

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
January 26, 2015

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

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

STAFF PRESENT:

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

The meeting was chaired by Wayne Steinhauer.

CONSENT AGENDA

A request was made to move Item #4 to the regular agenda for a public hearing.

Staff requested to move Item #6 to the regular agenda.

A motion was made by Commissioner Barth and seconded by Commissioner Even to **approve** the consent agenda consisting of Items #1, #2, #3, #5, #7, #8, #9, #10, #11, #12, and #13. The motion passed unanimously.

ITEM 1. Approval of Minutes – November 24, 2014

A motion was made by Commissioner Barth and seconded by Commissioner Even to **approve** the meeting minutes from November 24, 2014. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #15-01 to transfer one building eligibility from Tract 2 Haug's Addition SE1/4 to Tract 1 Haug's Addition SE1/4, Section 2-T102N-R50W.

Petitioner: Clayton Haug

Property Owner: Rose Haug

Location: Approximately 0.25 mile east of Crooks

Staff Report:

This would allow the transfer of one building eligibility.

General Information:

Legal Description – Tract 2, Haug's Addition, SE ¼, Section 2, T102N, R50W

Present Zoning – A-1 Agriculture

Existing Land Use – vacant

Parcel Size – 10.02 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant wants to transfer a building eligibility from Tract 2 to Tract 1 of the Haug's Addition. The applicant has indicated that moving the eligibility would provide a better sight for a house. They are moving the eligibility out of a more productive agricultural area into a pasture area. The applicant has owned this property for several years.

On January 13, 2015, staff conducted a site visit. There are no animal confinement operations near the location of the transfer. The transfer is located in an area with many residential lots. There are six (6) residential lots directly to the south and another six (6) lots to the east. The City of Crooks is located less than ½ mile to the west.

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.

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

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

Rural water is available in the area and a waste water system will be utilized. The applicant indicated that the proposed building site will use a driveway that will come off of 257th Street.

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

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

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

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

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

The health, safety and general welfare of the public is not jeopardized by the transfer of a building eligibility. Furthermore, the transfer complies with the Comprehensive Plan, as it continues the continuity of density zoning in the area.

Recommendation: Staff found this conditional use permit request to be consistent with density zoning and recommended **approval** of Conditional Use Permit #15-01 with the following condition:

1. The 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

A motion was made to **approve** Conditional Use Permit #15-01 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #15-01 – Approved

ITEM 3. CONDITIONAL USE PERMIT #15-02 to allow the adaptive reuse of a former dwelling for personal storage on the property legally described as Tract 1 Burkman Addition SW1/4, Section 3-T102N-R48W.

Petitioner: Tom Zweep

Property Owner: same

Location: 25676 481st Ave. approximately 4 miles north of Brandon

Staff Report: Kevin Hoekman

This would allow the adaptive reuse of a former dwelling for personal storage.

General Information:

Legal Description – Tract 1 Burkman Addition SW1/4, Section 3-T102N-R48W

Present Zoning – A1 - Agricultural

Existing Land Use – Residential dwelling and former farmstead

Parcel Size – 54.73 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 4 miles north of Brandon and 5 miles southwest of Garretson. The parcel includes the former farmstead, the new residential dwelling, and approximately 40 acres of uncultivated grassland. In 2009 a building eligibility was moved off of the property to the NW ¼ of the SW ¼. In 2013 a building permit was issued to replace the existing dwelling unit on the parcel with a new one. This permit included a condition listed on it to remove the existing dwelling within 30 days from the final inspection. The final inspection was completed on May 22, 2014. When code enforcement was initiated in fall 2014, the petitioner noted that his intention was to leave the building in place and to use it for personal storage.

The existing farm house that is proposed to be used as storage is located in the farmstead area includes a very large garage that would work well as storage for the site. The new house is located on the same parcel, but approximately a ¼ mile to the east of the farmstead. The farmstead also includes a small feed lot for approximately 50 cattle.

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 land use of a former dwelling unit that is adaptively reused as a personal storage. The location of the house within a former farmstead allow the structure to fit into its surroundings and pose minimal effect to the surrounding properties.

