

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**

June 27, 2016

A meeting of the Planning Commission was held on June 27, 2016 at 7:10 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

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

Planning Commission Chair Mike Cypher called the Minnehaha County Planning Commission meeting to order at 7:10 p.m.

**CONSENT AGENDA**

Items 6 and 7 were removed from the consent agenda by members of the public. The consent agenda consists of Items 1, 2, 3, 4, 5, 8, and 9.

A motion was made by Commissioner Barth and seconded by Commissioner Duffy to approve the consent agenda consisting of Items 1, 2, 3, 4, 5, 8, and 9. The motion passed unanimously.

**ITEM 1. Approval of Minutes – May 23, 2016**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Duffy to **approve** the meeting minutes from May 23, 2016. The motion passed unanimously.

**Consent Agenda**

**ITEM 2. CONDITIONAL USE PERMIT #16-40 to transfer two building eligibilities from the N1/2 SW1/4 (Ex. that portion lying N of I-90 and Ex. H-1, 2, 3, 4, 5, 6, 7, and 8 and Ex. Tr. 1 Lift Station Addn.) to Tract 3 Nelson's Addition, S1/2; all in Section 26-T102N-R48W.**

Petitioner: Nicole Haug

Property Owner: same

Location: 2020 E. Redwood Blvd.                      Approximately 0.5 east of Brandon

Staff Report: Scott Anderson

This would allow the transfer of two building eligibilities.

**General Information:**

Legal Description – N1/2 SW1/4 (Ex. that portion lying N of I-90 and Ex. H-1, 2, 3, 4, 5, 6, 7, and 8 and Ex. Tr. 1 Lift Station Addn.) to Tract 3 Nelson's Addition, S1/2; all in Section 26-T102N-R48W.

Present Zoning – A1 Agriculture

Existing Land Use – vacant/ag

Parcel Size – 35.54 acres

**Staff Report:** Scott Anderson

**Staff Analysis:**

The applicant is requesting approval to allow two (2) building eligibilities to be placed in Tract 3 of Nelson's Subdivision. The subject property is located about .5 miles east of Brandon. Currently there are no building eligibilities available on Tract 3. The applicant is moving the two (2) eligibilities from more productive farmland to an area where residential development is occurring and has better access to a paved road.

On June 14, 2016, staff conducted a site visit. There are no concentrated animal feeding operations near the proposed transfer. The petitioner is moving 2 building eligibilities out of the Split Rock Creek flood plain and into an area where residential development is occurring.

**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.**

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.**

A transfer of building eligibilities should not change the development or improvements of surrounding vacant property. The moving of eligibilities may actually spur growth and use of vacant property by allowing land to be used for residential development.

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

Rural water is available in the area and a waste water system will be utilized. The applicant indicated that the proposed building sites will use the existing right-of-way and share a driveway if possible.

**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 transfer of building eligibilities will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance due to residential activities.

**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 the building eligibilities. The intent of the Envision 2035 Comprehensive Plan will be met, as density zoning will be followed.

**Recommendation:**

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #16-40 with the following condition:

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

**ACTION**

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-40 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #16-40 – Approved**

**ITEM 3. CONDITIONAL USE PERMIT #16-42 to allow a Class 1, Major Home Occupation – Electrician’s Business on the property legally described as Tract 1 Shinnberger’s Addition, Section 9-T104N-R52W.**

Petitioner: Zac Busser

Property Owner: same

Location: 45688 246th St.                      Approximately 7 miles northwest of Colton

Staff Report: Kevin Hoekman

This would allow a Class 1, Major Home Occupation – Electrician’s Business.

**General Information:**

Legal Description – Tract 1 Shinnberger’s Addition, Section 9-T104N-R52W

Present Zoning – A-1 Agricultural

Existing Land Use – Acreage with dwelling

Parcel Size – 4.92 acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The petitioner is requesting to allow an electrician’s business on the above described property. The request is classified as a Class 1 Major Home Occupation, because the business will take place out of an accessory building.

The petitioner has submitted a simple site plan and narrative. The site plan indicates that the existing storage shed will be used for the business and storage and the existing driveway and graveled area in front of the shed will be used. At the site visit on June 8, 2016, noticed that the building for the proposed use is easily visible from the right-of-way with a significant yard in front of a grove of trees. In addition, a small amount of outside storage has accumulated to the north of the existing shed. The house is mostly hidden from the right-of-way.

