

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
January 25, 2016

A meeting of the Planning Commission was held on January 25, at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

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

NUMBER OF ATTENDEES: 15

The meeting was chaired by Mike Cypher.

Commissioner Cypher called the Minnehaha County Planning Commission meeting to order at 7:00 p.m.

CONSENT AGENDA

Items 3 and 4 were moved to regular agenda for discussion purposes. The consent agenda consists of Items 1, 2, 5, and 6.

ITEM 1. Election of Officers

A motion was made by Commissioner Duffy to nominate Commissioner Cypher as Chair and seconded by Commissioner Ode. The motion passed unanimously.

A motion was made by Commissioner Ode to nominate Commissioner Duffy as Vice-Chair and seconded by Commissioner Even. The motion passed unanimously.

ITEM 2. Approval of Minutes – November 23, 2015

A motion was made by Commissioner Randall and seconded by Commissioner Even to **approve** the meeting minutes from November 23, 2015. The motion passed unanimously.

ITEM 5. CONDITIONAL USE PERMIT #16-02 to allow retail sales of agricultural equipment and machinery with outdoor storage and product display, and an additional sign height to 60 feet at the Interstate Highway Interchange on the property legally described as Tract 4 (ex. N21 E220.7) Dawson's Addn., SE1/4, Section 12-T102N-R50W.

Petitioner: H.L. Corky Jackson dba Renner Equipment

Property Owner: same

Location: 47184 258th St. Approximately 2 miles north of Sioux Falls

Staff Report: David Heinold

This would allow retail sales of agricultural equipment and machinery with outdoor storage and product display, and an additional sign height to 60 feet at the Interstate Highway Interchange.

General Information:

Legal Description – Tract 4 (Ex. N21 E220.7 Dawson's Addn, SE1/4, Section 12-T102N-R50W

Present Zoning – C Commercial District

Existing Land Use – Commercial

Parcel Size – 4.90 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval for retail sales of agricultural equipment and machinery with outdoor storage and product display, and an additional sign height to 60 feet at the Interstate Highway Interchange. The proposed hours of operation will be 8 am to 6 pm with only two employees working on site. The site plan indicates that the applicant would like to extend the outdoor storage and product display area even with the westernmost part of the existing building. The parking area for clients, customers, and employees will be located right outside the office space at the end of the driveway.

Currently, the petitioner utilizes the driveway approach off of 258th St. and will continue as access to and from the subject property. The addition to the north side of the building is proposed to be used in conjunction with a separate business, which is required to follow the zoning ordinance for appropriateness of use classification in the area. Any business not associated with the petitioner's proposed use will be reviewed at a later time and not part of the approval for Conditional Use Permit #16-02.

In addition to the request to allow equipment sales and storage, the petitioner is requesting an additional sign height to 60 feet at the Interstate Highway Interchange of I-29 and County Highway 130. Section 16.04 of the 1990 Revised Zoning Ordinance for Minnehaha County requires that businesses adjacent to the interstate and intersecting cross street submit a conditional use permit to erect one additional on-premise freestanding sign not to exceed 200 square feet or 60 feet in height.

On January 13, 2016, staff visited the subject property and determined that the proposed use is appropriate for the immediate area. The business will be located on a 4.90 acre parcel.

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.

Haug's First Addition has not seen the increases in growth as the Green Valley Addition has experienced recently other than minor additions to existing warehousing facilities and repair shops. The subject property is currently in the commercial zoning district, which allows many uses by-right under specific conditions such as office, retail sales and trade, and warehousing to name a few. The proposed business operation will include outdoor storage and display of farm equipment. It is not likely that the addition of another warehouse-type building will cause a negative change in property values in the immediate area.

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

The subdivision has already been platted and the lots are zoned for light industrial and some commercial uses, which is expected to continue to see a steady increase in business growth due to the close proximity to Interstate 29 and 90. The remaining area is primarily agricultural land with a few residential acreages over a half mile away from the subject property.

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

The petitioner recently replaced the septic tank with a 3,000 gallon tank about six months ago. The site plan denotes an existing driveway off County Highway 130 that will serve as access to the proposed business. All other facilities have been provided with the existing building.