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

The area is primarily farmland, but many residential dwellings are located within close proximity. The use of a former dwelling as personal storage will have little effect on the future development of the surrounding landscape, because much of the land is agricultural.

The use of the former dwelling as a dwelling on any permanent or temporary basis shall be prohibited. The former dwelling unit will only be allowed for personal storage only so no additional traffic will be generated because of this use.

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

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 additional on-site parking will be required for this land use. If multiple people come to the property at once adequate space is available for parking within the parcel.

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 land use will have minimal effect on the health, safety and general welfare of the public provided that the applicant keeps the former residence in good condition. The reuse of a former dwelling will allow for the continued use of valuable assets and lead to the avoidance of waste material going to the landfill because of the demolition of the former dwelling.

Recommendation:

Staff found that the proposed adaptive reuse of the former dwelling unit into personal storage is appropriate use of this structure. Staff recommended **approval** of Conditional Use Permit #15-02 with the following conditions:

- 1.) That no person will be allowed to live in the former dwelling at any time either on a permanent or temporary basis.
- 2.) That the structure shall be used for personal storage only. No commercial business or public storage will be allowed.
- 3.) That any new or replaced outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 4.) That no additions to the structure shall be constructed.
- 5.) Any interior construction shall require a building permit.
- 6.) Structure shall be maintained in good condition
- 7.) That the Planning & Zoning Department reserves the right to enter and inspect the storage 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 Minnehaha County Zoning Ordinance.

ACTION

A motion was made to **approve** Conditional Use Permit #15-02 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #15-02 – Approved

ITEM 5. REZONING #15-02 to rezone from the A-1 Agricultural District to the I-1 Light Industrial District in Tract 1 Soles Addition SE1/4 SE1/4, Section 22-T102N-R48W.

Petitioner: Ben Soles

Property Owner: Corson Properties, LLC

Location: 25985 482nd Ave. Approximately 0.5 mile north of Brandon

Staff Report: David Heinold

This would rezone property from the A-1 Agricultural District to the I-1 Light Industrial District.

General Information:

Legal Description – Tract 1 Soles Addition SE1/4 SE1/4, Section 22-T102N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agricultural

Parcel Size – 1.94 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to rezone the strip of land at the site of the Corson Elevator across the railroad tracks from Midwest Railcar Manufacturing. The subject property is located to the northwest of the intersection of South Dakota Highway 11 and East Hemlock Boulevard with access to both roads. The properties to the southeast are zoned for commercial operation and the remainder of the properties are zoned I-1 Light Industrial or I-2 General Industrial with a few residential properties along SD Highway 11 within unincorporated Corson. The petitioner indicated that the property would be used for warehousing and light manufacturing.

The 1998 Comprehensive Development Plan recognizes that the unincorporated area of Corson is located within the transition area of Brandon. According to the proposed Brandon 2035 Comprehensive Plan, this area is planned to include a mix of industrial and commercial. Staff believes that the subject property is influenced by the growth of the Brandon Industrial Park, railroad, and highway accessibility.

On January 13, 2015, staff inspected the site and determined that the proposed zoning change would be in the best interest and intent of the zoning ordinance with respect to future growth.

Recommendation:

Staff found that the proposed rezoning meets the goals and policies of the 1998 Comprehensive Development Plan. The site builds on an existing established commercial and industrial area notable throughout the eastern half of the county. Staff recommended **approval** of Rezoning #15-02 to rezone the subject property from the A-1 Agricultural District to the I-1 Light Industrial District.

ACTION

A motion was made to **recommend approval** of Rezoning #15-02 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Rezoning #15-02 – Approval Recommended

ITEM 7. CONDITIONAL USE PERMIT #15-04 to transfer one building eligibility from SW1/4 NE1/4 to the proposed Tract 4 Hanson's Addition, NE1/4 NE1/4, Section 6-T102N-R50W.

