

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
August 24, 2015

A meeting of the Planning Commission was held on August 24, at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning
Sara Show – Office of the State’s Attorney

The meeting was chaired by Wayne Steinhauer.

CONSENT AGENDA

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

ITEM 1. Approval of Minutes – July 27, 2015

A motion was made by Commissioner Barth and seconded by Commissioner Randall to **approve** the meeting minutes from July 27, 2015. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #15-51 to exceed 1,200 square feet of total accessory building area -requesting 5,120 sq. ft. on the property legally described as Tract 3, Jacob's Second Addn., NE1/4, Section 25-T101N-R51W.

Petitioner: Jason and Lynette Zanderson

Property Owner: same

Location: 46551 266th St. Approximately 3.5 miles west of Sioux Falls

Staff Report: David Heinold

This would allow 5,776 square feet of total accessory building area.

General Information:

Legal Description – Tract 3 Jacob's Second Addition, NE1/4, Section 25-T101N-R51W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 5.95 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to exceed 1,200 square feet of total accessory building area. The petitioner is requesting 5,776 square feet of total accessory building area. According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

(1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

The petitioner is requesting to construct a 40'x88' addition to the existing 52'x40' accessory building with attached lean-to for personal storage of vehicles, equipment, and agricultural machinery. The site plan indicates that the proposed addition will include a 16'x40' covered but enclosed lean-to addition similar to the existing building. The petitioner also has existing 8'x10' and 8'x12' garden sheds on the property for personal storage.

There are a few other large accessory buildings within a quarter mile of the subject property. The property owner at 46537 266th St. has a total accessory building area of approximately 4,000 square feet. The property owner about a half mile to east, 26607 466th Ave., has a 45'x72' accessory building and the property owner, 46595 266th St., has a few buildings combined for a total accessory building area of 2,144 sq. ft. The property adjacent to the subject property at 46557 266th St. completed a 1,920 square foot accessory building a few months ago.

On August 12, 2015, staff visited the property and determined that the proposed accessory building size for the immediate area. The proposed building will be located on a 5.95 acre parcel.

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 two other properties within a quarter-mile of the subject property that have building sizes relatively comparable to the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with five residential acreages within a quarter-mile of each other.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 5,776 sq. ft. of accessory building area would be congruent with the land composition.

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

Access is already provided to the existing accessory building. No further infrastructure will need to be provided.

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.

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

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties.

Recommendation:

Staff found that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommended **approval** of Conditional Use Permit #15-51 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 5,776 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.

- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

ACTION

A motion was made by Commissioner Barth and seconded by Commissioner Randall to **approve** Conditional Use Permit #15-51 with recommended conditions. The motion passes unanimously.

Conditional Use Permit # 15-51 – Approved

ITEM 3. CONDITIONAL USE PERMIT #15-52 to exceed 1,200 square feet of total accessory building area – requesting 3,075 sq. ft. on the property legally described as N479.31 S752.31 W420 & E35 W420 S255, E1/2 E1/2 SW1/4, Section 1-T102N-R50W.

Petitioner: Jay Lewis

Property Owner: same

Location: 47146 257th St. Approximately 1 mile east of Crooks

Staff Report: Scott Anderson

This would allow 3,075 square feet of total accessory building area.

General Information:

Legal Description – A portion of E ½ E1/2 SW ¼, Section 1, T102N, R50W, Minnehaha County, SD

Present Zoning – A1 Agriculture

Existing Land Use – residential

Parcel Size – 4.82 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is requesting approval of a conditional use permit to construct a 675 square foot accessory 3 sided horse structure. The proposed accessory would be located to the north of the single family residence and would be 15 feet by 45 feet. The applicant has indicated that the structure will allow the horses to have cover and protection. The subject property consists of a single family residence and a 40 foot by 60 foot detached accessory building. This existing 2,400 square foot structure combined with the proposed 675 square foot structure total 3,075 square feet, the amount of square feet requested by the applicant.

The subject property is located of north Sioux Falls and east of Crooks. Staff conducted a site visit on August 10, 2015. The area surrounding the subject property consists of residential and agricultural uses. There are more than 10 residences surrounding the subject property.

There are two residences in the area that have accessory structures exceeding 1,200 square feet as shown on the map provided by staff. There is a 4,000 square foot accessory structured located at 47118 257th Street. 4,435 square feet of accessory structures are located at 47145 257th Street, which is across the road from the applicant's property. A map of their locations is provided for the Planning Commission's review.

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.

Given the existence of the other larger accessory buildings in the area, the construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

2) The effect upon the normal and orderly development and improvement of surrounding

vacant property for uses predominant in the area.

The building can only be used as an accessory structure to the established residential use and no commercial or business activities are allowed. The proposed additional structure is not large and needed to protect horses

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

It appears from the site plan submitted by the applicant that the existing driveway will be used to access the new accessory structure. Benton Township would need to approve a new approach. As this is only an accessory structure, no other infrastructure is required.

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

There is ample area on the subject property for any parking as a result of residential activities. No on-street parking will be allowed. No commercial or business parking is allowed.

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

There should be no offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property.

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 larger accessory structure on the subject property. The intent of the Comprehensive Plan will be met, as the site will retain its residential character and allow for the continued use of the property.

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

Recommendation: Staff found that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended **approval** of conditional use permit #15-52 with the following conditions:

- 1) The total accessory building square footage shall not exceed 3,075 square feet.
- 2) The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
- 3) The accessory building shall not exceed one story in height.
- 4) A building inspection is required to determine that the combined area of all accessory structures does not exceed 3,075 square feet measured from the outside perimeters.
- 5) A building permit is required
- 6) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.

