

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
September 26, 2016

A meeting of the Planning Commission was held on September 26, 2016 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Bonnie Duffy, Doug Ode, Paul Kostboth, 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 7:36 p.m.

**CONSENT AGENDA**

Each item title was read, and no objections to the consent agenda were raised.

David Heinold, Planner I, explained that Item #2 had been withdrawn by the applicant and needs to be removed from the agenda. Item #2 was removed from the agenda per applicant request.

A motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** the consent agenda consisting of Items 1, 3, 4, 5, 6, and 7. The motion passed unanimously.

**ITEM 1. Approval of Minutes – August 22, 2016**

As part of the consent agenda, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** the meeting minutes from August 22, 2016. The motion passed unanimously.

**Consent Agenda**

**ITEM 2. CONDITIONAL USE PERMIT #16-62 to exceed 1,200 square feet of total accessory building area – requesting 1,350 sq. ft. on the property legally described as Lot 4B, Silver Creek Estates Addn., N1/2, NE1/4, Section 9-T102N-R49W.**

Petitioner: Stewart Evans

Property Owner: H&B Builders

Location: 47493 Silver Creek Cir. Approximately 4 miles north of Sioux Falls

Staff Report: David Heinold

This would allow 1,350 sq. ft. of total accessory building area.

**General Information:**

Legal Description – Lot 4B Silver Creek Estates, An Addn., N1/2 NE1/4, Section 9-T102N-R49W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 3.08 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, 47509 257th St., about a half mile to the east of the subject property has 3,360 sq. ft. of total accessory building area on a 17.30 acre parcel. The property immediately to the northeast was granted conditional use permit approval for 3,400 sq. ft. on a 7.42 acre parcel.



On September 9, 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 3.08 acre parcel.

**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.**

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, 1,350 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.

**ACTION**

Item #2 was removed from the agenda per applicant request.

**Conditional Use Permit #16-62 – Withdrawn**

**ITEM 3. CONDITIONAL USE PERMIT #16-64 to allow an Agriculturally Related Operation – Seed Warehouse and Distribution on the property legally described as the N1/2, NE1/4, (Ex. H-1), Section 25-T104N-R49W.**

Petitioner: Adam Wolff

Property Owner: David Rave

Location: SW Corner of 248th St. & 478th Ave.

Approximately 3 miles southeast of Dell Rapids

Staff Report: David Heinold

This would allow an Agriculturally Related Operation, Seed Warehouse and Distribution.

**General Information:**

Legal Description – N1/2 NE1/4 (Ex. H-1), Section 25-T104N-R49W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 73.01 Acres

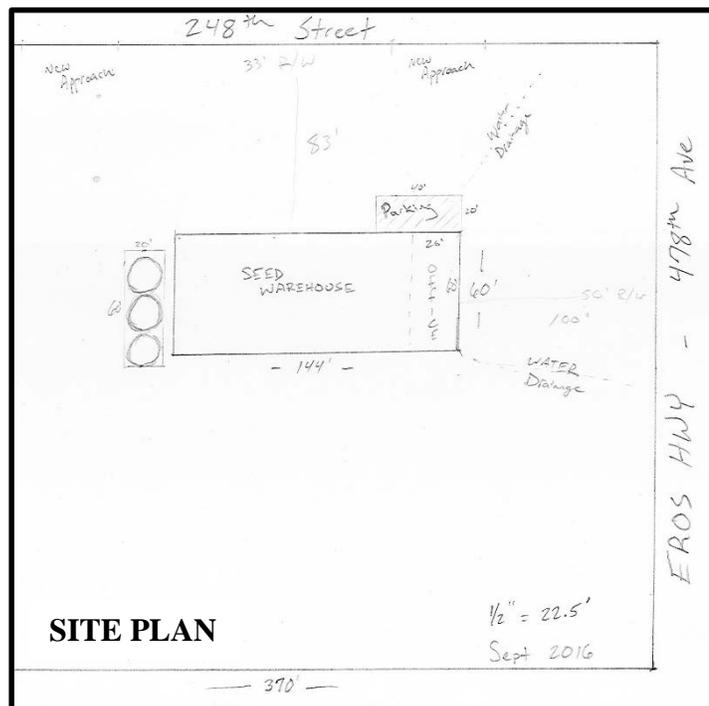
**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval for agriculturally-related operation, seed warehouse and distribution. The proposed hours of operation for the business are 8:00 am to 5:00 pm, Monday thru Friday. According to the narrative, there is only one employee who is associated with the seed business.

