

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
February 23, 2015

A meeting of the Planning Commission was held on February 23, at 7:24 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

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

The meeting was chaired by Wayne Steinhauer.

CONSENT AGENDA

A motion was made by Commissioner Cypher and seconded by Commissioner Duffy to **approve** the consent agenda consisting of items #1 through #5. The motion passed unanimously.

ITEM 1. Approval of Minutes – January 26, 2015

A motion was made by Commissioner Cypher and seconded by Commissioner Duffy to **approve** the meeting minutes from January 26, 2015. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #15-13 to exceed 1,200 square feet of total accessory building area – requesting 1,920 sq. ft. on the property legally described as Lot 25, Country Gables Estates 2nd Addition, Section 5-T101N-R48W.

Petitioner: Mike Davelaar

Property Owner: same

Location: 8620 E. Sunset Cir. Approximately 1.5 miles west of Brandon

This would allow 1,920 square feet of total accessory building area.

General Information:

Legal Description – Lot 25 of Country Gable Estates 2nd Addition, Section 5, T101N, R48W

Present Zoning – A-1 Agriculture

Existing Land Use – residential

Parcel Size – 11.41 acres

Staff Report: Scott Anderson

Staff Analysis: This subject property is located in Section 5 of Brandon Township. The petitioner has applied for a conditional use permit to exceed 1,200 square feet of accessory building area at 8620 E. Sunset Circle. The property owner is requesting this conditional use permit for a total of 1,920 square feet of accessory building area. The applicant is proposing to

build a single building measuring 32 feet by 60 feet.

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 within the general vicinity and range in size from 2,000 sq. ft. to 5,000 square feet. (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 that are located within 10 feet of the main building are front yard 30', side yard 7', and rear yard 30'. Accessory buildings that are not considered part of the main building shall be no closer than three feet to the side and rear property lines. There is a minimum setback of 50' from any section line road or major arterial street.

Conditional Use Permit Criteria:

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

There are larger accessory buildings located 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 other necessary facilities are provided.

Access to the proposed accessory building will be through a driveway located on Sunset Circle. This driveway also provides access to the residential dwelling unit on the property.

No other infrastructure improvements are required at this time.

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

The property has sufficient parking for all residential activities. Two (2) off-street parking spaces are required for each single family residence. Typically this is accomplished with an attached garage.

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

6. Health, safety, general welfare of the public and the Comprehensive Plan.

The health, safety, general welfare of the public will not be impacted by the placement of a single family residence on the subject property. The intent of the Comprehensive Plan will be met, as density zoning will be followed.

Recommendation: Staff found that the proposed accessory building size conforms to the general sizes of other accessory building in the area and recommended **approval** of Conditional Use Permit #15-13 with the following conditions:

- 1) That the accessory building area shall not exceed 1,920 square feet on the property.
- 2) That a building inspection is required to measure the outside dimensions of the building.

ACTION

A motion was made to **approve** Conditional Use Permit #15-13 with conditions by Commissioner Cypher and seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #15-13 – Approved

ITEM 3. CONDITIONAL USE PERMIT #15-14 to exceed 1,200 square feet of total accessory building area – requesting 4,220 sq. ft. on the property legally described as S274’ Tract 1, S1/2 SW1/4 SW1/4, Section 36-T104N-R51W.

Petitioner: Gloria Christiansen

Property Owner: same

Location: 46524 250th St. Approximately 1.5 miles southeast of Colton

Staff Report: Kevin Hoekman

This would allow 4,220 square feet of total accessory building area.

General Information:

Legal Description – S274’ Tract 1, S1/2 SW1/4 SW1/4, Section 36-T104N-R51W

Present Zoning – A1 Agricultural

Existing Land Use – Residential dwelling on a former farmstead

Parcel Size – 4.15

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately one and a half (1.5) miles southeast of Colton on 250th Street in the Taopi Township. The site is located on the southeast 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 number, 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 63’ x 40’ (2,520 square feet) accessory building for personal storage and use. This accessory building would be in addition to two existing structures: a 32’ x 40’ barn and a 30’ x 14’ chicken coop that were on the site since it was a farmstead. These existing structures raise the total square footage of accessory structures on the parcel to 4,220. Despite the large amount of accessory structure space, the petitioner noted that neither the barn nor the chicken coop are useable to for storage of large items such as vehicles and boats.