Petitioner: Ronald Johnson

Property Owner: same

Location: Approximately 3 miles west of Crooks

Staff Report: David Heinold

This would allow the transfer of one building eligibility.

General Information:

Legal Description – W1/2 NE1/4, Section 6-T102N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 80 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to transfer one building eligibility from the SW1/4 NE1/4 in Section 6-T102N-R50W to the proposed Tract 4 Hanson's Addition, NE1/4 NE1/4 in Section 6-T102N-R50W. The building eligibility will be taken from productive agricultural land to along the road.

On January 13, 2015, staff inspected the location of the building eligibility transfer and there are no confined animal feeding operations near the location of the transfer. The proposed location of the transfer would be near two (2) existing residences. The remaining property surrounding the site is either farmland or pasture.

Conditional Use Permit Criteria:

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

A right-to-farm notice covenant should be required to notify potential buyers about 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 single-family dwelling with a new driveway off of 467th Ave., which requires permission from Benton Township.

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

The off-street parking requirements will be accounted for once a single-family dwelling 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 building eligibility transfer will not cause any odor, fumes, dust, noise, vibrations, or lighting in a way that would otherwise constitute a public nuisance.

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

The proposed building eligibility transfer will not negatively affect the health, safety, general welfare of the public, and conforms to the goals and policies of the 1998 Comprehensive Development Plan.

Recommendation:

Staff found that the transfer of building eligibility request is consistent with density zoning. Staff recommended **approval** of Conditional Use Permit #15-04 with the following conditions:

- 1.) That the lot shall be platted and a right-to-farm notice covenant shall be placed on the deeds prior to issuance of a building permit.
- 2.) That the construction of a single-family dwelling shall require permission from Benton Township for a new driveway approach.

ACTION

A motion was made to **approve** Conditional Use Permit #15-04 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #15-04 - Approved

ITEM 8. CONDITIONAL USE PERMIT #15-05 to exceed 1,200 square feet of total accessory building area – requesting 3,024 sq. ft. on the property legally described as Lot A (Ex. Lot H2) Rysavy’s Sub. Tract 4, N1/2, Section 21-T101N-R48W.

Petitioner: Todd Headrick

Property Owner: same

Location: 26537 481st Ave. Approximately 3 miles east of Sioux Falls

Staff Report: Scott Anderson

This would allow 3,024 square feet of total accessory building area.

General Information:

Legal Description – Lot A (Ex. Lot H2), Rysavy’s Subdivision Tract 4, Section 21, T101N, R48W.

Present Zoning – A-1 Agriculture

Existing Land Use – Single Family Residence

Parcel Size – 1.84 acres

Staff Report: Scott Anderson

Staff Analysis: This subject property is located in Section 21 of Split Rock Township. The petitioner has applied for a conditional use permit to exceed 1,200 square feet of accessory building area at 26537 481st Avenue. The property owner is requesting this conditional use permit for 3,024 square feet of accessory building area. The owner would like to construct a 36’ x 60’ accessory structure.

A conditional use permit application is required by Section 12.07 (D) of the Minnehaha County Zoning Ordinance which states: *In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.*

Larger accessory building areas can be found within the general vicinity and range in size from 240 sq. ft. to 4,725 square feet. (See attached accessory building area map)

The property owner shall meet all regulations regarding accessory buildings. These regulations are found in *Article 12.07 Accessory Buildings and Uses*. Minimum setbacks required for accessory buildings in the A-1 Zoning District that are located within 10 feet of the main building are front yard 30’, side yard 7’, and rear yard 30’. Accessory building that are not considered part of the main building shall be no closer than three feet to the side and rear property lines. There is a minimum setback of 50’ from any section line road or major arterial street.

Conditional Use Permit Criteria:

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

There are larger accessory building areas in the general vicinity of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure will not

impact the neighboring properties. The construction of this accessory building should not impede on the enjoyment or use of the surrounding properties or affect property values.

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

The construction of the proposed accessory building should have no impact on further construction or development within the general area. The building will only be used for the owner's personal storage, residential related items, and no commercial or business activities will be allowed. This use will not affect the residential uses or agricultural land in the area.