- 7) That the Planning & Zoning Department reserves the right to enter and inspect 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 Randall to **approve** Conditional Use Permit #15-52 with recommended conditions. The motion passes unanimously.

Conditional Use Permit # 15-52 – Approved

ITEM 4. CONDITIONAL USE PERMIT #15-53 to exceed 1,200 square feet of total accessory building area – requesting 3,200 sq. ft. on the property legally described as Struck’s Second Addition, Tract 1, SE1/4 NE 1/4, Section 23-T103N-R52W.

Petitioner: Daniel Jensen

Property Owner: same

Location: 25335 459th Ave. Approximately 5 miles north of Humboldt

Staff Report: Kevin Hoekman

This would allow 3,200 square feet of total accessory building area.

General Information:

Legal Description – Struck’s Second Addition, Tract 1, SE1/4 NE 1/4, Section 23-T103N-R52W

Present Zoning – A1 Agricultural

Existing Land Use – Single Family Dwelling

Parcel Size – 2.5 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately five (5) miles northeast of Humboldt in Clear Lake Township. The site is located within a subdivision of more than four 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 3200 square foot accessory building for personal storage and use. This accessory building is planned as on building located between the house and the road on the north side of the subject parcel. The site plan indicates that the accessory structure will meet the minimum front and side yard setback requirements. The front yard includes a dense line of shrubs and pine trees that are substantial size and will soon provide a good screen of the structure from the right-of-way.

There are several large accessory buildings in the area. Most of these were built before the ordinance that limits accessory building size, and other buildings were built on farmsteads. A neighboring accessory building to the northeast of the site includes approximate 2,300 square feet. A former farmstead located a short distance to the southeast includes a 3,200 square foot accessory building and several old farm buildings. A few nearby farmsteads also have large accessory buildings.

Conditional Use Permit Criteria:

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 other 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 and acreages with some that have 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.

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

All needed infrastructure is in place, and the proposed accessory building will utilize the existing driveway.

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 found that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended **approval** of Conditional Use Permit #15-53 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 3,200 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 3,200 square feet.
- 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 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 Randall to **approve** Conditional Use Permit #15-53 with recommended conditions. The motion passes unanimously.

Conditional Use Permit # 15-53 – Approved

ITEM 5. CONDITIONAL USE PERMIT #15-54 to allow a Single Family Dwelling on the property legally described as NW1/4 (Ex. Tr. 1 O'Briens Trs.), Section 5-T104N-R49W.

Petitioner: Tom Schwebach

Property Owner: Robert and Peggy Rose O'Brien

Location: 24442 473rd Ave. Approximately 1 mile northwest of Dell Rapids

Staff Report: Kevin Hoekman

This would allow a single family dwelling.

General Information:

Legal Description – NW1/4 (Ex. Tr. 1 O'Briens Trs.), Section 5-T104N-R49W

Present Zoning – A-1 Agriculture

Existing Land Use – Cropland with an existing dwelling

Parcel Size – 153.89

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 1 mile to the northwest of Dell Rapids. The subject property has 3 building eligibilities on it. One eligibility is locked, and the dwelling for this locked building eligibility is located in the northeast corner of the parcel. The other two eligibilities are listed as requiring a Conditional Use Permit, and they are not placed in any specific quarter of the section. The Conditional Use Permit request is to make available on of these eligibilities.

The petitioner has submitted a site plan with the building eligibility located in an approximately 6 acre designated area within the SE1/4 of the NW1/4. The proposed area appears to follow the contours of the landscape so that the dwelling unit would be on top of a small hill that is naturally separated from surrounding agricultural crop land by nearby drainage ways. This location is across the street from an existing acreage with a dwelling unit and a short distance north of another. The placement and use of this building eligibility will take up some active farmland, but the use of this land for a dwelling unit is consistent with density zoning.

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 proposed location of the building eligibility places the dwelling in a quarter quarter of the section with access to the township road. 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 proposed location of the building Eligibility will require a new driveway and a permit from the township.

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 little to no effect on the health, safety and general welfare of the public. Placing this building eligibility in this location is in compliance with density zoning.

Recommendation:

Staff found this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommended **approval** of Conditional Use Permit #15-54 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.) The parcel shall be platted and placed within the register of deeds before the issuance of a building permit.

ACTION

A motion was made by Commissioner Barth and seconded by Commissioner Randall to **approve** Conditional Use Permit #15-54 with recommended conditions. The motion passes unanimously.

Conditional Use Permit # 15-54 – Approved

ITEM 6. CONDITIONAL USE PERMIT #15-56 to exceed 1,200 square feet of total accessory building area – requesting 6,525.5 sq. ft. on the property legally described as Tract A, Shatter’s Addn., E1/2 SW1/4, Section 28-T102N-R50W.

Petitioner: Jeremy Schelhaas

Property Owner: same

Location: 46846 W. Hwy. 38 Approximately 2 miles west of Sioux Falls

Staff Report: David Heinold

This would allow 6,525.5 square feet of total accessory building area.

General Information:

Legal Description – Tract A, Shatter’s Addition, E1/2 SW1/4, Section 28-T102N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 10.54 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to exceed 1,200 square feet of total accessory building area. The petitioner is requesting 6,525.5 square feet of total accessory building area. According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

(1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

The petitioner is requesting to construct a 30’x56’ accessory building for personal storage and as a place for fixing personal vehicles and property maintenance equipment. The proposed building will ensure enough space to store more equipment inside a building. There are a few small farm buildings the petitioner plans to remove from the property. The petitioner plans to keep the 30’x50’ machine shed, 18 sq. ft. wood shed, 112 sq. ft. chicken coop, 45.5 sq. ft. well house, 1,280 sq. ft. historic barn, and 420 sq. ft. horse barn.