A similar sized accessory building was approved and constructed to the north of the site last summer/fall (2014) with a total of 2,730 square feet. Other nearby parcels and farmsteads also include large buildings. Although this area is considered to be a subdivision, many of the area lots are relatively large and the houses are spread out.

The proposed building will be located some distance to the west of the house. The separation of the two structures makes connecting with the existing driveway difficult. The petitioner’s site plan includes a second proposed access onto the county highway to alleviate this problem.

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 residences 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 compatible to the area. Many of the similar-sized buildings in the area are located on farmsteads and are used for agricultural purposes. Since the two existing accessory structures are associated the former farmstead nature of the lot, the large total square footage should have little effect on the aesthetic or function of the nearby properties.

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

A new driveway access is requested, and this new driveway and location will have to be approved by the County Highway Department. All other needed infrastructure is in place.

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

No off-street parking will be needed as a result of personal activities in this accessory building. 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 #15-14 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 4,220 square feet.
- 2.) That a building permit is required prior to construction of the accessory building.
- 3.) That the accessory building shall not exceed 35 feet in height and meet the setback requirements for the zoning district.
- 4.) That an inspection be made on the proposed new accessory building to ensure that the square feet of the floor area of the building does not exceed 2,520 square feet.
- 5.) That the building shall be an accessory use to the continued use of the property as a residential lot. 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 the petitioner obtains a driveway access permit from the Minnehaha County Highway Department prior to the construction of the proposed driveway access.
- 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 to **approve** Conditional Use Permit #15-14 with conditions by Commissioner Cypher and seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #15-14 – Approved

ITEM 4. CONDITIONAL USE PERMIT #15-15 to allow a Daycare Center on the property legally described as Tract 1 West Nidaros Lutheran Church Addition NE1/4 NE1/4, Section 26-T103N-R50W.

Petitioner: Karla Johnson, EmBe

Property Owner: West Nidaros Lutheran Church

Location: 25405 471st Ave. Approximately 2.5 miles north of Crooks

Staff Report: Kevin Hoekman

This would allow a Daycare Center.

General Information:

Legal Description – Tract 1 West Nidaros Lutheran Church Addition NE1/4 NE1/4, Section 26-T103N-R50W

Present Zoning – A1 Agricultural

Existing Land Use – Church and Cemetery

Parcel Size – 9.37 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately two and a half (2.5) miles northeast of Crooks. The parcel has been home to a church and cemetery since 1911. Several major additions have been added to the main church structure, the last of which included a large gymnasium/multipurpose room, bathrooms, a kitchen, offices, and several other rooms used for Sunday school and small groups. The petitioner is requesting to allow a daycare center within the newest portion (the Family Life Center) of the church building. This daycare center will be an accessory use to the primary use of the building as a church.

The requested daycare center is planned to be operated by the non-profit EmBe that operates daycare centers throughout the area. They are applying to the Department of Social Services (DSS) to be licensed by the State of South Dakota to care for up to 90 school-age children. This license is required by the State for daycare centers with more than 13 children. The State's licensing requirements are inspected and enforced by the DSS prior to licensing and during operation of the daycare center. These requirements regulate issues such as the number of staff, meal services, space requirements, program activities, staff qualifications, health practices, and fire and life safety features. The license process also requires that the operators have liability insurance. Because of the comprehensive review process of the licensing procedure, conditions pertaining to the interior safety of the building would likely be redundant.

The petitioner has provided a written narrative that briefly explains the intent and operations of the proposed daycare center. The care will be given to up to 90 (depending on state approval) children between kindergarten and sixth grade. This will be open to anyone in the community with children in Tri-Valley and Baltic School Districts. During the school year, the hours of operation will be drop off between 6:30 am and school bus pick up, and pick up time after school bus drop off and 6:00 pm. Summer operation will be Monday through Friday from 6:30 am through 6:00 pm. Care for the children will be in small similar age classes primarily within the

Family Life Center portion of the church building. Food preparation, other than snacks, will be done at an offsite kitchen and food will be delivered to the site. Outdoor play will take place in small group classes and supervised by staff. Since the site is located at the intersection of a county highway and a township road, extra provisions should be considered for child safety since there is no state fence requirement for school-age child care.