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

Access to the proposed accessory building will be through a driveway located on 481st Avenue. This driveway also provides access to the residential dwelling unit on the property.

No other infrastructure improvements are required at this time.

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

The property has sufficient parking for all residential activities.

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

There should be no uses in the building which should constitute these types of nuisances.

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

A larger accessory structure will not endanger the health, safety or general welfare of the public and should not impede the intent of the County's Comprehensive Plan.

Recommendation: Staff found that the proposed accessory building size conforms to the general sizes of other accessory building areas and recommended approval of Conditional Use Permit #15-05 with the following conditions:

- 1.) That the combined accessory building area of all accessory structures located on the property shall not exceed 3,024 square feet.
- 2.) That a building inspection is required to measure the outside dimensions of the building.
- 3.) That a building permit is required.
- 4.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 5.) That only personal 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 Planning & Zoning Department reserves the right to enter and inspect accessory buildings at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

ACTION

A motion was made to **approve** Conditional Use Permit #15-05 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #15-05 – Approved

ITEM 9. PRELIMINARY SUBDIVISION PLAN #15-01

Petitioner: Jim Cordell

Property Owner: Norbert Limmer

Location: Approximately 2.5 miles west of Crooks on 257th St.

Staff Report: Scott Anderson

The plan would allow the subdivision of approximately 159.848 acres into five (5) separate tracts.

General Information:

Legal Description – NE ¼, Section 7, T102N, R50 W of the 5th P.M., Minnehaha County, South Dakota

Present Zoning – A-1 Agriculture

Existing Land Use – Agriculture

Parcel Size – 159.848

Staff Report: Scott Anderson

Staff Analysis: The applicant has submitted a preliminary subdivision plan proposing the creation of five (5) tracts. The five tracts contain a total of approximately 160 acres and are located at the intersections of 257th Street and 467th Avenue. The proposed subdivision is located approximately 2.5 miles west of Crooks.

The Subdivision Ordinance states that when there is only a small number of lots being platted, the Planning Director may waive the need for a Preliminary Plan. In the past, the Planning Director has always indicated that typically subdivision plats containing four (4) or more lots would require a Preliminary Plan to be submitted and reviewed. Staff has reviewed Section 4.01 of the Minnehaha County's Subdivision Ordinance to determine that all requirements have been met. There are several items that must be addressed. The vicinity map shown on the Preliminary Plan is incorrect. It has labeled 466th and 467th as streets and they are avenues. No contours interval have been provided. A certificate of approval for endorsement by the Planning Commission has not been provided. There will be no drainage or grading occurring on the subject tracts, thus no grading and drainage plan or erosion control plan is required.

The property is being subdivided for estate purposes. The parcels will continue to be farmed. There are 4 available building eligibilities. The property owner will need to identify where the two eligibilities are to be assigned between Tracts 1, 2 and 3.

Recommendation: Staff recommended **approval** of Preliminary Plan #15-01 to allow five (5) tracts with the following conditions:

1. That prior to County Commission approval, the vicinity map must be corrected labeling 466th and 467th as avenues.
2. That prior to County Commission approval, a contour map shall be provided with vertical intervals not greater than five (5) feet shown.
3. That prior to County Commission approval, a certificate of approval for endorsement by the Planning Commission shall be provided on the Preliminary Plan.

ACTION

A motion was made to **recommend approval** of Preliminary Plan #15-01 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Preliminary Plan #15-01 – Approval Recommended

ITEM 10. CONDITIONAL USE PERMIT #15-06 to allow a Dog Hunting and Obedience Facility on the property legally described as Tract 1, H & G Addition, NE1/4 NE1/4, Section 23-T103N-R52W.

Petitioner: Jennifer Martinsen

Property Owner: Jenny & Tate Martinsen

Location: 25319 459th Ave. Approximately 5 miles northeast of Humboldt

Staff Report: Kevin Hoekman

This would allow a Dog Hunting and Obedience Facility.