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

The petitioner indicated on the application narrative that there will only be two employees, including the property owner. The minimum parking requirement for the proposed use of the building is one (1) parking space for each 300 square feet of floor area, which equates to about 8 parking spaces encompassing the 2,500 sq. ft. of office space for the business establishment. At a minimum, one (1) 16'x20' loading/unloading space should be required adjacent to the building.

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

Staff does not foresee any issues with the proposed equipment sales, outdoor storage, and display to be located in the industrial park at the northwest corner of the Crooks/Renner exit of I-29 that would otherwise constitute a nuisance for neighboring property owners and tenants. Any lighting on the property should be shoe-box style and direct light downward onto the property in order to prevent light pollution.

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

The proposed equipment sales, outdoor storage, and display should have no effect on the health, safety, and general welfare of the public with a range of business-type uses from a contractor's shop to trucking business operations within this industrial park. The use of the property for equipment sales and outdoor storage will create few problems to neighboring properties.

Recommendation:

Staff finds the proposed use, retail sales of agricultural equipment and machinery with outdoor storage and product display, to be an appropriate use for the C Commercial District. Since the location for the proposed business is in an area of the county where commercial and industrial uses are encouraged to locate, there should be no nuisances caused by the proposed use. Staff recommends **approval** of Conditional Use Permit #16-02 with the following conditions:

- 1.) That CUP #16-02 shall allow retail sales of agricultural equipment and machinery with outdoor storage and product display, and an additional sign height to 60 feet at the Interstate Highway Interchange.
- 2.) That the property shall adhere to the submitted site plan received on 12-9-2015.
- 3.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 4.) That a set of plans certified by a registered professional engineer be submitted prior to the sign permit being issued for the sign placed at the Interstate Highway Interchange.
- 5.) That all driveways, parking lots, and outdoor storage areas shall be in conformance with the requirements of Section 15.04 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 6.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 7.) That the Planning & Zoning Department reserves the right to enter and inspect the trucking business 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

Commissioner Randall made a motion to **approve** Conditional Use Permit #16-02 and the motion was seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #16-02 – Approved

ITEM 6. AGRICULTURAL TOURISM PERMIT #16-01 to allow a brewery on the hop farm and to live further than 1 mile from the brewery site on the property legally described as S1/2 SE1/4, Section 29-T101N-R47W.

Petitioner: Lee Anderson & Janelle Johnson

Property Owner: Nancy Kreulen

Location: 26677 486th Ave. Approximately 4 miles southwest of Valley Springs

Staff Report: David Heinold

This would allow a brewery on the hop farm and to live further than 1 mile from the brewery site.

General Information:

Legal Description – S1/2 SE1/4, Section 29-T101N-R47W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 80 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner meets all of the requirements in the Agricultural Tourism Ordinance except that they are requesting to live further than one mile away from the brewery and hop farm, which is required to obtain approval of the operation because they will not comply with the established regulation for residency. The site plan shows the layout of the proposed use that will include a 40'x45' building area for the brewery and taproom for tasting or sampling beverages. There will be a parking area on the north side of the driveway for visitors and employees. No special events have been planned, but the petitioner will submit a parking plan to the planning department for review to ensure that an adequate area is provided for any special events that take place at the brewery and hops farm. The hours of operation are scheduled to be 11-7 pm Wednesday-Friday as well as 11-6 pm on Saturday and Sunday. The brewery plans to be closed Monday, Tuesday, and all national holidays. The petitioner has included a description of the proposed agricultural tourism operation for planning commission review with the application.

On January 13, 2016, staff visited the subject property and determined that the proposed use is appropriate for the immediate area. The business will be located on an 80 acre parcel situated around 6 acres of hops in the northeast corner of the south half of the southeast quarter.

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

There are a few residential acreages in the immediate vicinity, but the land is primarily agricultural crop and pasture land. The proposed use as a brewery and hops farm is not likely to detract from the uses already permitted in the surrounding area or have an impact on property values. The petitioner included summary of their outlook for operation of the brewery and hop farm that is explicitly known for producing beers whose ingredients are exclusively grown or maintained and harvested by the business operation and its' employees. With this in mind, the proposed use of the approximately 6-acre site described on the site plan as a brewery and hop

farm is an appropriate complement to the agricultural economy and offers a fairly unique experience for residents and visitors that has been historically present in other areas of Minnehaha County.