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

The primary use of property surrounding the church is agricultural cropland. The nearest residence is approximately ¼ mile away from the church. The accessory use of a daycare center will have little effect on these surrounding land uses.

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

A daycare center of this size is normally not allowed in the A1-Agricultural zoning district. However, since the daycare center is an accessory use of the property's primary use as a church, an exception can be made. This exception is based on the use being accessory and SDCL 26-6-18.5. The church is located at the intersection of a paved county highway and a gravel township road. The paved county highway will be able to accommodate any additional traffic that is generated because of the daycare center. School busses from both Tri-Valle and Baltic School Districts already travel past the church. The surrounding land will continue to be primarily used as farmland and this daycare center will not likely change any future housing development.

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

The daycare center will use existing facilities and therefore no new utilities or access will be needed.

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

The primary entrance that will be used for the daycare center will be the south entrance to the Family Life Center. A large parking area is located to the south side of the Center, and this area is enough to meet off street parking requirements. The busses will utilize this parking lot to pick up and drop off children as close to the south door as possible.

The current site plan of the church property does appear to include parking on the east side of the site that is located within the right of way of township road 471st Avenue. It is unknown how long this parking layout has been implemented. Because of ambiguity in the parking along the east side, pick up and drop off of children by parents should be directed to take place in the off street parking lot on the south side of the church. This should be required in order to avoid potential traffic congestion and conflict along 471st Avenue.

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.

It is unlikely that any nuisance will be created as a result of the proposed daycare center. The structure will not change, and care for children will primarily take place inside the Family Life Center. No nuisance will be allowed at any time.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

A daycare center in general has the real possibility to affect the health, safety, and general welfare of the public. This is mainly true for the children that the facility provides care for. The daycare center poses little concern for the health, safety, and general welfare of people outside of the center.

The Department of Social Services (DSS) has an extensive licensing procedure in order to provide some assurance that a daycare center is safe. Once the DSS license application is received, the building plans reviewed by the state fire marshal, and it undergoes a state environmental review. These reviews cover everything from exits, to the number of fire extinguishers, to the number of bathroom fixtures are available per child. Very little if anything is not reviewed in the required licensing process. There is an annual review by the DSS to ensure that compliance is maintained on a yearly basis. Some primary and additional concerns that may or may not be reviewed by the state are discussed below.

The petitioner has noted that their state license request will be for 90 school aged children where indoor care will take place exclusively within the Family Life Center of the church. This is important since it is unclear if the older portions of the church have the necessary safety requirements for a daycare center.

The petitioner has also noted that outdoor play is a part of the facility's program, but the church grounds has minimal space to accommodate this activity. The cemetery should not be used as a play area for safety concerns, and the lawn area on the north side of the church should not be used because of the close proximity to County Highway 122.

The petitioner stated that EmBe has had a lot of experience with what she called a "playground in a box". This concept is based on children bringing out portable play equipment when there is little to no play yard available. This play area will most likely take place in the parking lot to the south or the small lawn area to the southwest of the Family Life Center. A fence is not required by the state and it is probably not necessary on the south side of the property. The north side of the property is adjacent to a County Highway with traffic moving at fast speeds. If outdoor play for the daycare center takes place on the north lawn next to the highway a completely enclosed fence shall be required.

Recommendation:

Staff finds that the proposed daycare center is an appropriate accessory use of this church. Staff recommends **approval** of Conditional Use Permit #15-15 with the following conditions:

- 1.) The daycare center must remain as an accessory use of the church. If the use of the parcel as a church ceases the daycare center shall cease.
- 2.) The daycare center must obtain and maintain a state license through the Department of Social Services. If the license is revoked, then the daycare operations shall cease.
- 3.) No daycare operations may take place outside of the Family Life Center portion of the church.
- 4.) The number of children taken care of on the site may not exceed 90 children or

whatever number the state license allows, whichever is less. If the state required maximum is less than 90 children, the petitioner must notify the Planning Department of the state approved maximum number.