General Information:

Legal Description – Tract 1, H & G Addition, NE1/4 NE1/4, Section 23-T103N-R52W

Present Zoning – A1 - Agricultural

Existing Land Use – Residential Dwelling

Parcel Size – 2.36 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 5 miles to the northeast of Humboldt. The subject property is an acreage located on a gravel township road with other acreages and farmsteads sporadically placed along the same mile of road. The closest residential property is located approximately 200 feet from property line to property line.

The petitioner would like to operate a kennel for training dogs for obedience and hunting. Customers would bring their dog(s) to this location to stay at the property until a 2 week to 3 month training course is completed. The subject property will mainly be used to board the dogs while the primary training will be done at designated facilities and locations off site. The fenced in area will be used for dogs two to four hours a day of supervised care as well as occasional obedience training. The proposed hours of operation for clients to pick up and drop off and for training of the dogs will be from 1:00 pm to 7:00 pm Monday through Friday and 8:00 am to 4:00 pm on Saturday.

The petitioner's narrative describes a fairly small business where approximately 10-15 clients bring their dogs over the span of a summer. The petitioner noted that only the two residents of the house would be employees of the business for now.

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.

With any land use that involves dogs, one of the biggest concerns of neighbors is noise from barking. The petitioner has indicated that they would use bark collars on problem dogs and keep

dogs kenneled inside overnight and when they are at their daytime jobs. Although it is difficult to impossible to prevent all barking, these actions would significantly reduce the noise that is generated by barking dogs. The petitioner also indicated that most of the training action would take place on other property than this subject property.

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

The presence of a dog training kennel and boarding will have little effect on the development of the surrounding area. Any residential development in the area will be limited by density zoning which will likely take place some distance from the subject property anyway. The added traffic that will be generated by this land use will be negligible.

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

No other extra utilities or services will be required for the proposed land use.

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

The expected number of clients for this service will not need abundant off-street parking. There are 5 off street parking places on the driveway and this will likely be enough to support the proposed business. No parking will be allowed on the 459th Street Right of Way.

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.

As noted earlier, provisions will be made to minimize noise caused by barking dogs. Limited hours of operations will also help reduce any other nuisances.

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

With proper supervision and care, it is the petitioner's responsibility to keep dogs safely contained or leashed as to not create a safety hazard. Otherwise this land use should not affect the health and welfare of the public.

Recommendation:

Staff found this dog training kennel is an adequate accessory use for this residential lot. Staff recommended **approval** of Conditional Use Permit #15-06 with the following conditions:

1. That the dog training kennel shall remain as an accessory use to the property as a residential dwelling. If the property ceases to be residential property then the dog kennel shall cease.
2. The number of client owned dogs on the site shall not exceed twelve (12) at one time.
3. Client owned dogs shall remain locked inside during the night and early morning hours of 9:00 pm to 8:00 am.

4. The on-site active training of client owned dogs shall be limited to the hours of 12:00 pm to 8:00 pm Monday through Friday and 8:00 am to 8:00 pm on Saturday.
5. Client owned dogs shall remain within the kennel, the enclosed fenced area, or leashed at all times with the exception of one dog at a time for training purposes outside of these parameters.
6. All waste shall be disposed in conformance with the Solid Waste Ordinance.
7. No parking shall be allowed on the public Right of Way at any time.
8. An on premise sign may be permitted for identification of the site. The sign must be no larger than 2 square feet in size.
9. That the Planning & Zoning Department reserves the right to enter and inspect the premises, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

ACTION

A motion was made to **approve** Conditional Use Permit #15-06 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #15-06 – Approved

ITEM 11. CONDITIONAL USE PERMIT #15-07 to transfer one building eligibility from the SE1/4 NW1/4 to the NW1/4 NW1/4, Section 22-T103N-R49W.

Petitioner: Jeffrey John & Scott Koopman

Property Owner: same

Location: 25322 475th Ave. Approximately 3.5 miles southeast of Baltic

Staff Report: Kevin Hoekman

This would allow the transfer of one building eligibility.