There are several other large accessory buildings in the immediate area. The property owner to the east, 46856 Hwy. 38, has 3,700 square feet of total accessory building permitted by conditional use permit. The one acre property, 46838 Hwy 38, directly to west of the subject property has a 30’x53’ metal pole building and a small shed for a total accessory building area of 1,710 sq. ft. The farmstead located to the south of the petitioner’s property, 46835 Hwy. 38, has several existing farm buildings similar to the subject property with a total of approximately 4,936 sq. ft. Lastly, the property owner located a quarter-mile to the west has about 3,472 square feet of total accessory building area on a less than five-acre parcel.

On August 12, 2015, staff visited the property and determined that the proposed accessory building size for the immediate area. The proposed building will be located on a 10.54 acre parcel.

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 two other properties within a quarter-mile of the subject property that have building sizes relatively comparable to the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with five residential acreages within a quarter-mile of each other.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 6,525.5 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided.

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.

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

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties.

Recommendation:

Staff found that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommended **approval** of Conditional Use Permit #15-56 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 6,525.5 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.

- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

ACTION

A motion was made by Commissioner Barth and seconded by Commissioner Randall to **approve** Conditional Use Permit #15-56 with recommended conditions. The motion passes unanimously.

Conditional Use Permit # 15-56 – Approved

ITEM 7. CONDITIONAL USE PERMIT #15-57 to exceed 1,200 square feet of total accessory building area – requesting 2,400 sq. ft. on the property legally described as Friessen, Tract 4 (Ex. H-2), S1/2 SW1/4, Section 19-T101N-R50W.

Petitioner: Morton Buildings

Property Owner: John or Cheryl Daugaard

Location: 26580 466th Ave. Approximately 2.5 miles west of Sioux Falls

Staff Report: Scott Anderson

This would allow 2,400 square feet of total accessory building area.

General Information:

Legal Description – Friessen Tract 4, Section 19, T101N, R50W, Minnehaha County

Present Zoning – A1 Agriculture

Existing Land Use – residential

Parcel Size – 2.89 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is requesting approval of a conditional use permit to construct an additional 1,200 square foot accessory structure. The proposed accessory structure would be located to the south of the single family residence and would be approximately 30 feet by 40 feet. The subject property consists of a single family residence and a 1,170 square foot detached accessory building. This existing 1,170 square foot structure combined with the proposed 1,200 square foot structure total 2,370 square feet, slightly less than the amount of square feet requested by the applicant.

The subject property is located west of Sioux Falls. Staff conducted a site visit on August 10, 2015. The area surrounding the subject property consists of residential and agricultural uses. There are more than 10 residences surrounding the subject property.

There are two residences in the area that have accessory structures exceeding 1,200 square feet as shown on the map provided by staff. There is a 4,770 square foot accessory structure located at 46601 266th Street. There is a 3,240 square feet of accessory structures located at 26574 466th Avenue. Both properties are located less than 1/8 of mile to the south of the subject property. A map of their locations is provided for the Planning Commission's review.

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.

Given the existence of the other larger accessory buildings in the area, the construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The building can only be used as an accessory structure to the established residential use and no

commercial or business activities are allowed. The proposed additional structure is not large and will be used for storage of vehicles and personal items.

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

It appears from the site plan submitted by the applicant that the existing driveway will be used to access the new accessory structure. Wayne Township would need to approve a new approach. As this is only an accessory structure, no other infrastructure is required.

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

There is ample area on the subject property for any parking as a result of residential activities. No on-street parking will be allowed. No commercial or business parking is allowed.

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

There should be no offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property.

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 larger accessory structure on the subject property. The intent of the Comprehensive Plan will be met, as the site will retain its residential character and allow for the continued use of the property.

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

Recommendation: Staff found that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended **approval** of conditional use permit #15-57 with the following conditions:

- 1.) The total accessory building square footage shall not exceed 2,400 square feet.
- 2.) The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
- 3.) The accessory building shall not exceed one story in height.
- 4.) A building inspection is required to determine that the combined area of all accessory structures does not exceed 2,400 square feet measured from the outside perimeters.
- 5.) A building permit is required
- 6.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7.) That the Planning & Zoning Department reserves the right to enter and inspect 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 Randall to **approve** Conditional Use Permit #15-57 with recommended conditions. The motion passes unanimously.

Conditional Use Permit # 15-57 – Approved

Regular Agenda

ITEM 8. CONDITIONAL USE PERMIT #15-55 to allow a Communications Tower on the property legally described as Northwestern Bell, Tract 1, NE1/4, Section 17-T102N-R48W.

Petitioner: Jimmy Cooper

Property Owner: Tom Brown

Location: 25827 480th Ave. Approximately 2 miles northwest of Brandon

Staff Report: Kevin Hoekman

This would allow a communications tower.

General Information:

Legal Description – Northwestern Bell, Tract 1, NE1/4, Section 17-T102N-R48W

Present Zoning – A-1 Agricultural

Existing Land Use – Crop land with existing communications building.

Parcel Size – 6.12 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The site is located approximately 2 miles northwest of Brandon and ¼ mile south of County Highway 130. The property is serviced by a gravel township road. It is located in an area primarily used for agricultural production, but numerous single family dwellings are located within 1 mile of the subject property. An existing 255 foot tall lattice tower is located approximately 1 ½ miles to the southeast of the proposed site.

The petitioner is requesting to construct a 310 foot tall lattice tower on the subject property. The height of the tower beyond a monopole and not tall enough to require guy wires. Section 12.12 (B) requires antennas to be mounted on a single monopole or guyed lattice tower in order to be allowed as a permitted special use.