- 5.) Children must be supervised by staff at all times, including during outdoor play.
- 6.) No outdoor play is allowed in the cemetery.
- 7.) No outdoor play is allowed on the lawns located on the north and east side of the church unless the area is enclosed by a 4 foot tall fence.
- 8.) Vehicles that pick up and drop off of children for the daycare center shall use the south parking lot and not park in the right of way.
- 9.) Any new or replaced outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 10.) The Planning & Zoning Department reserves the right to enter and inspect the daycare center at any time, after proper notice, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

ACTION

A motion was made to **approve** Conditional Use Permit #15-15 with conditions by Commissioner Cypher and seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #15-15 – Approved

ITEM 5. CONDITIONAL USE PERMIT #15-03 to allow a single family dwelling on the NE1/4 NE1/4 (Ex. H-1 & Co. Aud. Lots H-2,H-3, & Ex. Tr. 1 Gunderson Farms), Section 27-T103N-R50W.

Petitioner: Scott Swanson (Gunderson Farms, Inc.)

Property Owner: Albert Gunderson, etal

Location: Approximately 2.5 miles north of Crooks

Staff Report: Kevin Hoekman

This would allow a single family dwelling near the southwest corner of 254th St. and 470th Ave.

General Information:

Legal Description – W1/2 NE1/4 & NE1/4 NE1/4 (Ex. H-1 & Co. Aud. Lots H-2,H-3, & Ex. Tr. 1 Gunderson Farms) & NE1/4 NW1/4 (EX CO AUD LOT H-1), Section 27-T103N-R50W, Lyons Township

Present Zoning – A1 Agricultural

Existing Land Use – Pasture and crop land

Parcel Size – 152.74 acres

Staff Report: Kevin Hoekman

Staff Analysis:

This item was deferred at the January 26, 2015 Planning Commission Meeting. The petitioner requested deferral and planning staff relayed the request to the Planning commission. Nobody was present to speak for or against the item. There has been no changes in the request to transfer the eligibility.

The property is located approximately 2.5 miles to the north of Crooks at the intersection of County Highways 122 and 137 (254th St. and 470th Ave.). The property is a “T” shaped parcel except for an existing platted farmstead located in the northeast area of the parcel. The parcel includes one available building eligibility on the NE ¼ NW ¼ and two un-assigned building eligibilities available by conditional use permit. The petitioner is requesting to assign one of the Conditional Use building eligibilities to the NE ¼ of NE ¼ of the section for the intent to use it in the near future. The noted location of the building site would be between the existing platted farmstead and the highways on existing high ground pasture land.

Conditional Use Permit Criteria:

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

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 building eligibility does not increase the number of dwelling units allowed in this

section. The requested location for the eligibility places it near other residentially used property and further from existing CAFOs to the south and southwest of the site. Access would have to be approved by the County Highway Department. The siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

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

No other extra utilities or services will be required for this site to utilize the building eligibilities. The presence of two building eligibilities allows for the potential for sharing a driveway access. This should be encouraged at the permitting process.

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

The 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.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed conditional use will have no effect on the health, safety and general welfare of the public. Placing this building eligibility in this location on pasture land will prevent the conversion of crop land into residential use and locate the building eligibility in closer proximity of similar uses.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #15-03 with the following conditions:

1. A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for a single family dwelling.
2. Approval from the county highway department must be obtained for the location of the driveway before a building permit is to be issued.

ACTION

A motion was made to **approve** Conditional Use Permit #15-03 with conditions by Commissioner Cypher and seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #15-03 – Approved

Old Business

None

New Business

Update of Envision 2035 Comprehensive Plan by staff. Flyers were handed out to Commissioners.

Commissioner Steinhauer requested an update of the Planning Commission vacancy, and Scott Anderson, Planning Director, briefly noted several applications.

County Commission Items

None

Adjourn

A motion was made by Commission Cypher and seconded by Commissioner Even to **adjourn**. The motion passed unanimously.