General Information:

Legal Description – NW1/4 (EX H-1) 22 103 49 SVERDRUP TOWNSHIP

Present Zoning – A1

Existing Land Use – Farmstead, Crop land, and Pasture

Parcel Size – 157.46 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 3.5 miles to the Southeast of Baltic along SD Highway 115. The subject property includes a farmstead with one existing house (this house has locked the building eligibility of the NW ¼ NW ¼) and the surrounding agricultural land. The parcel also has two other building eligibilities that are listed as available and one more that is available by conditional use because of its land locked location with no road access. The property owner also owns one additional eligibility on the property directly to the east.

The petitioner would like to transfer the building eligibility located in the SE1/4 of the NW1/4 to the NW1/4 of the NW1/4 in order to place a dwelling within the existing farmstead. This would be the second dwelling located within the farmstead. The petitioner noted that they intend to one day remove the existing dwelling in the farmstead and only have one dwelling located on this site, but this time when this would happen is unknown and may be several years from now. Locating this eligibility in the existing farmstead would allow for the existing farmland to remain as crop land. The transfer would also allow for the two houses to share the existing driveway and minimize the needed access onto the highway.

Conditional Use Permit Criteria:

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

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

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

The transfer of building eligibility does not increase the number of dwelling units allowed in this section. Transferring this building eligibility will group residential uses together and allow for shared access to the highway. These attributes make it so that the siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

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

No other extra utilities or services will be required for this site to utilize the building eligibilities. The transfer allows for the potential for sharing a driveway access.

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

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

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

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

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

The proposed conditional use will have little to no effect on the health, safety and general welfare of the public. Placing this building eligibility in this location allows for residential uses to be clustered together and prevents the conversion of productive agricultural land.

Recommendation:

Staff found this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommended **approval** of Conditional Use Permit #15-07 with the following conditions:

- 1) A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for a single family dwelling.

ACTION

A motion was made to **approve** Conditional Use Permit #15-07 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #15-07 – Approved

ITEM 12. CONDITIONAL USE PERMIT #15-08 to transfer three building eligibilities from the W1/2 NE1/4 (Ex. S155' E310' S1/2 NW1/4 NE1/4 and Ex. 310' N665' N1/2 SW1/4 NE1/4) to the SE1/4 NE1/4, Section 7-T104N-R49W.

Petitioner: Greg Hansen

Property Owner: same

Location: 24549 473rd Ave. Approximately 1 mile west of Dell Rapids

Staff Report: David Heinold

This would allow the transfer of three building eligibilities.

General Information:

Legal Description – W1/2 NE1/4 (Ex. S155' E310' S1/2 NW1/4 NE1/4 and Ex. 310' N665' N1/2 SW1/4 NE1/4)

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 74.16 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to transfer three building eligibilities from the W1/2 NE1/4 (Ex. S155' E310' S1/2 NW1/4 NE1/4 and Ex. 310' N665' N1/2 SW1/4 NE1/4) in Section 7-T104N-R49W to the SE1/4 NE1/4 in Section 7-T104N-R49W. The building eligibilities will be taken from productive agricultural land to a location closer to 473rd Ave. in the SE1/4 of the quarter section.

On January 13, 2015, staff inspected the site and there are no confined animal feeding operations near the location of the transfer. The proposed location of the transfer would be near one (1) residence and catty-corner from an existing rural residential, five-acre lot subdivision on the west edge of Dell Rapids. The remaining property surrounding the site is either farmland or pasture.

Conditional Use Permit Criteria:

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

A right-to-farm notice covenant should be required to notify potential buyers about 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 eligibilities 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 proposed transfer will result in the construction of three (3) residential homes along 473rd Ave. in the SE1/4 of the quarter section where utilities may be easily provided.

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

The off-street parking requirements will be accounted for once a single-family dwelling 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 building eligibility transfer will not cause any odor, fumes, dust, noise, vibrations, or lighting in a way that would otherwise constitute a public nuisance.

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

The proposed building eligibility transfer will not negatively affect the health, safety, general welfare of the public, and conforms to the goals and policies of the 1998 Comprehensive Development Plan.