The tower is to be used primarily for radio broadcasts with the opportunity to place other transmitters such as cellular. It is designed to be self-supporting and there no need for guy wires to stabilize it. The tower will have to abide by all Federal Communications Commission (FCC) regulations regarding painting and lighting, and it will have to be registered and maintained as such.

The site of the proposed tower is on a parcel that formerly had a communications tower located on it. Staff was unable to determine when the former tower what removed, but historical Google Imagery includes a photo of the tower as late as 2004. A building permit was issued for the existing support structure in 1981. The site does not meet the special use permit requirement of a minimum separation of three (3) miles apart from the nearest tower. The site plan includes two potential sites for support structures to go with potential co-location antenna that is required by the ordinance.

The parcel is located a short distance outside of the EROS Overlay District which has a height restriction of 450 feet at the furthest edge of the district. The site plan depicts the tower to be located in the approximate center of the parcel and next to the existing support structure that houses electrical and utility items for the broadcast tower.

Telecommunications towers are regulated by county ordinance in several ways in Article 12.13, Additional Use Regulations. The ordinance regulates the tower design, setbacks, illumination, maintenance, signage, co-location of multiple antenna, and abandonment process. The proposed tower is required to follow these regulations for construction and maintenance purposes.

The Minnehaha County Zoning Ordinance requires a setback of 1300 feet from the property that has a residential dwelling. Two properties are located within this setback. The property owner to the south and west of the site has signed a recognition letter as what is going to be built. The petitioner has met with the property owner of the dwelling to the east, but the property owner wants some additional time to consider the tower before he signs a waiver. Without this waiver, the conditional use permit should not be approved.

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.

The area around the proposed site is primarily composed of agricultural land. In addition many single family dwellings on acreages are located within one mile of the tower. The tower and any required safety lights will be visible for some distance. This may cause minor visual nuisance for those who reside in the area. A tower was located on the site as recently as 2004.

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

The area around the proposed tower site will likely remain predominantly agricultural with some residential acreages. The visual aspect of the tower will have no effect on agricultural production, but it may have a slight effect on future residential development as people may not want to live close to the tower.

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

Since the proposed tower is located on a site of a former tower, all access and utilities are existing. The driveway has deteriorated and will need additional gravel to comply with Section 15.04 Minimum Improvement and Maintenance Standards that requires four inch thick gravel surface. The drainage of the site will be minimally affected with only an addition of a concrete pad as an impervious surface.

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

The site will not have on site employees but will need to have parking for contracting and maintenance vehicles. The distance from the road and the current gravel area around the support structure should be enough to support parking for the tower.

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 tower will not produce significant odor, fumes, dust, noise, or vibration during regular operations. The tower will be required by the FCC to have lighting. The Minnehaha County Zoning Ordinance requires that the tower uses the minimum FCC requirements, and that the night time safety lights cannot be white.

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

The day to day operation of the proposed land use will have a minimal effect on the health, safety and general welfare of the public. The proposed structure is 310 feet tall and may pose a risk if excessive winds topple the tower. The nearest dwelling is over 1,100 feet away which provides a reasonably buffer.

The property should include reasonable security from climbers and vandals. Many towers in the county include a 6 foot high security fence with barbed wire on the top. A fence such as this would help prevent climbers, vandals, and the like from causing harm to the facility or to themselves. The petitioner has noted that he plans on placing a security fence around the facility.

The Zoning Ordinance includes that the property and/or facility owner must remove the tower if it is not in use for 365 consecutive days. If the tower is not removed the county may remove the tower at the property and/or facility owner's expense.

Recommendation:

Staff found that the proposed communications tower meets many of permitted special use regulations and it is located on a parcel that historically held a telecommunications tower. However, the required waiver has not yet been submitted for the property owner to the east. Staff recommended **deferral** of Conditional Use Permit #15-55 to provide additional time to obtain the required waiver. If a waiver is received before the public hearing on August 24, 2015 with the following conditions are recommended for consideration:

- 1.) The facility shall meet the requirements of Article 12.12 of the Minnehaha County Zoning Ordinance with the exception of Section 12.12 (C) #3 and the Equipment Design (B).
- 2.) A letter of removal responsibility shall be submitted to the Planning Department prior to the issuance of a building permit.
- 3.) A building permit is required before the erection of the tower.
- 4.) A six (6) foot high security fence shall be placed around the tower to discourage climbers and vandals.
- 5.) All security lighting shall be of shoebox style that direct the light downward to prevent spillage of light onto neighboring properties.

PUBLIC TESTIMONY

Kevin Hoekman presented the staff report for the conditional use permit request.

Commissioner Cypher questioned the requirement to have red lights and staff pointed out that it must meet the minimum FCC requirement. The planning commission continued discussion on this requirement. Commissioner Steinhauer noted that a potential condition could be that the

tower does not impede with FCC or FAA guidelines.

Jim Cooper, 26158 455th Ave., explained the purpose of the project for a new FM radio tower and also clarified that the tower was placed in this location because of signal restrictions at the other area. Mr. Cooper explained that the operation of the lighting will not be seen from the ground and other specific details regarding the tower design.

Commissioner Cypher asked for clarification on the size of the base and Mr. Cooper indicated that it would be about 18 feet wide. Commissioner Cypher asked the petitioner on the differences between the types of towers. Mr. Cooper indicated that they decided to take a 90 foot-by-90 foot spot for a self-supporting tower to not interfere with the surrounding land on which the tower will be placed.

Commissioner Cypher questioned whether this proposed tower falls within the intent of the Telecommunications Tower Ordinance section to promote aesthetic integrity. Commissioner Randall questioned the safety of the proposed type of tower versus a guyed-wire tower.