The site plan indicates that the subject property will utilize two planned driveway approaches equally spaced off of 248th St. for access to the site. The proposed building will be 60 feet by 144 feet and mostly contain corn and soybean seed.

On September 8, 2016, staff conducted a site visit and determined that the proposed location for a seed warehouse will be located in an appropriate area. The petitioner's requested proposal for the land use will provide a service to the agricultural sector, which is already the predominant land use in the area and is likely to remain well into the future.



**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 area is primarily agricultural land; however, there is an existing farmstead about a half mile to the south of the subject property. The petitioner mentioned that the amount of semi-truck deliveries would be range from 15-20 semi-truck loads over the winter with seed from harvest. A large majority of the deliveries made out to customers and clients would be via fifth-wheel truck with approximately 35 to 40 trips in the spring.

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

The predominant land use in the area is agriculture; therefore the proposed use for seed storage should not cause a negative effect on the normal and orderly development of surrounding vacant land. Although, the siting of the proposed land use may discourage existing or future residents from locating a residential dwelling near the subject property, which is entirely determined by the number of available building eligibilities. The Envision 2035 Comprehensive Plan identifies the future growth of surrounding vacant property as remaining primarily agricultural land use.

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

Access to the proposed use, seed warehouse, will be provided from two driveway approaches on 248th St. The drainage patterns are shown on the plan with the petitioner's plan to manage surface water runoff from construction of the proposed building. Surface water primarily drains to the northeast corner of the property to a low area where the water continues within the County Highway right-of-way. The petitioner mentioned that the property already has access to electrical power, telephone, internet, and rural water adjacent to the property.

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

The petitioner plans to pave an area measuring 20 feet by 40 feet to accommodate four (4) vehicles on the north side of the building for employee and visitors, which accounts for the minimum required parking for similar warehouse-type establishments.

**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 petitioner indicated in the narrative that the purpose of the warehouse is to store seed corn and soybeans. The proposed use may by general nature present certain dust, noise, and vibration from unloading and loading at the facility. Lighting should be directed downward onto the property to prevent light pollution off the site.

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

The proposed agricultural seed warehouse will be located in an area identified as long-term agriculture in the Envision 2035 Comprehensive Plan. The primary goal of this area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. The proposed use is an appropriate complement to the agricultural economy that provides support for agriculture operations in the area and should not significantly affect the health, safety, and general welfare of the public.

**Recommendation:**

Staff finds that the proposed agricultural seed warehouse is an appropriate land use for the surrounding agricultural area consistent with the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #16-64 with the following conditions:

- 1.) That CUP #16-64 shall allow agricultural seed storage and distribution.
- 2.) That the property shall adhere to the submitted site plan dated 8-30-2016.
- 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 and reviewed prior to the building permit(s) being issued for the seed warehouse.
- 5.) That the applicant shall obtain an approach permit from Dell Rapids Township.
- 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 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**

As part of the consent agenda, Commissioner Kostboth made a motion to **approve** Conditional Use Permit #16-64 with conditions and the motion was seconded by Commissioner Barth. The motion passed unanimously.