The petitioner indicated on the plan narrative that the business consists of one employee (Himself), and any on-site will take place entirely within the existing accessory building. The Ordinance for Class 1 Home Occupations provide a list of rules and regulations that are to be used. These rules are pasted below for easy review. The request and the narrative largely meet or exceed the regulations of the Class 1 Major Home Occupation Permit. Where the narrative and regulations conflict, the ordinance shall be followed.

**Class 1 Major Home Occupation Regulations:**

(A) Class 1:

(1) The occupation shall be conducted entirely within a dwelling or accessory building and clearly incidental to the use of the structure for residential purposes.

(2) The occupation shall be operated by a member of the family residing in the dwelling.

(3) Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.

- (4) Accessory Building Square Footage
- i. For land located in a residential zoning district; or a parcel of 5 acres or less; up to 1,200 square feet of accessory building area may be used for the home occupation.
  - ii. For a parcel of 5.01 acres -10.00 acres size up to 1,800 square feet of accessory building area may be used for the home occupation.
  - iii. For a parcel of 10.01 acres or larger in size up to 2,400 square feet of accessory building area may be used for the home occupation.. *(amended MC16-126-13 2/19/13)*
- (5) The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
- (6) The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
- (7) No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
- (8) A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
- (9) The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
- (10) There shall be only limited and incidental sale of products conducted on the premise.
- (11) The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.
- (12) The structure shall meet the standards of the adopted building code. *(amended MC16-126-13 2/19/13)*

### **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 subject property is located in a rural area largely surrounded by agricultural land uses. The nearest neighboring single family dwelling is located over 1/3 of a mile to the southeast of the site. The proposed use will not have a significant impact on property values in the surrounding area.

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

This area of Minnehaha County is growing at a slow rate. Although there may be more development in the area, it will not likely change for some time.

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

The petitioner has the utilities, access roads, and drainage systems in place due to the residence

and accessory building already being in place. No further infrastructure will need to be provided.

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

The petitioner has adequate space adjacent to the existing accessory building for up to 2 automobile parking spaces as a result of residential activities. There is adequate space for delivery truck turnaround in the existing driveway.

**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 occupation will likely not produce vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the property. 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.**

Due to the low impact and visibility of the proposed home occupation of an electrician's business, there should be a minimal impact on surrounding residential as well as agricultural properties. Therefore, it is expected that the health, safety, general welfare of the public, and the Comprehensive Plan will likely not be affected in a significant manner.

**Recommendation:**

Staff finds that the Conditional Use Permit request for a major home occupation, electrician's business, conforms to the goals and policies of the Envision 2035 Comprehensive Plan and would not be as easily detectable as a commercial operation from surrounding properties. The residence will clearly be the primary use of the lot since the occupation will be conducted entirely within the accessory building, which remains secondary to the principal use of the lot for residential purposes. Staff recommends **approval** of Conditional Use Permit #16-42 with the following conditions:

- 1) That the occupation shall comply with section **12.0302 (A) Class 1:** of the 1990 Revised Ordinance for Minnehaha County.
- 2.) That the applicant be limited to one (1) non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one (1) non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off-premise signs shall be used. A Sign Permit shall be obtained prior to the installation of any sign.
- 3.) All new or replacement outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 4.) That the Planning & Zoning Department reserves the right to enter and inspect the home occupation 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**

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-42 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #16-42 – Approved**

**ITEM 4. CONDITIONAL USE PERMIT #16-44 to exceed 1,200 square feet of total accessory building area – requesting 2,016 sq. ft. on the property legally described as Tract 3 Peltier’s Addition, SE1/4, Section 1-T102N-R49W.**

Petitioner: Chad Jensen

Property Owner: same

Location: 25695 478th Ave. Approximately 3 miles northeast of Sioux Falls

Staff Report: David Heinold

This would allow 2,016 sq. ft. of total accessory building area.

**General Information:**

Legal Description – Tract 3 Peltier’s Addition, SE1/4, Section 1-T102N-R49W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 17.55 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to exceed 1,200 sq. ft. in total accessory building area for the purposes of constructing a 36’x56’ pole building. 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.