Mr. Cooper mentioned an example of another tower located at 69th St. and Louise Avenue that is designed to buckle in the middle for a 90 mph wind speed. He also explained that he believes that the safety of the two types of towers is equivalent for each design.

DISCUSSION

Commissioner Cypher indicated that he still believes that visibility is a major issue and pointed to the example of other freestanding towers with a wider base. He also noted that this request will only set a precedence for more of these types of towers.

Commissioner Barth asked for clarification that the proposed location for the tower is not located within an area that would interfere with the EROS Data Center and staff indicated that this area is just south of the outside ring with a maximum height of 610 feet.

Commissioner Cypher questioned adding a condition regarding the visual aesthetics of the tower.

ACTION

Commissioner Barth made a motion to **approve** Conditional Use Permit #15-55 and Commissioner Ode seconded the motion. The motion passed with 4 yeas and 1 nay.

Conditional Use Permit # 15-55 – Approved

ITEM 9. REZONING #15-06 to rezone Tract 1 Priebe's Addition, S1/2 NE1/4, Section 7-T102N-R49W from the A-1 Agricultural District to the PD Planned Development District.

Petitioner: Tim and Pam Homan

Property Owner: same

Location: Approximately 3 miles north of Sioux Falls

Staff Report: Scott Anderson

This would rezone from the A-1 Agricultural District to the PD Planned Development District.

General Information:

Legal Description – Tract 1 of Priebe's Addition, Section 7, T102N, R49W, Minnehaha County.

Present Zoning – A1 Agriculture

Existing Land Use – agriculture

Parcel Size – 20 acres

Staff Report: Scott Anderson

Staff Analysis:

Minnehaha County utilizes several zoning techniques such as density zoning, the use of subdivision regulations and Planned Development District to accomplish the goals of the Comprehensive Plan. The County's Comprehensive Plan states that occasionally, conventional zoning districts can be a barrier to innovative design and development techniques. The Planned Development District was added to the zoning regulations to provide developers with greater flexibility while at the same time increasing the public review of development proposals. Planned Developments can exactly outline proposed uses within the specific district and how development will occur. Furthermore, a specific set of guidelines for each planned development can be agreed upon by the County/City and developer. Planned Developments fill an important niche within the overall zoning of Minnehaha County.

The applicant has included a detailed narrative explaining future goals and development, as well as a site plan depicting the future development. A copy of both the narrative and site plan are included for the joint planning commission's review. The applicant is requesting the Waterway Meadows Planned Development District to allow a single residence to be constructed on a ten (10) acre parcel, known as Tract 1 of Priebe's Addition. The applicant purchased this parcel in 2012. The lot was created by William and June Priebe in February of 2005. The existing barn was constructed in April of 2005. Tract 1 was sold to the current owners without a building eligibility, creating a non-conformity, which is an accessory structure located on a lot without an established principal use. The applicant would now like to allow a residence to be constructed on the parcel and bring the existing barn structure into compliance with the Zoning Ordinance.

On August 10, 2015, staff conducted a site visit. The roads, Renberg Street and Haystack Place are in good condition. There is significant residential development in the general area with two (2) major residential subdivision, Vintage Village and High Prairie Ranch. In addition, there are

several other residences located on individual lots. The area is a mix of residential and agricultural uses.

The applicant is proposing a single sub-area based on the proposed use within the planned development. The single sub-area would allow one single-family residence to be constructed on the subject parcel. The existing barn would continue to be used as an accessory structure.

The applicant is proposing to address the non-conforming use that is found at the site and add an additional use, a residential building site. Without rezoning this parcel, the existing barn will continue to be a non-conforming use. The proposed addition of a single family residence into the area should not harm the overall intent of the Zoning Ordinance. Staff supports the rezoning request. The County has rezoned parcels with similar situations from an agriculture zoning designation to a residential zoning classification for residential development. The last such rezoning occurred at the corner of 41st and S Riverbluff Road in 2013.

Recommendation: Staff recommended **approval** of Rezoning #15-06 to create the Waterway Meadows Planned Development District as follows:

WATERWAY MEADOWS PLANNED DEVELOPMENT DISTRICT. The regulations set forth herein or elsewhere in these regulations are the district regulations in the Waterway Meadows Planned Development District:

- (1). **USES PERMITTED.** A building or premises shall be permitted to be used for the following purposes:
A maximum of one (1) single-family dwelling.
- (2). **ACCESSORY USES.** Accessory uses and buildings permitted are those accessory buildings and uses customarily incident to any permitted use allowed in the A-1 Agricultural District.
- (3). **PARKING REGULATIONS.** Parking shall be regulated in conformance with the provisions of the A-1 Agricultural District.
- (4). **SIGN REGULATIONS.** Signs shall be regulated in conformance with the provisions of the A-1 Agricultural District.
- (5). **DENSITY, AREA, YARD AND HEIGHT REGULATIONS.** Density, area, yard and height shall be regulated in conformance with the provisions of the A-1 Agricultural District.
- (6). **FINAL DEVELOP PLAN.** Prior to construction on any lot in the Waterway Meadows Planned Development District, a Final Development Plan shall be presented to the Planning Commissions for their approval.

PUBLIC TESTIMONY

Staff presented the staff report on the rezoning request. Commissioner Steinhauer asked what the parking requirements would be for this planned development and staff noted that it would be the standard 2 parking spaces per single family residence.

Commissioner Cypher questioned that the petitioner is actually requesting a building eligibility for a residence on an agricultural lot. Staff explained that the intent of the planned development rezoning request is to allow a maximum of one (1) single family dwelling on the 10-acre parcel.

Commissioner Cypher reiterated that this proposed rezoning request is generating a building eligibility and questioned the unnecessary conversion of agricultural land to rural residential, which this would essentially be a house in an agricultural area. He also pointed out that the other developments formed years ago are irrelevant to this request.