**Conditional Use Permit #16-64 – Approved**

**ITEM 4. CONDITIONAL USE PERMIT #16-65 to exceed 1,200 square feet of total accessory building area – requesting 3,888 sq. ft. on the property legally described as Tract 3, Boll’s Addition, SE1/4, NE1/4, Section 19-T101N-R51W.**

Petitioner: Thomas Ockenga

Property Owner: same

Location: 26541 461st Ave. Approximately 5 miles southwest of Hartford

Staff Report: Scott Anderson

This would allow 3,888 sq. ft. of total accessory building area.

**General Information:**

Legal Description – Tract 3, Boll’s Addition, SE1/4, NE1/4, Section 19-T101N-R51W

Present Zoning – A-1 Agriculture

Existing Land Use – residential

Parcel Size – 3.96 acres

**Staff Report:** Scott Anderson

**Staff Analysis:**

The property is located approximately one (1) mile west of Wall Lake, on 461<sup>st</sup> Avenue. The parcel is located in Wall Lake 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. CUP #12-40 was approved in July of 2012 to a previous property owner allowing a 3,600 square foot accessory building on this subject property. The accessory structure was never constructed. The applicant is now seeking a new conditional use permit for a slightly larger building than was approved in 2012.

On September 9, 2016, staff conducted a site visit. There are several homes in the area. Staff determined that the proposed building size is relatively comparable to existing accessory building sizes at properties in the surrounding area.

The petitioner’s requested size of 3,888 square feet is smaller than the largest existing accessory building in the area. There is one other large accessory buildings located in the area. The petitioner’s request would be consistent with the accessory building square footage on the other properties in the neighborhood. The largest existing accessory building in the area is located at 26536 461<sup>st</sup> Avenue. There are two (2) buildings on this property totaling 4,860 square feet. One building is 3,780 square feet in area and the other building is 1,080 square feet. These larger buildings are located across the road from 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 in the immediate vicinity.**

Given the existence of 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.

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

There is existing access from 461st Avenue. 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 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.

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 #16-65 with the following conditions:

- 1) The total accessory building square footage shall not exceed 3,888 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 3,888 square feet measured from the outside perimeters.
- 5) A building permit is required
- 6) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

**ACTION**

As part of the consent agenda, Commissioner Kostboth made a motion to **approve** Conditional Use Permit #16-65 with conditions and the motion was seconded by Commissioner Barth. The motion passed unanimously.

**Conditional Use Permit #16-65 – Approved**

**ITEM 5. CONDITIONAL USE PERMIT #16-66 to exceed 1,200 square feet of total accessory building area – requesting 2,160 sq. ft. on the property legally described as Tract 18A, Sorum Heights 2nd Addition, SW1/4, SW1/4, Section 10-T102N-R49W.**

Petitioner: Dean Sorum

Property Owner: same

Location: 47510 258th St. Approximately 3 miles north of Sioux Falls

Staff Report: Kevin Hoekman

This would allow 2,160 sq. ft. of total accessory building area.

**General Information:**

Legal Description – Tract 18A, Sorum Heights 2nd Addition, SW1/4, SW1/4, Section 10-T102N-R49W

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 10.59 acres

**Staff Analysis:**

The property is located at the northeast corner of the intersection of SD Hwy 115 and 258<sup>th</sup> Street and across the street from Renner Corner. The parcel is a large odd shaped lot that contains a drainage way that extends into the center of a rural subdivision. The site is located within a subdivision of more than four lots. In subdivisions or residential developments which exceed four lots in number, accessory building area is limited to 1,200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner would like to construct a 2,160 square foot (36' x 60') accessory building for personal storage and use. The proposed accessory building is indicated on the provided site plan to be located northeast of the dwelling. A proposed driveway would extend southwest and connect to the existing driveway.