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

The site of the proposed use has already started construction as an agricultural storage building for the farm, but improvements to the building are planned pending approval of the agricultural tourism use for the brewery and taproom. The future development of the surrounding area will likely not change significantly due to the commencement of the proposed brewery other than slight residential growth, which is entirely determined by the number of available building eligibilities.

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

All needed infrastructure is in place. No other new infrastructure is required.

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

The proposed use is not specified in the parking and loading regulations of the Zoning Ordinance. The brewery operation would be classified in the recreation type category which requires one parking space per 100 square feet, or eighteen (18) spaces for the area of the building used for the brewery and taproom. It appears as if the site includes enough area to comply with this requirement. A separate parking plan will need to be submitted prior to any special events to ensure that the brewery complies with Article 15 of the Minnehaha County Zoning Ordinance.

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 brewery and hops farm. While no special events are planned at this time, provisions must be made to ensure that offensive odor, fumes, dust, noise, vibration, and lighting are contained to preventing levels of activity that would otherwise constitute a nuisance to the general public. 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 use for a brewery and hops farm, due to the relative intensity of agricultural management practices that may contain certain chemicals potentially hazardous to human health is not likely to cause a significant impact to human health, safety, and general welfare of the public. The use of the property as a brewery and hop farm with activities designed to promote the agricultural tourism operation meets the goals within the Agriculture section of the Envision 2035 Comprehensive Plan. It accomplishes this by recognizing that agricultural lands have definite public value as open space, and the preservation in agricultural production of such lands constituting an important physical, social, aesthetic, and economic asset while promoting sustainable use and management of productive landscapes through the further development of agricultural tourism businesses in support of the agricultural sector within the regional economy.

Certain types of Agricultural Tourism Permits, including farm-related activities, allow special events. Special events may bring in large amounts of people, traffic, and potential noise to the area. Any special events shall meet requirements of Article 12.13 (G).

Recommendation:

Staff finds that the proposed use is consistent with the intent of the agricultural tourism ordinance and conforms to goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Agricultural Tourism Permit #16-01 to allow the brewery and hop farm operation with the following conditions:

- 1.) The brewery operation shall be secondary to the principle use of the property as a site for agricultural production of hops. If the agricultural production of hops ceases, the brewery and tasting room operation shall cease.
- 2.) The total signage for the operation shall meet the provisions of Article 12.13 (E) and (F) of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 3.) That prior to any special event or festival the applicant shall follow the provisions of Article 12.13 (G) of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 4.) All outside lighting shall be of a style that directs light downward and prevent light spillage onto adjacent properties.
- 5.) The applicant shall maintain a Sales Tax License. The applicant must comply with all state and federal regulations regarding beer production and distributing.
- 6.) A building permit is required before any permanent signs are to be erected.
- 7.) A minimum of 18 off-street parking spaces meeting the requirements of Article 15 of the Zoning Ordinance be provided for the brewery and hop farm operation.
- 8.) Retail sales of agricultural tourism products in Article 12.13 (B) 6) c) shall remain an accessory to the use of the site for agricultural production.
- 9.) Food concessions shall meet the requirements of Article 12.13 (B) 6) d) and be accessory to the use of the site for agricultural production.
- 10.) That the Planning & Zoning Department reserves the right to enter and inspect the brewery and hop farm operation at any time, after proper notice to the owner, to ensure that the property is in full compliance with the agricultural tourism permit conditions of approval and the Minnehaha County Zoning Ordinance.

ACTION

Commissioner Randall made a motion to **approve** Agricultural Tourism Permit #16-01 and the motion was seconded by Commissioner Even. The motion passed unanimously.

Agricultural Tourism Permit #16-01 – Approved

Regular Agenda

ITEM 3. AGRICULTURAL TOURISM PERMIT #15-02 to allow a Farm Experience Operation and to exceed 1,200 square feet of total accessory building area – requesting 2,100 sq. ft. on the property legally described as Tract 5 Schaap & Wehde Tracts, SW1/4, Section 18-T103N-R49W.

Petitioner: Lora Roberts

Property Owner: Lora Bertelsen

Location: 47216 253rd St. Approximately 2.5 miles southwest of Baltic

Staff Report: David Heinold

This would allow a Farm Experience Operation, petting zoo & other activities and allow 2,100 square feet of total accessory building area.