Commissioner Steinhauer asked for clarification on the difference between the planned development and rural residential district. Staff explained that the difference is that rural residential would potentially allow up to ten houses, but a planned development can include conditions, such as only allowing one house on the lot. Staff clarified that the proposed rezoning would allow a residence when a single family dwelling is not currently allowed because there is no building eligibility on the parcel.

Commissioner Cypher reiterated that this would create a strong precedent, which should be why this rezoning is not permitted. Commissioner Barth inquired that there are several properties in the area within the floodplain with building eligibilities and staff mentioned that property owners can use, but would entail a difficult process. There was discussion amongst the planning commission on acquiring building eligibilities that could be transferred out of the floodplain along contiguous parcels.

Tim Homan, 25725 464th Ave., identified himself as one of the petitioners along with his wife and explained that they have decided to submit a rezoning application to allow only one house on the 10-acre parcel. Mr. Homan explained that they want a low maintenance property and to be able to sell the property with the opportunity to build a house.

Commissioner Steinhauer asked the petitioner what their intent for the property is and Mr. Homan noted that they would like to sell the property. Mr. Homan continued to explain that they value is not as high as it could be with a building eligibility, which brought them to the solution to help solve the problem for interested buyers.

Commissioner Barth asked if there are any other building eligibilities and staff indicated that there may be some eligibilities south of the subject parcel.

Pam Homan, 25725 464th Ave., explained that originally they wanted to rezone to rural residential, but that would automatically open the parcel up for about ten homes. Mrs. Homan indicated that they were pointed in the direction of a planned development, which would only allow one home with conditions. She also pointed out that the landowners in the neighboring subdivision have been extremely supportive of the proposed rezoning.

DISCUSSION

Commissioner Cypher reiterated that the landowner created the nonconforming use and that this rezoning request would set a precedent for more residential on agricultural land since this will essentially gift a building eligibility to the petitioner, which he cannot support creating more opportunities for houses in the rural area with no potential for sanitary sewer connections.

Commissioner Barth pointed out that there are ways to import building eligibilities and the planning commission continued to discuss the matter amongst themselves.

Staff clarified for the record that research on available building eligibilities in the surrounding area was not completed because it was not germane to the rezoning request.

Commissioner Randall explained that the prior rezoning example was that they were attempting to adhere to the density zoning regulation of not creating more building eligibilities in accordance with the adopted standards.

Commissioner Steinhauer allowed Mrs. Homan an opportunity for additional comments. She expressed concern that there needs to be consideration given to the fact that there is a nonconforming building on the property and that it is troubling for potential buyers to hear that they cannot rebuild the barn if it is destroyed.

ACTION

Commissioner Cypher made a motion to **recommend denial** of Rezoning #15-06 and seconded by Commissioner Ode. The motion passed with 4 yeas and 1 nay.

Rezoning #15-06 – Recommended Denial

ITEM 10. TEXT AMENDMENT #15-01 to amend Section 12.13 (B) Agricultural Tourism, Permitted Uses of the 1990 Revised Zoning District for Minnehaha County.

Petitioner: Lee Anderson & Janelle Johnson

Staff Report: David Heinold

This would amend Section 12.13 (B) Agricultural Tourism, Permitted Uses of the 1990 Revised Zoning Ordinance for Minnehaha County.

Staff Report: David Heinold

Staff Analysis:

The proposed amendment has been requested by Lee Anderson and Janelle Johnson to allow breweries as a permitted use under the Agricultural Tourism Ordinance. The petitioners have submitted an ordinance amendment that does not meet the intent of the current ordinance, which was revised by planning staff to more similarly reflect the standards for wineries.

Staff recommends that the proposed Ordinance Amendment allow breweries producing and selling a product, in a tasting room, which must have a minimum of one acre of crop grown on the site and used in beer production as a permitted use under Agricultural Tourism provided that the use meets all of the requirements listed below (underlined):

- 7) Breweries producing and selling a product, in a tasting room.
 - a) Description. The retail and manufacturing premises of a small brewery pursuant to SDCL 35.
 - b) Accessory Uses Allowed. Farm and Brewery tours, picnic area, and hay/sleigh rides.
 - c) Retail. Tasting room for sampling of beer and other beverages made by the brewery. Bottles of beer, beer related items such as t-shirts, bags, caps, brew books, and non-prepared food.
 - d) Good Concessions. Breweries will be allowed limited food services on-site. This food service is not to include restaurants, but may include the following:
 1. Deli-service of prepackaged food;
 2. Beermaker dinners;
 3. Tasting room events with food;
 4. On-site catering food service for events;
 5. No interior seating will be dedicated solely to the purpose of meal service.
 6. No food will be cooked to order, although a list of prepackaged foods may be posted.
 - e) Special Events. The brewery shall be allowed a maximum of four special events throughout the year. Additional special events require a temporary use permit.
 - f) Private Events. The participant capacity for such events shall be determined separately for each brewery by the Planning Director. The Planning Director

shall consider the size of the parcel, surrounding land use, available parking, transportation routes, and other land use factors in making the determination. The maximum capacity shall be stated in writing to the applicant.

g) Minimum 1 acre of crop used in the production of beer must be grown on the site.

h) The Operator of the brewery must reside on the site.

i) The Brewery shall remain secondary to the principal use of the property as a residential site and a site for agricultural production. If the residential use or agricultural production on the site ceases, the Brewery shall cease.

j) The Brewery must be on a parcel of land that is not less than 10 acres in size.