There are several buildings in the surrounding area that exceed the 1,200 sq. ft. requirement. The property owner, 25679 478th Ave., directly to the north of the subject property has 3,840 sq. ft. of total accessory building area on a similar sized parcel. Two other properties just to the north of this property were permitted for an average of 2,500 sq. ft. varying in parcel size.

On June 16, 2016, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The proposed building will be located on a 17.55 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.**

There are three other properties within a half-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 half-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, 2,016 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. The subject property is located within the agricultural production area identified in the Envision 2035 Comprehensive Plan, which recognizes that the primary purpose of the area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. The proposed use of the building for personal storage should not affect surrounding land uses with an established shelterbelt of landscaping around the perimeter of the proposed location for the accessory building.

**Recommendation:**

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #16-44 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,016 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**

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-44 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #16-44 – Approved**

**ITEM 5. CONDITIONAL USE PERMIT #16-46 to exceed 1,200 square feet of total accessory building area – requesting 2,560 sq. ft. on the property legally described as Tract 37, West Acres, SW1/4, Section 17-T101N-R50W.**

Petitioner: Dennis Mehlbrech

Property Owner: same

Location: 26497 Holland Ave. Approximately 1.5 miles west of Sioux Falls

Staff Report: Scott Anderson

This would allow 2,560 sq. ft. of total accessory building area.

**General Information:**

Legal Description – Tract 37, West Acres, SW ¼, Section 17, T101N - R50W.

Present Zoning – A1 Agriculture

Existing Land Use – Residentail

Parcel Size –

**Staff Report:** Scott Anderson

**Staff Analysis:**

The property is located approximately three (3) miles west of Sioux Falls, on Sage Street in West Acres Subdivision. The parcel is located in Wayne Township.

The petitioner would like to construct an accessory building on this site. In subdivisions or residential developments which exceed four lots in size, accessory building area is limited to 1200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner's requested size of 2,560 square feet is smaller than the largest existing accessory building in the area. The petitioner's request would be consistent with the other large accessory buildings in the area. The other large existing accessory buildings in the area are 4,050 square feet, located at 46702 Snowberry Street, 3,360 square feet located at 46702 Sage Street, and 2,772 square feet located at 46710 Chestnut Street as shown on the map included with this report. CUPs #13-22 and #15-27 were issued for the larger detached accessory structures on Sage Street and CUP #14-18 was issued for the larger accessory structure on Chestnut Street. A map showing the location and sizes of accessory structures is included for the Planning Commission's review.

There are currently two (2) smaller accessory structures located on the subject property. The applicant has indicated that these structures will be removed.

**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 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 applicant has provided a statement indicating that the building will be used to store his camper, boat and trailers.

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

It appears from the site plan submitted by the applicant that a new approach will be constructed from Holland Street. Wayne Township would need to approve the 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 finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of conditional use permit #16-46 with the following conditions:

- 1) The total accessory building square footage shall not exceed 2,560 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 building does not exceed 2,560 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.

- 8) That prior to applying for a building permit, the applicant shall obtain an approach permit from Wayne Township for any new approach onto Sage Street.

**ACTION**

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-46 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #16-46 – Approved**

**ITEM 8. CONDITIONAL USE PERMIT #16-50 to allow a Single Family Dwelling on the property legally described as Tract 2, Zimmer's Addition, NW1/4, Section 29-T103N-R52W.**

Petitioner: Sharon Graves Lind

Property Owner: same

Location: 25426 455th Ave. Approximately 3.5 miles north of Humboldt

Staff Report: David Heinold

This would allow a Single Family Dwelling.

**General Information:**

Legal Description – Tract 2, Zimmer's Addition, NW1/4, Section 29-T103N-R52W

Present Zoning – A-1 Agricultural District

Existing Land Use – vacant

Parcel Size – 5 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting to allow the development of a residence and detached garage on Tract 2, Zimmer's Addition. The existing building eligibility of this parcel requires conditional use permit approval prior to the allowance of a building permit for a new single-family dwelling.

On June 16, 2016, staff visited the property and determined that the proposed site is appropriate for a single family dwelling. There are no concentrated animal feeding operations within a mile of the subject property.

**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.**

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

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

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

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

The transfer of building eligibility will result in the construction of a single-family dwelling with a new driveway off of 455th Ave., which requires permission from Clear Lake Township.

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

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

**5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and**

**lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**

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

**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 one single family dwelling with a building eligibility. The intent of the Envision Comprehensive Plan will be met under the requirements of density zoning.