Recommendation:

Staff found that the transfer of building eligibility request is consistent with density zoning. Staff recommended **approval** of Conditional Use Permit #15-08 with the following conditions:

- 1.) That each lot shall be platted and a right-to-farm notice covenant shall be placed on the deeds prior to issuance of a building permit.
- 2.) That the construction of a single-family dwelling shall require permission from Dell Rapids Township for each new driveway approach off of 473rd Ave.

ACTION

A motion was made to **approve** Conditional Use Permit #15-08 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #15-08 – Approved

ITEM 13. CONDITIONAL USE PERMIT #15-09 to allow a single family dwelling on Tract 1 Nelson's Addition, W1/2 NE1/4, Section 30-T103N-R47W.

Petitioner: Debra Nelson

Property Owner: same

Location: Approximately 0.5 mile southwest of Garretson

Staff Report: David Heinold

This would allow a single family dwelling on Tract 1 Nelson's Addition, W1/2 NE1/4, Section 30-T103N-R47W.

General Information:

Legal Description – Tract 1 Nelson's Addn., W1/2 NE1/4, Section 30-T103N-R47W

Present Zoning – A-1 Agricultural District

Existing Land Use – Vacant

Parcel Size – 4.23 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to allow the development of a residence on Tract 1 Nelson's Addition. The existing building eligibility on this parcel requires conditional use permit approval prior to the allowance of a building permit for a new single-family dwelling.

On January 13, 2015, staff inspected the site and determined that the allowance of a single-family dwelling at this property would not increase the number of dwelling units in the section. The proposed location of the dwelling would be near four (4) existing residences.

Conditional Use Permit Criteria:

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

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

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

The transfer of 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 single-family dwelling with a new driveway off of South Dakota Highway 11, which requires permission from the South Dakota Department of Transportation.

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 proposed building eligibility transfer will not negatively affect the health, safety, general welfare of the public, and conforms to the goals and policies of the 1998 Comprehensive Development Plan.

Recommendation:

Staff found that the transfer of building eligibility request is consistent with density zoning. Staff recommended **approval** of Conditional Use Permit #15-09 with the following conditions:

- 1.) That the lot shall be platted and a right-to-farm notice covenant shall be placed on the deeds prior to issuance of a building permit.
- 2.) That the construction of a single-family dwelling shall require permission from the South Dakota Department of Transportation for a new driveway approach.

ACTION

A motion was made to **approve** Conditional Use Permit #15-09 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #15-09 – Approved

Regular Agenda

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

ITEM 4. REZONING #15-01 to rezone from the A-1 Agricultural District to the C Commercial District in N150' of Tract 3A France's Tracts S1/2 SW1/4, Section 7-T102N-R49W.

Petitioner: Timothy R. Tiaht

Property Owner: same

Location: Northeast corner of the Crooks/Renner exit of Interstate 29

Staff Report: Kevin Hoekman

This would rezone property from the A-1 Agricultural District to the C Commercial District.

General Information:

Legal Description – Tract 3A France's Tracts S1/2 SW1/4, Section 7-T102N-R49W
Present Zoning – A1 – Agricultural on the north 150' and C – Commercial on the remaining portion.

Existing Land Use – the portion of the parcel that is zoned A1 – Agricultural the portion of the parcel zoned C – Commercial is uses for storage units

Parcel Size – 9.03 (Rezoning approx. the north 2.25 acres)

Staff Report: Kevin Hoekman

Staff Analysis: In 2012 the majority of this parcel was rezoned from A1 – Agricultural to C – Commercial but the north 150 feet of the property remained Agricultural. This rezoning request is to rezone the remaining portion of the described parcel that is currently zoned A1 – Agricultural to C – Commercial. This remaining 150' was set aside in order to preserve a residential building eligibility on the lot. This rezoning will remove the ability to place a residential dwelling on the property.