General Information:

Legal Description – Tract 5 and 7 Schaap & Wehde Tracts, SW1/4, Section 18-T103N-R49W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 12 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to allow a farm experience operation and exceed 1,200 square feet of total accessory building area. The petitioner is requesting 2,100 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.

This Agricultural Tours Permit Application has two related parts. One part is a request for a farm experience operation where a barn will be constructed to be a meeting place for small group gatherings of approximately 50 people at a time. The petitioner verbally described the gatherings to be birthday type gatherings where activities are themed around agriculture and small petting zoo type animals. The building will contain a bathroom with a separate septic system and parking will be located to the south of the building along the driveway. The hours of operation for the farm-related gatherings will be between the hours of 10 am – 9 pm.

The second part of the request is in regards to the size of the proposed barn to hold the events, animals, and equipment used for the farm experience operation. The petitioner is requesting a new 36' x 45' building (1,620 square feet). The site already has a 20' x 20' hoop shed. The total

requested square footage for accessory buildings is 2,100 square feet. Several properties in the immediate vicinity have buildings larger than the requested square footage. The attached accessory building sizes map shows a range from 1,400 sq. ft. to 4,536 sq. ft.

Staff has not received any additional documentation from the petitioner regarding what was submitted for review and discussed at the October 26, 2015 Planning Commission meeting.

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

There are a few residential acreages in the immediate vicinity, but the land is primarily agricultural crop and pasture land. The construction of 1,620 sq. ft. and the proposed use of the property as farm experience operation will likely not detract from the uses already permitted in the surrounding area or have an impact on property values.

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

The development of the approximately 12 acre parcel as a farm experience operation will blend well with existing agricultural operations and residential acreages. The future development of the surrounding area will likely not change significantly due to the construction of 1,620 sq. ft. pole barn and use as a farm experience operation other than slight residential growth, which is entirely determined by the number of available building eligibilities.

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

All needed infrastructure is in place. No other new infrastructure is required.

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

The proposed use is not specified in the parking and loading regulations of the Zoning Ordinance. The farm experience operation would be classified in the recreation type category which requires one parking space per 100 square feet, or sixteen (16) spaces for this portion of the building. It appears as if the site includes enough area to comply with this requirement.

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 petting zoo and farm-related gathering space. 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 presence of an agricultural tourism use, such as a petting zoo and farm-related gathering space will likely not have an effect on the health, safety, and general welfare of the public.

Certain types of Ag Tourism Permits, including farm-related activities, allow special events. Special events may bring in large amounts of people, traffic, and potential noise to the area. Any special events shall meet requirements of Article 12.13 (G).

Recommendation:

Staff finds that the proposed use is consistent with the intent of the agricultural tourism ordinance and conforms to goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Ag Tourism Permit #15-02 to allow farm experience operation with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,100 square feet.
- 2.) The farm experience operation shall be secondary to the principle use of the property as residential. If the residential use ceases, the farm experience operation shall cease.
- 3.) The owner or occupant of the dwelling shall be engaged in the farm experience operation occupation. The farm experience operation shall have a limit of two full-time, non-resident employees, not to exceed four (4) full-time employees on site.
- 4.) The total signage for the operation shall meet the provisions of Article 12.13 (E) and (F) of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 5.) That prior to any special event or festival the applicant shall follow the provisions of Article 12.13 (G) of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 6.) All outside lighting shall be of a style that directs light downward and prevent light spillage onto adjacent properties.
- 7.) The petting zoo shall be considered an accessory use to the farm experience operation. The applicant shall maintain a Sales Tax License.
- 8.) A building permit is required before any permanent signs are to be erected.
- 9.) A minimum of 16 off-street parking spaces meeting the requirements of Article 15 of the Zoning Ordinance be provided for the farm experience operation facility.
- 10.) Retail sales of agricultural tourism products in Article 12.13 (B) 6) c) shall remain an accessory to the farm experience operation.
- 11.) Food concessions shall meet the requirements of Article 12.13 (B) 6) d) and be accessory to the farm experience operation.
- 12.) That the Planning & Zoning Department reserves the right to enter and inspect the farm experience operation 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.