The surrounding residential properties include several large accessory buildings that can be seen in the Existing Accessory Building Map. The largest area accessory building that is used for residential purposes is in a nearby subdivision to the southwest of the site. This area building is 2,400 square feet in size. A property to the northeast of the site has several accessory buildings that equal 1,992 square feet, or slightly less than the requested 2,160 square feet. Other accessory structures in the area are larger than the petitioner's request, but the structures are built for agricultural uses rather than residential use. The Planning Commission has often used nearby accessory building sizes as a guide to determine if the request is reasonable. With at least one accessory building that is larger than the request, and one accessory building that is close to the same size, the proposed accessory building will be similar to area structures.

**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 use is surrounded by residential lots and properties. One area of concern for a large accessory building is the visual impact of the neighborhood. The accessory building would be clearly visible from the residential lots to the east of the site. The residential properties to the west of the site have many mature trees that will buffer the visual impact of the building. Several properties with large accessory buildings already exist in the area.

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

The accessory structure may only be used for residential purposes; no commercial or business activities are allowed. Many of the building eligibilities have been used with a few lots available to the northeast of the proposed accessory building. The construction of a large accessory building in the area will not likely deter future residential growth, but there is some potential that other property owners will ask for large accessory buildings on their properties.

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

The petitioner will be responsible for attaining and extending utilities to the proposed accessory building, and the proposed accessory building will utilize the same driveway as the dwelling.

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

No off-street parking will be needed as a result of personal activities in this accessory building. No commercial or business parking will be allowed at any time.

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

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site. The accessory building will be limited to a maximum of 35 feet in height to meet the zoning height regulations.

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

The proposed accessory building should have little to no effect on the health, safety, and general welfare of the public as well as the Envision 2035 Comprehensive Plan. Several large accessory buildings already exist in the area.

**Recommendation:**

Staff finds that the request for a larger accessory building is reasonable with the following conditions that limit the size further than requested. Staff recommends **approval** of Conditional Use Permit #16-66 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,160 square feet.
- 2.) That a building permit is required prior to construction of the accessory building.
- 3.) An inspection must be made of the proposed new accessory building to ensure that the total floor area of the building does not exceed 2,160 square feet.
- 4.) Only personal residential storage shall be allowed in the building, and no commercial uses or commercial storage will be allowed at any time.

- 5.) 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 the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

**ACTION**

As part of the consent agenda, Commissioner Kostboth made a motion to **approve** Conditional Use Permit #16-66 with conditions and the motion was seconded by Commissioner Barth. The motion passed unanimously.

**Conditional Use Permit #16-66 – Approved**

**ITEM 6. CONDITIONAL USE PERMIT #16-68 to exceed 1,200 square feet of total accessory building area – requesting 3,100 sq. ft. on the property legally described as S466.69’ E933.38’, SW1/4, SW1/4, Section 15-T102N-R48W.**

Petitioner: Ryan Anderson

Property Owner: same

Location: 48122 259th St. Approximately 1 miles north of Brandon

Staff Report: Scott Anderson

This would allow 3,100 sq. ft. of total accessory building area.

**General Information:**

Legal Description – S466.69’ E933.38’, SW1/4, SW1/4, Section 15-T102N-R48W

Present Zoning – A-1 Agriculture

Existing Land Use – residential

Parcel Size – 10 acres

**Staff Report:** Scott Anderson

**Staff Analysis:**

The petitioner is requesting to exceed 1,200 square feet of total accessory building area. The petitioner is requesting 3,100 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.

The petitioner is requesting to construct a 40’ x 60’ accessory building for personal storage. There are existing accessory structures on the subject property equaling 700 square feet. The new proposed 2,400 square foot structure added to the existing 700 square feet of accessory structures brings the combined total of accessory structures to 3,100 square feet.

On September 12, 2016, staff conducted a site inspection of the subject property. Staff noted that the 40’ x 60’ proposed structure has been started without having obtained a building permit. This is a violation of the County’s Building Code and will result in penalty fee equaling the building permit amount. Furthermore, the applicant shall also pay a double Conditional Use Permit Application fee, as the building construction has started prior to approval of the Conditional Use Permit being approved. During the site inspection, it appeared that the building under construction did not meet the required fifty (50) foot front setback requirement. On September 13, 2016, the Building Inspector measured the setback and determined that the proposed building was approximately 21 feet from the front property line. Staff contacted the applicant to indicate that the building would have to be moved. The applicant was aware that the building was being constructed too close to the front property line and indicated that it would be

moved to meet the minimum front yard setback requirement.

