the proposed access does meet the sight distance for stopping on the highway. Eric's final note was that he disagreed with staff that the site is not suitable for commercial and that residential lots along the highway are not a favorable sell.

Joe Meyer, property owner to the north, spoke against the rezoning. His concern was mainly on the sewer hookup situation and the rezoning's potential effect on his potential future development plans. Commissioner Cypher asked about his plans and lots where Meyer responded that he would have to develop his lots two at a time because of their size and replat the remaining portion.

Randy Hoffer, 47497 Concord Ave, was concerned with the traffic and low visibility. Commissioner Barth responded with the question whether or not school busses stop on the highway; there were inconstant answers to this question.

Dedee Zimmerman, 25778 475th Ave, noted that she sees many accidents nearby because of the low visibility of the hill.

Eric Willadsen spoke up one again to add that he will be using an 8 inch pipe to connect to the sewer that would allow expansion to the north.

Brook White, Access Management Engineer for the SD DOT, started with background on access management starting in 2002. She noted that all parcels must be granted reasonable access to the highway. With regards to the parcel, the current access does meet minimum sight distance and can be approved at its current location and that this development is not large enough to trigger an automatic traffic speed study. Commissioner Barth reiterated his concern for safety and the high speeds traveled through the area. Staff then asked if a speed study could be requested by the county. Where Brook noted yes.

Commissioner Barth motioned to request the county to request a speed study done on this section of SD Highway. Commissioner Rogen seconded and the motion passed unanimously.

Commissioner Steinhauer made the comment that speeding down the highway may be more an enforcement issue than a development problem. He added a concern for “spot zoning” of the commercial district.

Commissioner Cypher agreed and added some questions about future procedure. Staff noted that a preliminary subdivision plan is needed and that is when requirements could be attached such as mandatory sewer hookups. At this Commissioner Cypher noted that he could support rezoning the entire parcel to residential.

Commissioner Barth commented that future growth may bring the entire highway to be commercial land but until then leapfrogging development is not the right way to go.

Some discussion happened between commissioners and staff on how to proceed with a motion to approve part and change some of the rezoning.

ACTION

Commissioner Cypher motioned to **approve the rezoning of the entire parcel to R-1 Residential**. Commissioner Rogen seconded the motion, and the motion carried unanimously.

Rezoning #14-05 – Approved as a rezoning entirely to R-1 Residential

Old Business

None

New Business

None

Adjourn

Commissioner Rogen motioned to adjourn, and Commissioner Cypher seconded. Meeting adjourned.