This proposed ordinance is an attempt to create consistency among the permitted agricultural tourism uses. If the applicant and/or property owner is unable to meet the aforementioned conditions, then they may submit an Agricultural Tourism Permit to be heard by the County Planning Commission. This process allows for a more extensive review of agricultural tourism permit requests on a case-by-case basis to determine if the proposal is an appropriate land use and fits with the goals and policies of the Envision 2035 Comprehensive Plan.

In addition to this text amendment request, staff is proposing to add two separate sections to the Agricultural Tourism Ordinance section to include provisions for Recall, Review, and Revocation similar to the existing text in the Conditional Use Permit section of the Zoning Ordinance with the following language (underlined):

(I) Recall & Review

If the County Planning Director finds at any time that the terms, conditions, or requirements of the agricultural tourism permit have not been complied with, or that any phase thereof, or that the use endangers the health and welfare of the public, the Director may recall the agricultural tourism permit for a review by the Minnehaha County Planning Commission. The permittee, landowner and/or operator and other impacted persons shall be notified 15 days prior to the County Planning Commission hearing. The County Planning Commission shall have the authority to amend, revise, delete or add conditions to the agricultural tourism permit in event that they determine the terms, conditions, or requirements of the agricultural tourism permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, or that the use endangers the health and welfare of the public.

(K) Revocation

If the County Planning Director finds that at any time the terms, conditions, or requirements of the agricultural tourism permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, the Director shall report this fact to the permittee, landowner, and/or operator, and the Minnehaha County Planning Commission. The County Planning Commission may, after conducting a public hearing, of which the permittee, landowner, and/or operator shall be notified, revoke the agricultural tourism permit for failure to comply with the terms, conditions, or requirements of the permit.

This proposed amendment allows the same process for Agricultural Tourism Permit review as is already conducted on a case-by-case basis with Conditional Use Permits. The planning office has the opportunity to attempt to bring petitioners into compliance with approved conditions and the zoning ordinance, or allow the Planning Commission the chance to review the permit. The last part of this ordinance amendment is to revise the current language in the Agricultural Tourism Ordinance section under Wineries for consistency and clarity. The revisions are recommended below (additions are underlined and changes are struck through):

- 1) Wineries producing and selling a product, in a tasting room, ~~which must have one acre of crops grown on the site and used in the wine production.~~
 - a) Description. The retail and manufacturing premises of a small winemaker operating pursuant to SDCL 35-12.
 - b) Accessory Uses Allowed. Vineyard and Winery Tours, picnic area, and hay/sleigh rides.
 - c) Retail. Tasting room for sampling of wine and other beverages made by the winery. Bottles of wine, wine related items such as glasses, corkscrews, and coolers. Business related items such as t-shirts, bags, caps, wine books and non-prepared foods.
 - d) Food Concessions. Wineries will be allowed limited food services on-site. This food service is not to include restaurants, but may include the following:
 1. Deli-service of prepackaged food;
 2. Winemaker dinners;
 3. Tasting room events with food;
 4. On-site catering food service for events.
 5. No interior seating will be dedicated solely to the purpose of meal service.
 6. No food will be cooked to order, although a list of prepackaged foods may be posted.
 - e) Special Events. The winery shall be allowed a maximum of four special events throughout the year. Additional special events require a temporary use permit.
 - f) Private events. The participant capacity for such events shall be determined separately for each winery by the Planning Director. The Planning Director shall consider the size of the parcel, surrounding land use, available parking, transportation routes, and other land use factors in making the determination. The maximum capacity shall be stated in writing to the applicant.
 - g) Minimum $\frac{1}{2}$ 1 acre of ~~product~~ crop used in the production of wine must be grown on the site.
 - h) The Operator of the winery must reside on the site.
 - i) The winery shall remain secondary to the principal use of the property as a residential site and a site for agricultural production. If the residential use or agricultural production on the site ceases, the winery operation shall cease.
 - j) The winery must be on a parcel of land that is not less than 10 acres in size.

The States Attorney has reviewed and approved of the proposed ordinance language included in

the attached document.

Recommendation:

Staff found that the proposed text amendment changes are consistent with the intent of the Agricultural Tourism section and the Envision 2035 Comprehensive Plan. Staff recommended **approval** of Zoning Text Amendment #15-01.

PUBLIC TESTIMONY

Staff presented the staff report on Text Amendment #15-01. Commissioner Cypher questioned the consistency of the minimum parcel size and staff indicated that the parcel must be at least 10 acres to be considered a permitted use, which is the same as for wineries.

Commissioner Steinhauer mentioned a general fondness of the agricultural tourism concept, but expressed questions over part of the language in the proposed text amendment regarding private events. Staff explained that private events are often considered promotions not events, but the property owner must still submit a plan with amount of participants to the Planning Director for review of appropriateness in the area.

Commissioner Steinhauer questioned the revision regarding the amount of on-site crop used in production of wine for existing operation compliance with the proposed change. Staff clarified that there were inconsistencies with the ordinance section and this is an attempt to clean the existing text for less confusing language.

Commissioner Steinhauer offered a suggestion to change the language to read, “minimum of 1 acre of crop used in the production of wine produced at the site must grown on the site”. Commissioner Barth concurred and questioned whether it was necessary to hold beer producer to the same standard as wine producers. Commissioner Steinhauer pointed out that the planning commission should also consider talking about allowing distilleries. Commissioner Barth and Cypher concurred that this should be a use to be considered with the proposed amendment.

Staff explained that we had considered that option, but found that there are different set of state laws regarding distilleries. The planning commission discussed amongst themselves regarding this topic and expressed support for encouraging other types of agricultural tourism uses.