The total accessory building area sizes in the general area range from 1,568 square feet to 10,032 square feet. The property owner at 48189 259th Street, approximately a half-mile to the east has 10,032 square feet of total accessory building area. The property owner who lives directly to the east at 48132 259th Street has 4,158 square feet. Staff determined that the proposed building size is relatively comparable to existing accessory building sizes at properties in the surrounding area.

**Conditional Use Permit Criteria:**

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

There is one other property within one-half mile of the subject property that has more than 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 since there are other larger accessory buildings in the area, which is primarily agricultural with four residential acreages not including the petitioner's farmstead property.

**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 personal residential and agricultural storage, no commercial business activities are allowed. Given the size of the other larger accessory buildings, 3,100 square feet of total 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 provided off of the petitioner's existing driveway 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 personal agricultural and 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.

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity.

**Recommendation:** Staff recommends **approval** of Conditional Use Permit #16-68 with the following conditions:

- 1.) That the total accessory building area shall not exceed 3,100 square feet on the property.
- 2.) That the new building shall not exceed 2,400 square feet in area.
- 3.) That a building permit is required.
- 4.) That the building shall be an accessory use to residential portion of the property.
- 5.) That only personal agricultural or residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
- 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 applicant shall pay an additional \$250 conditional use permit fee as required in Article 24.05 of the Zoning Ordinance as a penalty for commencing work on the structure and shall pay a double building permit fee for commencing work without a building permit.

**ACTION**

As part of the consent agenda, Commissioner Kostboth made a motion to **approve** Conditional Use Permit #16-68 with conditions and the motion was seconded by Commissioner Barth. The motion passed unanimously.

**Conditional Use Permit #16-68 – Approved**

**ITEM 7. CONDITIONAL USE PERMIT #16-69 to exceed 1,200 square feet of total accessory building area – requesting 2,580 sq. ft. on the property legally described as Tract 5 O’Kane Addn., NE1/4, Section 19-T102N-R51W.**

Petitioner: Donnie Mammenga

Property Owner: same

Location: 46067 259th St. Approximately 3 miles west of Hartford

Staff Report: Scott Anderson

This would allow 2,580 sq. ft. of total accessory building area.

**General Information:**

Legal Description – Tract 5 O’Kane Addn., NE1/4, Section 19-T102N-R51W

Present Zoning – A1 - Agriculture

Existing Land Use – Residential

Parcel Size – 5.73 acres

**Staff Report:** Scott Anderson

**Staff Analysis:**

The property is located approximately two (2) miles west of Hartford on 259<sup>th</sup> Street in Hartford Township. The area subdivisions straddle SD highway 38 nearby the former I-90 Speedway race track. The site is located in the approximate center of the area that is made up of more than four subdivided lots. In subdivisions or residential developments which exceed four lots in size, accessory building area is limited to 1,200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner would like to construct a 40’ x 60’ accessory building for personal storage and use. There is an existing small 180 square foot accessory building on the property. The total proposed accessory building area is 2,580 square feet.

On September 8, 2016 staff conducted a site visit. The surrounding residential area does include several properties with large buildings. The largest structure is an 8,064 square foot horse building located within a ¼ mile of the subject property. A large kennel was approved and constructed on a nearby property to the north across SD Highway 38. Staff determined that the proposed building size is relatively comparable to existing accessory building sizes at properties in the surrounding area.

The proposed building will be located on the center of the east side of the lot. The 5.73 acre lot provides sufficient space and scale for the size of the building. Several rows of trees currently screens the proposed building.