**Recommendation:**

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #16-50 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 the single family dwelling.
2. That the construction of a single family dwelling shall require permission of Clear Lake Township for a new driveway or culvert permit.

**ACTION**

As part of the consent agenda, Commissioner Barth made a motion to **approve** Conditional Use Permit #16-50 with conditions and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #16-50 – Approved**

**ITEM 9. CEDAR RIDGE FINAL DEVELOPMENT PLAN & PRELIMINARY  
SUBDIVISION PLAN #16-02**

Petitioner: Eric Willadsen (Willadsen Lund Engineering)

Property Owner: Brad & Laura Wagner

Location: Approximately 4 miles north of Sioux Falls

Staff Report: Scott Anderson

**General Information:**

Legal Description – Tracts 1, 2, & 3 Anson Addition, SW ¼, Section 3-T102N-R49W

Present Zoning – Planned Development

Existing Land Use – Residential & Agriculture

Parcel Size – 81 acres

**Staff Report:** Scott Anderson

**Staff Analysis:**

The applicant has submitted a final development and preliminary plan for a new subdivision located north of Sioux Falls. The new subdivision will consist of sixteen (16) residential lots and three larger lots containing the existing residence and riding arena. The subject property was rezoned to Planned Development to accommodate this proposed subdivision. Approval of the preliminary plan will allow for final plats creating the lots to occur.

Staff has reviewed Section 4.01 of the Minnehaha County's Subdivision Ordinance to determine that all requirements have been met. The applicant has provided all of the required information for a Preliminary Plan, including detailed topographic information, typical cross section for road construction, a grading and drainage plan, and erosion control plan.

The sizes of the lots within the proposed residential development range in size from between 1.10 acres to 1.50 acres. The entire subdivision will utilize on-site wastewater disposal systems and will connect to Minnehaha Community Water.

The applicant is dedicating Cedar Ridge Place and Pony Meadow Court as roads. Prior to a final plat being approved, the applicant shall either construct the roads to the County's road standards or post surety in an amount to cover the construction cost. An engineered road cross section has been provided. The applicant will have to purchase street signs from the County Highway for both Cedar Ridge Place and Pony Meadow Court prior to any building permit for a single family residence being issued.

The applicant will have to address the future maintenance of Cedar Ridge Place and Pony Meadow Court. Should the applicant create a homeowner's association to maintain the road, staff recommends that a copy of the covenants be submitted with the final plat to make sure maintenance is addressed.

**Recommendation:**

Staff recommends **approval** of the Cedar Ridge Final Development Plan and Preliminary Plan #16-02.

**ACTION**

As part of the consent agenda, Commissioner Barth made a motion to recommend **approval** of the Cedar Ridge Final Development Plan and Preliminary Plan #16-02 and the motion was seconded by Commissioner Duffy. The motion passed unanimously.

**Final Development Plan and Preliminary Plan #16-02 – Recommendation for Approval**

**Regular Agenda**

**ITEM 6. CONDITIONAL USE PERMIT #16-47 to exceed 1,200 square feet of total accessory building area – requesting 4,240 sq. ft. on the property legally described as Tract 1 Wirtjes Addn., N1/2 NE1/4, Section 35-T103N-R48W.**

Petitioner: Clifford Malsom

Property Owner: same

Location: 48275 255th St.                      Approximately 1 miles southwest of Garretson

Staff Report: David Heinold

This would allow 4,240 sq. ft. of total accessory building area.

**General Information:**

Legal Description – Tract 1 Wirtjes Addition, N1/2 NE1/4, Section 35-T103N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use –Residential

Parcel Size – 5 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to exceed 1,200 sq. ft. in 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.

There are several buildings in the surrounding area that exceed the 1,200 sq. ft. requirement. The property owner, 48226 255th St., about a half mile to the west of the subject property has 6,348 sq. ft. of total accessory building area on a similar sized parcel. The property immediately adjacent to the east of the subject property has 2,400 sq. ft. on a 10 acre parcel.

On May 26, 2016, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The proposed building will be located on a 5 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 within the immediate vicinity.**

There are two other properties within a half-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 half-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, 4,240 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. The subject property is located within the agricultural production area identified in the Envision 2035 Comprehensive Plan, which recognizes that the primary purpose of the area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. The proposed use of the building for personal storage should not affect surrounding land uses with an established shelterbelt of landscaping around the perimeter of the proposed location for the accessory building.