PUBLIC TESTIMONY

David Heinold, Planner I, briefly mentioned the request for a Farm Experience Operation and larger accessory building size. Staff noted that the petitioner contacted the planning office on January 15, 2016 to remove the request for a petting zoo from the agricultural tourism permit.

Commissioner Ode asked if there would be a requirement to pave the driving and parking areas for the proposed use and staff clarified that the property is not required to hard surface the driving areas because the property is accessed from a gravel road. Staff also mentioned that dust control could be a possible requirement with the property located on gravel road a little under a quarter mile from County Highway 133.

Commissioner Cypher called for the applicant to provide an explanation and no response was given from the petitioner at this meeting. Staff explained that the petitioner was notified by mail of the date and time of this meeting as well as given a copy of the staff report for their review.

No one wished to provide public testimony at the public hearing.

Commissioner Cypher closed the floor to the public testimony.

DISCUSSION

Commissioner Barth moved that the agricultural tourism permit request be denied for lack of representation for the item at the public hearing as well as other concerns relating to the specific use of the property.

Commissioner Randall concurred and mentioned that she would like to have had more discussion with the petitioner on this request.

Commissioner Ode questioned what the petitioner means by Farm Experience operation and the types of activities that would take place on the subject property.

Commissioner Cypher asked staff for clarification that a denial would cause the petitioner to wait 6 months to submit a new request and staff noted that the petitioner could appeal the planning commission decision to the county commission for review. Otherwise, the petitioner would be unable to submit substantially the same request within 6 months of the denial date.

ACTION

Commissioner Barth made a motion to **deny** Agricultural Tourism Permit #15-02 and the motion was seconded by Commissioner Even. The motion passed unanimously.

Agricultural Tourism Permit #15-02 – Denied

ITEM 4. CONDITIONAL USE PERMIT #16-01 to transfer eight building eligibilities from the NW1/4 & NE1/4 to the SE1/4; all in Section 2-T102N-R52W.

Petitioner: Ray Horner

Property Owner: same

Location: Approximately 2 miles northeast of Humboldt

Staff Report: Kevin Hoekman

This would transfer eight building eligibilities.

General Information:

Legal Description – SE1/4 2 102 52 HUMBOLDT TOWNSHIP

Present Zoning – A1 - Agriculture

Existing Land Use – Agricultural crop land

Parcel Size – 160 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The applicant wants to transfer eight building eligibilities (BEs) from the North ½ of Section 2 of Humboldt Township to the SE ¼ of the same section. The petitioner is planning on using the BEs within a large lot subdivision located near the existing farmstead in the SE ¼. The three ¼ sections of land are all owned by Ray Horner and each has four BEs for a total of twelve BEs. The SE ¼ SE ¼ BE is locked as there is an existing farmstead located on the site.

The petitioner has submitted a preliminary drawing for the development. The proposed development would contain 11 large lots and a new road to access the 11 lots on the east and the south. The proposed configuration of parcels will take up approximately 82 acres of land in the SE ¼. The large scale of development lots is the reason for the BEs to be transferred to the entire SE ¼ instead of a ¼ ¼ section which would be too small for all 11 lots.

The general landscape of the petitioner's land is composed of cropland and wetlands. The SE ¼ section of land appears to have the most 'prime farmland' soils and the greatest number of field acres; however, placing a cluster housing development on one of the sections that has wetter land is problematic for the future dwellings to be built. The SE ¼ section is likely the best option for proximity of the development to paved roads. From the intersection of 459th Avenue and 257th Street, a hard surfaced road can be found either two miles to the east and west or approximately 1.25 miles to the south.

Staff visited the sit on January 13, 2016. The site visit allowed staff to confirm that the area is sparsely populated and that the nearby CAFOs appear small. The farmland is composed of undulating hills. These hills may create site line problems for the current location of the proposed road for the development. These issues can be addressed at the time of preliminary planning. The transferring of these building eligibilities will move at least some building eligibilities further away from a small CAFO on the SW ¼ NW ¼ section 1 of Humboldt Township, while others may move closer. It is difficult to tell the drainage pattern of the site when snow covered the landscape.

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 proposed location for the moved Building Eligibilities and development is located in an active agricultural zone. A few non-farm residential parcels are located to the southeast of the proposed development, but several farmstead with confined animals are also located in close proximity of the proposed development. The staff site visit verified that these CAFOs are generally small. 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.