**Conditional Use Permit Criteria:**

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

The construction of the proposed accessory building should have little impact on surrounding properties. The large size of the building may have a minor adverse effect on the character of the neighborhood, so steps should be taken to minimize this possibility. The accessory structure shall not be used as a commercial operation at any time. The personal use of this building should not increase traffic in and out of the site.

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

The accessory structure may only be used for residential purposes, no commercial or business activities are allowed. Many of the surrounding properties include large accessory buildings with one structure significantly surpassing the size of this proposed building.

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

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

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

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

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

**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 proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of Conditional Use Permit #16-69 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,580 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height and meet the setback requirements for the zoning district.
- 3.) That a building inspection is required to determine that the building does not exceed 2,400 square feet measured from the outside perimeter and that the total square footage of all accessory buildings not exceed 2,580 square feet.

- 5.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 6.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 8.) That a building permit is required prior to construction of the accessory building.
- 9.) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

**ACTION**

As part of the consent agenda, Commissioner Kostboth made a motion to **approve** Conditional Use Permit #16-69 with conditions and the motion was seconded by Commissioner Barth. The motion passed unanimously.

**Conditional Use Permit #16-69 – Approved**

**Regular Agenda**

**ITEM 8. 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 149 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.

This item was first heard by the Planning Commission on June 27, 2016. There were eight (8) people that testify during the public input. Several questions were raised by the surrounding neighbors. The conditional use permit request was continued for three months to allow the applicant time to hold meetings with the neighbors. The applicant met with most of those speaking at the meeting and those meeting minutes are included for the Planning Commission's review.

**1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values 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 summary of the conditional use permit request and mentioned that the applicant would like a deferral for 30 days to the next meeting.

Bryan Read, City of Brandon Administrator, requested a deferral and explained that the City is waiting on City Council action on an agreement contract regarding the proposed water tower.

Commissioner Cypher called for additional public testimony. No one else spoke on the item.

Commissioner Cypher closed the floor to further public testimony.

**ACTION**

Commissioner Barth made a motion to **defer** Conditional Use Permit #16-49 until the October 24th planning commission meeting and the motion was seconded by Commissioner Ode. The motion passed unanimously.

**Conditional Use Permit #16-49 – Deferred until October 24, 2016**

**ITEM 9. CONDITIONAL USE PERMIT #16-67 to allow Farm Equipment and Vehicle Sales & Repair and Outdoor Storage on the property legally described as Lot 6A, Block 1, Green Valley Addition, NE1/4, Section 12-T102N-R50W.**

Petitioner: Interstate Sales, LLC (DeWayne Musick)

Property Owner: Austin Dybvig

Location: 25749 Cottonwood Ave. Approximately 3 miles north of Sioux Falls

Staff Report: David Heinold

This would allow Farm Equipment and Vehicle Sales & Repair and Outdoor Storage.

**General Information:**

Legal Description – Lot 6A, Block 1, Green Valley Addition, NE1/4, Section 12-T102N-R50W

Present Zoning – I-1 Light Industrial District

Existing Land Use – Industrial

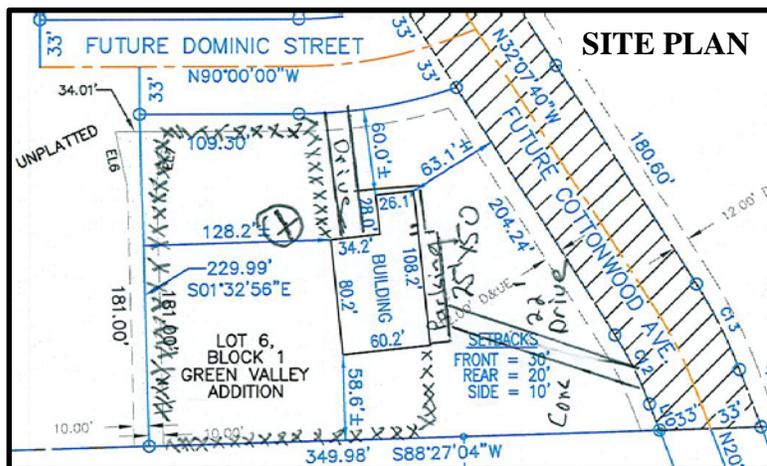
Parcel Size – 3.54 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner, Interstate Sales, LLC, is requesting a conditional use permit to allow sales of agriculture products that primarily consists of late model farm tractors and accompanying implements. In addition, the site plan indicates that there will be secure outdoor storage for boats and or recreational vehicles on a short term, seasonal basis. The hours of operation for the proposed business will be 9:00 am to 4:00 pm, Monday thru Friday and 9:00 am to Noon, Saturday.