**Recommendation:**

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #16-47 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 4,240 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.

### **PUBLIC TESTIMONY**

David Heinold of planning staff, presented an overview of the staff report. As part of the staff presentation, David presented the concerns from neighbors that the property has many junk items located on it, and some of the clean up progress the petitioner has made since becoming aware of the concerns. **Staff changed the recommendation from approval to deferral to September 26<sup>th</sup> 2016 Planning Commission meeting** to allow for complete abatement of concerns and nuisance items. After the presentation, Commissioner Cypher asked about the license requirement for trailers, and staff responded that the trailers can stay if each is licensed.

Clifford Malsom, the petitioner, spoke about the application. Clifford started that the complaint only was raised when the notice of this meeting was sent. He explained what some of the items on this property were and what the purpose and intent was for those items. He also noted that he intends on taking care of any issue that staff brings forward, but he reiterated that he only had minimal time. Commissioner Cypher asked if he was okay with the deferral request. Clifford responded that he does not believe it will take him until September to clean up the property and if it is waiting until then the shed will not likely be built this year.

Lowell Wirtjes, owner of the farm land to the south of the subject property, spoke about the complaint and the request for the larger building. He acknowledged that some of the items have been cleaned up including three 250 gallon totes of waste oil near the water way. He stated that the property owner should be held to the regulations of the county, but he is not concerned about the building request. Commissioner Cypher asked if the property line is marked, and Lowell responded that there are two white posts that show the placement of property pins.

Commissioner Kostboth clarified that staff would be taking care of nuisance issues even if the request for a larger building was approved. Staff added that deferring the request is preferable as a way to encourage the petitioner to abate the nuisance rather than the formal process of letters and County Commissioner meetings. Staff pointed out at this time that many of the items of concern were placed behind a shelter belt and out of site of the initial staff site visit.

Commissioner Barth clarified with the applicant that the barrels of waste oil have been removed. Commissioner Barth then commented that one month may be enough for the applicant to complete the task of clean up.

### **ACTION**

Commissioner Barth made a motion to **defer** Conditional Use Permit #16-47 until the next Planning Commission Meeting on July 25, 2016. The motion was seconded by Commissioner Randall. The motion passed unanimously.

**Conditional Use Permit #16-47 – Deferred until July 25, 2016**

**ITEM 7. CONDITIONAL USE PERMIT #16-49 to allow a Permanent Water Tower Structure on the property legally described as Tract 5, Nelson's Addition, S1/2, Section 26-T102N-R48W.**

Petitioner: City of Brandon (Bryan Read)

Property Owner: Randy Nelson

Location: NW Corner of Redwood Blvd. & Chestnut Ave.

Approximately 0.5 mile northeast of Brandon

Staff Report: Scott Anderson

This would allow a Permanent Water Tower Structure.

**General Information:**

Legal Description – Tract 5, Nelson's Addition, S1/2, Section 26-T102N-R48W

Present Zoning – A1 Agriculture

Existing Land Use – farmland

Parcel Size – 36.86 acres

**Staff Report:** Scott Anderson

**Staff Analysis:**

The property is zoned A-1 Agricultural District. Article 3.04(W) of the Zoning Ordinance allows a water metering facility as a Conditional Use in this zoning district.

On June 10, 2016, staff conducted a site visit. The surrounding land uses are a mixture of residential and agricultural uses. The subject property is located approximately approximately 1/2 mile east of the Brandon corporate limits near the intersection of Redwood Boulevard and 483<sup>rd</sup> Avenue (Chestnut Boulevard).

The City of Brandon is proposing to construct a 140 foot tall water tower. The water tower will hold 1.25 million gallons of water. The growth of Brandon and surrounding communities necessitated the need for a continued reliable municipal water system. The proposed City of Brandon water tower is being constructed to fill that need and will be part of the Brandon water system. The applicant has indicated that the water tower will be constructed in 2018. It will be blue and white in color and lit with upward facing lights with a light on top for aircraft. The site plan shows a six foot high chain link fence surrounding the water tower.

**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.**

Due to the existing residential development pattern and agricultural uses within the area, the proposed water tower should not have a negative effect upon the normal and orderly development and improvement of these properties for uses predominant in the area. The water tower will insure adequate water to present and future development for the region. There is a similar water tower located approximately 1 mile to the south.