The property is located on the northeast corner of the Crooks exit of I-29. The other four corners of this exit have extensive commercial and industrial development. The properties surrounding this parcel are zoned agricultural; however residential dwellings are located directly to the north and east of the site. The property to the east is buffered well from the development because of a tree belt located adjacent to the Tiaht property, while the property to the north has little in the way of screening or buffering form the development. Nearby property owners did raise some opposition to the rezoning of the southern portion of the parcel in 2012. These concerns will have to be addressed when the future land use is decided and a Conditional Use Permit Application is filed.

The current land use of the C – Commercial zoned portion of the property is mini-storage rental units. The applicant indicated that he intends on expanding this use into the proposed rezoning area. A new/amended conditional use permit would be required before the mini-storage units would be allowed to expand beyond the current CUP and into the north 150' of the parcel.

The Minnehaha County Comprehensive Plan encourages commercial uses at interstate highway interchanges and high traffic intersections. Such uses should be developed in a nodal pattern. The subject property meets this criterion and is a minor extension of an existing Commercial District.

Recommendation: Staff recommended **approval** of Rezoning #15-01 to rezone the subject property from A1 Agricultural District to C Commercial District.

PUBLIC TESTIMONY

Kevin Hoekman of the Planning Staff provided a brief summary of the rezoning request.

Tim Tiahart, the petitioner, stated his intent with the current facility and why he wants to rezone the property. He would like to expand his storage units to the north, and the expansion would extend into the north 150 feet of the property that he would like to be rezoned.

Bruce Mack, the neighbor to the east of the rezoning site, noted some concerns about the property. His main concern was the added water runoff of the site because of the rooftops and driveways. The water drains onto his land in one location out of the BMP retention pond, and this water soaks his ground.

Tim Tiahart responded that he has discussed this water issue with Bruce and they would agree to hook up the retention pond outlet into Bruce's expected tile project so that the water will drain through the tile.

Commissioner Barth noted that he is glad that the neighbors have discussed the issue and that he has the good faith and hope that they will work the issue out.

ACTION

A motion was made to **recommend approval** of Rezoning #15-01 by Commissioner Barth and seconded by Commissioner Even. The motion passed unanimously.

Rezoning #15-01 – Approval Recommended

ITEM 6. CONDITIONAL USE PERMIT #15-03 to allow a single family dwelling on the NE1/4 NE1/4 (Ex. H-1 & Co. Aud. Lots H-2,H-3, & Ex. Tr. 1 Gunderson Farms), Section 27-T103N-R50W.

Petitioner: Scott Swanson (Gunderson Farms, Inc.)

Property Owner: Albert Gunderson, etal

Location: Approximately 2.5 miles north of Crooks

Staff Report: Kevin Hoekman

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

General Information:

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

Present Zoning – A1 Agricultural

Existing Land Use – Pasture and crop land

Parcel Size – 152.74 acres

Staff Report: Kevin Hoekman

Staff Analysis:

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

Conditional Use Permit Criteria:

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

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

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

The transfer of building eligibility does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it near other residentially used property

and further from existing CAFOs to the south and southwest of the site. Access would have to be approved by the County Highway Department. The siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

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

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

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

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

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

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

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

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

Recommendation:

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

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

PUBLIC TESTIMONY

Kevin Hoekman of the Planning staff presented that the petitioner requested to defer the item and that staff agreed with his decision.

ACTION

A motion was made to **defer** Conditional Use Permit #15-03 to the February 23, 2015 meeting by Commissioner Barth and seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #15-03 – Deferred to the February 23, 2015 Meeting

Old Business

Staff reiterated the vacancy on the Planning Commission and encouraged every to search for interested person to apply.

New Business

Staff announced the Envision 2035 Task Force Meeting that is scheduled for Thursday January 29th at 3:30 pm

Election of Officers:

Commissioner Even motioned to elect Wayne Steinhauer as Chair. The motion was seconded by Commissioner Barth. The motion passed unanimously

Commissioner Randall motioned to elect Mike Cypher as Vice-Chair. The motion was seconded by Commissioner Duffy. The motion passed unanimously

County Commission Items

None

Adjourn

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