The existing 60'x80' warehouse building will be utilized for an indoor storage and display area for farm equipment and tractors. The narrative describes that a majority of the business will be conducted over web transactions for different pieces of farm equipment and tractors.



On September 2, 2016, staff visited the property and determined that the proposed use is appropriate for the immediate area. The proposed building and business will be located on a 3.54 acre parcel. Staff would like to note that we are actively pursuing code enforcement on the subject property for compliance with the hard surface requirement. The applicant is proposing two access points for the proposed business, which all driving and parking areas must be hard surfaced in conformance with the minimum maintenance and improvement standards.

**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 industrial park at the northwest corner of the Crooks/Renner exit on Interstate 29 consists of similar uses ranging in scale from storage units to a transportation terminal, so there should not be any impacts beyond the uses already occupying the area. The proposed use of the property for indoor/outdoor storage and farm equipment sales should not have a detrimental impact on property values in the immediate vicinity due to the relative similarity of neighboring uses.

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

The subject property is already zoned for light industrial use, which allows for certain uses such as retail, office, warehousing, and personal services as permitted uses given that they meet the criteria established in Section 7.02 and 7.03 of the 1990 Revised Zoning Ordinance for Minnehaha County. The remaining vacant properties in the immediate vicinity are zoned light industrial and agricultural. The proposed use as a farm equipment, tractor sales, and outdoor storage facility should not negatively affect the normal and orderly development of the area that has seen historically significant residential and commercial growth just outside the primary economic growth area of the City of Sioux Falls and Crooks.

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

Access to the proposed use, equipment sales and outdoor storage, and parking area already exist via driveway approach from Cottonwood Ave. A new driveway approach from Dominic St. is proposed on the attached site plan for access to the existing building. Both of these access approaches and all driving/parking areas must be hard surfaced in conformance with the minimum maintenance standards in the zoning ordinance. No further utilities will be need to be provided.

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

The parking area should provide a large enough area with adequate space for employees and visitors to maneuver in-and-out of the 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 petitioner indicated in the narrative that there will be no heavy mechanical work or tear down of equipment on site as all mechanical and associated work is planned to be sent out to subcontractors in the area. The proposed use may by general nature present certain dust, noise, and vibration from pickup and dropoff at the facility. Lighting should be directed downward onto the property to prevent light pollution off the site.

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

The proposed agricultural equipment, tractor sales, and outdoor storage facility should have no effect on the health, safety, and general welfare of the public. The use of the business for storage and warehousing will create few problems among the existing land uses at properties within the immediate vicinity. The subject property is located within the transition area for the City of Sioux Falls and Crooks identified by the Envision 2035 Comprehensive Plan, which recognizes

that these areas have the primary purpose of maintaining the rural landscape until eventual residential development and/or municipal annexation. The proposed use of the building for a commercial roofing business should not affect the future growth of this area given the present use of the land and the immediate area for commercial and industrial development.