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

The proposed water tower should not have a negative effect upon the normal and orderly development and improvement of these properties for uses predominant in the area. The proposed water tower is part of a city water system that will aid in providing an adequate water system to present and future development for Brandon.

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

Access to the proposed water tower will be provided by Chestnut Boulevard, which is a township maintained road. It appears that the site utilizes natural drainage. The proposed water tower has access to water and no wastewater facilities will be provided.

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

Article 15 of the Zoning Ordinance does not specifically identify the parking requirements for a water metering facility. The applicant has indicated that two (2) off street parking spaces will be provided. A water tower typically does not generate any significant amounts of traffic. Each parking space should measure a minimum of 9 feet by 18 feet and be continually maintained in such a manner that no dust will result from continuous use. The two spaces will meet the parking requirements.

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

The proposed Conditional Use Permit may generate very limited dust and noise. The water tower will be providing a benefit to the community. With appropriate conditions of approval, any concerns can be mitigated.

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

The proposed use will benefit the health and safety of the public by allowing for the construction of a facility that will provide potable water to the city of Brandon.

Staff's review indicates that the proposed Conditional Use is a use which is appropriate for this site. Staff recommends approval of Conditional Use Permit #16-49 to be established and conducted in conformity with the Zoning Ordinance and the recommended conditions of approval.

**Recommendation:**

Staff recommends approval of Conditional Use Permit #16-49 to allow a water tower in the Agricultural District with the following conditions:

1. That a minimum of two (2) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty two square feet, or nine feet by eighteen feet, and maintained in such a manner that no dust will result from continuous use.
2. That all existing drainage is maintained and that erosion control measures are implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water.
3. That the applicant obtains a building permit prior to any construction commencing on the site.

### PUBLIC TESTIMONY

Scott Anderson, Planning Director, presented a brief overview of the staff report and recommendation.

Brian Read of the City of Brandon and John Brown of Stockwell Engineering were representing the City of Brandon as the petitioner. Commissioner Duffy Clarified with Mr. Read that North Chestnut Boulevard was part of the Brandon Township road jurisdiction. Commissioner Barth ask how much land will be used for the site. The response was that the City will purchase approximately one acre of land.

Martha A. Smith, 2303 E Redwood Boulevard, spoke against the requested water tower. She began with noting that she did not receive notification until the morning of the meeting, except through neighbors. She added that she owns several parcels in close proximity of proposed use. Martha state that she intends on selling many or all the properties in the near future, and she feels that a water tower will negatively effect the property values. Commissioner Cypher asked if a sign was posted on the property. Planning staff pointed out the photo with the required sign in the power point. Comments from Marth and the audience pointed out that the sign is visible only from a road with a dead end and only two residential properties. Martha then pointed out a discrepancy of the height of the tower from one description to the slide on the power point. Commissioner Cypher responded that the difference was small and all structures taller than 100 feet require a light for the FAA.

Elizabeth Aaker, 2215 E Redwood Boulevard, spoke in opposition of the requested water tower. Elizabeth stated that she purchased the property because it was five acres in size and secluded. She added that all of her money is in the house, and the water tower will lower the value of the house. She pointed out an existing water tower 1/2 mile south of her house. She noted that she feels overran by the city and that the dirt road is filled with traffic and cars in ditches already. She finished by stating that everyone in the neighborhood build there for the rural acreage lifestyle and that this water tower will ruin that lifestyle.

Dave Elofson, 1102 N Chestnut Boulevard, spoke in opposition of the request. Dave questioned why the tower wasn't being built with the existing tower. He pointed out that his family has been on the farm since 1878 and he has successive generations that will take over the property. He also raised concern over the size of the tower and the lack of accurate information as to the height of the tower. He stated that 150 feet will place the tower in as the third largest structure in South Dakota. He stated that the height and size will certainly effect property values. Dave finished by questioning why the tower is being located outside of city limits of Brandon.

Jeff Elofson, 1104 N Chestnut Boulevard, spoke in opposition of the request. Jeff started with a note that he will be the 5<sup>th</sup> generation on the farm and has no intentions of selling the land. He raised the point that this is a Brandon City Utility outside of Brandon City Limits. Jeff reiterated that this tower will be the third tallest structure in the state and is four times the size of the existing tower to the south. Jeff then raised concern for the need for massive pilings to support a structure the size of the tower. He also address concern for the one week notice of the meeting as being too sort to fully address a water tower project. He raised concern that the tower is outside of the Brandon growth potential, and that the existing tower site has higher elevation which may

be advantageous for gravity fed water.