Lee Anderson, 409 S. Hawthorne Ave., introduced himself as the owner/operator of Anderson Hop Farm and mentioned that they do not currently reside on the parcel where the hop farm exists at 26677 486th Ave. Mr. Anderson explained the entire business plan for the operation and indicated that they are in their fourth year of production, which is becoming aesthetically attractive for walking tours as well as having people around the hop farm. He also mentioned that they are distributing 50 pounds of crop to Crow Peak Brewing Company for production of a summer ale and introduced his other business partners assisting with this effort.

Mr. Anderson mentioned their excitement about the agricultural tourism movement alongside what is happening with wineries in the area as well as people just stopping by the hop farm on the way to Grand Falls Casino. Commissioner Cypher asked where the crop was being sold and the petitioner indicated that it is being sent to Crow Peak Brewing Co. in Spearfish, SD.

Commissioner Cypher asked how long it takes until production for the hops to establish and Mr. Anderson noted that it takes about 4-5 years. Mr. Anderson explained more in detail about the total crop harvested over the last 5 years as well as the type of growing method. He also noted that they have been applying for grants, working with the South Dakota and Minnesota State Agricultural Extension offices, and presenting at the local foods conference in the Black Hills on what is happening at their farm. He continued to mention that they want to continue to work to engage the local community and inspire others to see the value in specialty crop production.

Commissioner Cypher asked how many acres are on the farm presently and Mr. Anderson noted that they have 6 acres. Commissioner Cypher also asked how the amount of acres translates to how much beer. Mr. Anderson introduced Weston who explained that you would need 10 acres of barley and 1 acre of hops. For example, a field of hops could create 300 gallons of a pale ale and a handful of hops for 10 gallons of beer or a beer with 10 International Bitterness Units, which would only take 2-3 pounds of hops. Weston mentioned the need to get the brewery operation started to expand the acreage.

Commissioner Cypher asked what the anticipated pounds per acre would be at full production. Mr. Anderson explained that when everything is done according to the plan the range would be 1,800 to 2,400 pounds, which would entail about 12,000 pounds on his 6 acres. He continued to mention that they aspire to become a completely field-to-plate hops farm. The discussion continued about the business plan.

Staff pointed out that the applicant submitted a request with the intent not to live at the site of the brewery and Commissioner Steinhauer asked the petitioner to discuss this with everyone. Mr. Anderson explained that he is financially invested in this operation and that it takes a long time for this type of operation to payout, but he expressed interest in moving near this location within 3-5 years on the family homestead site just to the north of the hops farm.

There was discussion amongst the planning commission about the Red Rock Corridor, but the hops farm is located just outside of the overlay district. Commission Steinhauer pointed out that things will never change if there is too much consistency, which this would be the time to make the necessary changes. Staff explained that this proposed ordinance will apply to all future brewery operations and property owners.

Commissioner Steinhauer suggested an option to allow some additional time when the operation becomes financially feasible to construct a house and Commissioner Barth concurred. Mr. Anderson pointed out the location of the hop farm and described the site in detail. He continued to mention that he envisions honeymoons, weddings, and private events overlooking the terraces and sunset. He discussed the fact that this use is agricultural and that he uses certain pesticides that are non-entry for at least 24 hours. Mr. Anderson explained that the primary purpose for the proposed brewery and hops farm is to be able to rent out the space for parties as well as have people visit the property for tours, but not open all day, every day. He also continued to mention the details as far as crop maintenance, future plans, and planning commission concerns.

Commissioner Ode asked how often they would perform maintenance and Mr. Anderson discussed that insects will always be an issue and there is a way to work around any issues that

may arise. He indicated that he is more worried about mildew among other issues and provided an example of a 5-acre hops farm and brewery in Oregon that had a problem with systemic mildew to a point where they had to tear out a couple acres of crop but they had no other place to plant a new crop, which can be costly for the producer. He continued to discuss the underlying issues presented not only in the Midwest, but across the country with specialty crop management.

DISCUSSION

Commissioner Steinhauer expressed support for planning staff to look into possible ordinance that would make it feasible to live within a certain proximity of the brewery and hops farm, but with control over what can happen at the farm property. Commissioner Cypher asked if the winery west of Garretson is on a different parcel and staff noted that it is the same parcel, but the residence and winery are separated by about a quarter mile.

Commissioner Steinhauer indicated that it would be nice to have an ordinance with some control and to enable the use, but not onerous as to make the proposed operation not feasible. Commissioner Steinhauer and Barth concurred that the proposed text amendment should be deferred to allow planning staff to continue more research, the intent of the planning commission, and review on drafting the proposed ordinance that takes into consideration all of the concerns presented at this meeting to allow plans to grow. Commissioner Cypher asked if planning staff could look into adding distilleries as an option.

Commissioner Randall concurred that it is nice to have consistency in this section, but we should look at the intended consequences carefully in an attempt to make it not so onerous for new operations.

ACTION

A motion was made by Commissioner Barth to **defer** Zoning Text Amendment #15-01 to the September 28 Planning Commission meeting and seconded by Commissioner Cypher. The motion passed unanimously.

Zoning Text Amendment #15-01 – Deferred until September 28, 2015

Old Business

Staff provided an update that the County Commission overturned the Planning Commission recommendation to deny Rezoning #15-05 to rezone the property to the C Commercial District.

Staff also indicated that Conditional Use Permit #15-37 was scheduled for deferral on the planning commission agenda for September 28, 2015.

New Business

Staff announced that we had accepted the Rural Innovation Award presented by the Western Central Chapter of the American Planning Association for the Envision 2035 Comprehensive Planning Process. The award was presented as part of the Western Planner conference in Laramie, WY late last week, which brings together planning officials, engineers, elected officials, planning commissioners, and citizens to learn from other professionals on topics related to planning and development in the west.

Adjourn

A motion by Commissioner Barth to **adjourn** and seconded by Commissioner Cypher. The motion passed unanimously.