**Recommendation:**

Staff finds the proposed use, Farm Equipment and Vehicle Sales & Repair and Outdoor Storage, to be an appropriate use for the I-1 Light Industrial 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 #16-67 with the following conditions:

- 1.) That CUP #16-67 shall allow the use of the property for Farm Equipment and Vehicle Sales & Repair and Outdoor Storage.
- 2.) That all outdoor storage areas be screened with a minimum 90% opacity fence. No outdoor storage shall be permitted on or around the septic system drainfield.
- 3.) That no vehicles, parts, machinery, etc. shall be allowed outside of the fenced area.
- 4.) That a building permit is required prior to the construction of all storage buildings and for the installation of any signage.
- 5.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 6.) That all driveways, parking lots, and outdoor storage areas shall be in conformance with the requirements of Article 15.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. All hard surfaced areas must be completed by August 31, 2017.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the 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.

**PUBLIC TESTIMONY**

David Heinold, Planner I, presented a brief summary of the conditional use permit request and amended conditions.

There was a change to condition #3 presented by county planning staff, “that no unlicensed or inoperable vehicles, parts, machinery, etc. shall be allowed outside of the fenced area.”

DeWayne Musick, 2200 W. 37th St., explained that he did not design the hard surface plan provided with the application for the record and mentioned that he would like to display excess farm vehicles. Mr. Musick assured the planning commission that both driveways will be hard surfaced within the next few weeks according to the current property owner’s plans.

Mr. Musick expressed concern about the lengthy time deadline for completion of the hard surfacing requirement and requested a much sooner timeframe.

Commissioner Ode asked the petitioner what date would work best for the hard surfacing requirement. There was discussion amongst the planning commission and petitioner about setting a deadline of December 1, 2016 for completion of the hard surfacing on the property.

Commissioner Cypher called for additional public testimony. No one wished to speak on the matter.

Commissioner Cypher closed the floor to public testimony.

### **DISCUSSION**

Commissioner Cypher called for a motion to accept the modifications made by the planning commission and staff.

There was discussion amongst the planning commission regarding the proposed changes to the recommended conditions.

Commissioner Barth made a motion to approve Conditional Use Permit # 16-67 with a change to conditions #3 and #6 from the staff recommendation and was seconded by Commissioner Ode.

### **ACTION**

Commissioner Barth made a motion to **approve** Conditional Use Permit #16-67 and the motion was seconded by Commissioner Ode. The motion passed unanimously.

### **Conditional Use Permit #16-67 – Approved**

- 1.) That CUP #16-67 shall allow the use of the property for Farm Equipment and Vehicle Sales & Repair and Outdoor Storage.
- 2.) That all outdoor storage areas be screened with a minimum 90% opacity fence. No outdoor storage shall be permitted on or around the septic system drainfield.
- 3.) That no unlicensed or inoperable vehicles, parts, machinery, etc. shall be allowed outside of the fenced area.
- 4.) That a building permit is required prior to the construction of all storage buildings and for the installation of any signage.
- 5.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 6.) That all driveways, parking lots, and outdoor storage areas shall be in conformance with the requirements of Article 15.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. All hard surfaced areas must be completed by December 1, 2016.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the 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.

**Old Business**

David Heinold provided the planning commission with an invitation to the South Dakota Planners Association Annual Conference Decision makers Dinner and Presentation featuring Aberdeen attorneys Jack Hieb and Zack Peterson to be held on Wednesday evening, October 26, 5:30 pm at the Holiday Inn City Centre.

**New Business**

Scott Anderson announced to the planning commission that Planning Commissioner Bill Even has not formally submitted a resignation letter, but planning staff is looking to the planning commission for acceptance of Commissioner Even's resignation from the planning commission.

Commissioner Barth announced that the planning commission accept the resignation of Planning Commissioner Bill Even.

Mr. Anderson also announced that there will be a total of two vacancy on the planning commission to be filled later this year prior to next year's planning commission meetings.

Commissioner Barth made a motion to **accept** the resignation of Planning Commissioner Bill Even and seconded by Commissioner Kostboth. The motion passed unanimously.

**Adjourn**

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