Chris Constant, 920 N Chestnut Boulevard, spoke in opposition of the request. Chris first pointed out that he lives directly across from the proposed site. He stated that the water tower will be 100 feet over his trees. He noted that he was not opposed to growth, this was not a good location.

Alexander Elofson spoke in opposition of the request. She explained that she watched the growth in the area including the area around the existing water tower that was build prior to growth. She questioned why this site was chosen when the other site has existing infrastructure for a water tower. She added that she was planning on building a house in the area and wondered what the tower would do to the property values.

Carl Elofson spoke in opposition of the request. He questioned why the tower couldn't go in the old tower location.

Chairman Cypher call the petitioner and engineer up to address the questions and concerns of the neighbors.

Brian Read first responded that the City completed a comprehensive water study in 2013 that identified water towers as a city need. The current water tower site is would only allow access to one pressure zone, and the proposed site will allow for three pressure zones to be utilized. He noted that the existing water tower was built by the developer and is not adequate for future growth. In addition, the location was chosen based on relative height of the tower on the west side that has to be at the same elevation to equalize pressure. And the site had a willing seller.

John Brown of Stockwell Engineering started that the existing water tower is under sized and no longer usable. He noted that the area is within the growth area of the comprehensive water study, and that the city of Brandon will grow to the east and the north. John explained that expansion is always placed as far out as possible to accommodate growth well into the future, even beyond the current growth limit. He added that water infrastructure is already present in the area to serve the Country Club Heights Addition. Commissioner Barth asked about the concept of equalizing pressure of two water towers. John explained that water flows back and forth between the two towers. Commissioner Barth asked if the City had plans to annex the area. Brian Read responded that there are no plans at this point.

Dave Elofson added that the elevation of the proposed tower site and the existing tower site are not very different and could be adjusted to meet the needs of the city.

Elizabeth Aaker added that she has contacted the City of Brandon many times over the years to ask when the area will be annexed and paved and the response was always that no plans are present at this time.

Martha Smith added that the proposed addition to Brandon is south and east of the city and this water tower is not near the expansion area.

## **DISCUSSION**

Commissioner Cypher commented that a similar situation happened with the city of Hartford with the expansion of a sewer line outside of town. The Planning Commission directed the city to rethink the plan and it was not extended the entire 4 mile distance that was planned. He pointed out that the commission does have the ability to ask the City of Brandon to reevaluate the tower location.

Commissioner Barth commented that there are 180,000 people in the county and that changes happen. He noted that many changes are not as disastrous as what is expected by the neighbors. Commissioner Barth finished with noting that the decision of the tower does not have to be made today.

Commissioner Kostboth commented that further evaluation may be worthwhile, and he added that the outcome may be the same proposed location, and maybe not.

Commissioner Ode commented that change happens as he recalled all the change that has happened in Brandon since he graduated high school there. He questioned what will happen in 50 to 100 years from now. Commissioner Ode clarified with Brian Read that the city owns the existing water tower but not the land that it sits on.

Commissioner Duffy commented that deferral may be good to see if the location is best or if a different location may be better.

Commissioner Barth noted that he thinks denial would be the best choice to move the item to the County Commission and more evaluation can be made before then.

Scott Anderson, Planning Director, suggested to defer the item to the September meeting to allow the city to meet with neighbors to address some of the concerns.

Commissioner Barth made a motion to deny the request. The motion died for lack of a second.

### **ACTION**

Commissioner Kostboth made a motion to **defer** Conditional Use Permit #16-49 to the regular Planning Commission Meeting on September 26, 2016. The motion was seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #16-49 – Deferred until September 26, 2016**

**Old Business**

None.

**New Business**

Kent Woodmansey gave a 20 minute presentation on the permitting of CAFO's and the enforcement of those permits. As part of the presentation he noted that the General Permit for CAFO's is in litigation, and once out of litigation, it may be useful to have another presentation of the changes for future development.

Scott Anderson updated the Planning Commissioners on the appealed item in the Dell Rapids Joint Zoning area. The item was approved at the appeal hearing.

**Adjourn**

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