Even with the right-to-farm covenant, the presence of a substantial residential development may bring objections to regular farming practices included possible expansion of nearby confined animal feeding operations. The proposed development is in the vicinity of the proposed Dakota Access Pipeline Project. Staff is unsure how the proposed housing development will affect or will be affected by the pipeline, and the petitioner is encouraged to proceed with caution as the pipeline project progresses. The transfer of the building eligibility does not increase the number of dwelling units allowed in this section.

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

All utilities will likely have to be extended from the section lines into the development by using utility easements or the access easement. The applicant will have to make these arraignments for extending utilities. The site plan includes a proposed 66 foot wide access road to serve the future development. The control of the road has yet to be determined.

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

Off-street parking requirements will be provided for once a single-family residence is constructed on the subject property.

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

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

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 transfer of eight (8) building eligibilities. The intent of the Comprehensive Plan will be met, as density zoning will be followed. This type of clustering is encouraged in the Comprehensive plan in order to preserve large tracts of farm land rather than broken up parcels located with low density spacing.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #16-01 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 all single family dwellings.
2. A preliminary subdivision plan is required to be submitted prior to platting.
3. Lots must be platted prior to building permits being issued.

PUBLIC TESTIMONY

Kevin Hoekman, Planner I, presented a brief overview of the staff report and analysis.

Commissioner Even asked about the lot sizes and staff estimated that the lots would contain about 7 acres each including the road right-of-way. There was discussion on the subdivision platting process and written agreements for road maintenance. Staff clarified that these issues would be discussed and reviewed before the planning commission at a future meeting if the proposal would continue to the next step.

Commissioner Randall questioned the size of the concentrated animal feeding operations (CAFOs) in the area and whether the operators are aware of the proposal to cluster the building eligibilities. Staff indicated that there is potential that both operators are aware of the request and it is likely that both of the operations fall under the 250 animal unit threshold or previously existing. Staff continued to explain that there are no records of any expansions being filed for these operations.

Commissioner Ode asked staff for clarification that the conditional use permit request for consideration is the transfer of building eligibilities exclusively. Staff explained that, if approved, the subject property highlighted on the site map would have a total of 11 building eligibilities plus the one in use by the existing residential dwelling.

Tom Huls, 45859 257th St., who identified that he is speaking on behalf of Ray Horner about the request to transfer the 8 building eligibilities. Mr. Huls explained that the request is because of the availability of utilities in the SE1/4 and it is more difficult to build on the remaining land where the building eligibilities currently exist. He discussed that they have discussed the request with Humboldt Township officials and reiterated that this is a just a plan, only an idea for the future.

Commissioner Cypher asked about the livestock operations in the area and the petitioner mentioned that there are no large CAFOs in the area. Mr. Huls continued to mention that both of the aforementioned CAFOs belong to himself and his dad.

Commissioner Cypher called for an applicant response and additional public testimony.

No one wished to provide public testimony at the public hearing.

Commissioner Cypher closed the floor to the public testimony.

DISCUSSION

Commissioner Barth mentioned that the fact that this is a large number transfers, but is in line with the intent of the zoning ordinance regulations. He continued to mention that no opposition has been presented during this time and that the planning commission should support this transfer of building eligibility request.

Commissioner Cypher noted that there could be a potential impact to the roads and transportation system with 66 cars per day with full buildout, but the request to cluster the building eligibilities is appropriate for residential development.

Commissioner Even mentioned that he does not have any initial concerns, but this request to cluster the building eligibilities does pose potential issues for acceptance of road maintenance with the added impact to the roads and existing agricultural operations in their future plans.

ACTION

Commissioner Duffy made a motion to **approve** Conditional Use Permit #16-01 with the conditions as stated and the motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #16-01 – Approved

Old Business

None.

New Business

Scott Anderson, Planning Director, mentioned that the County Commission selected Paul Kostboth to fill the planning commission vacancy. Mr. Anderson explained that Mr. Kostboth was unable to attend the meeting because of a prior engagement, but will be at the next meeting.

Commissioner Barth brought up a discussion about the planning commission candidates for the vacancy left by Wayne Steinhauer and commended Mr. Kostboth for his experience that he will bring to the planning commission.

Adjourn

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