

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
April 24, 2017

A meeting of the Planning Commission was held on April 24, 2017 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Paul Kostboth, Bonnie Duffy, Doug Ode, Mike Ralston, and Jeff Barth.

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning
Judy Zeigler Werhkamp

Mike Cypher chaired the meeting. Planning Commission Chair Mike Cypher called the Minnehaha County Planning Commission meeting to order at 7:51 p.m.

CONSENT AGENDA

Commissioner Cypher read each item on the agenda individually.

A motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** the consent agenda consisting of Items 1, 2, 3, 4, 5, 6, 7, 8, and 9. The motion passed unanimously.

ITEM 1. Approval of Minutes – March 27, 2017

As part of the consent agenda, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** the meeting minutes from March 27, 2017. The motion passed unanimously.

Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #17-15 to exceed 1,200 square feet of total accessory building area – requesting 2,500 sq. ft. on the property legally described as Tract 4A and 4B Meyer’s Addn., NW1/4, Section 15-T103N-R52W.

Petitioner: Jamie Bowen

Property Owner: same

Location: 45705 252nd St. Approximately 6 miles north of Humboldt

Staff Report: David Heinold

This would allow 2,500 square feet of total accessory building area.

General Information:

Legal Description – Tract 4A and 4B Meyer’s Addn., NW1/4, Section 15-T103N-R52W.

Present Zoning – A-1 Agricultural District

Existing Land Use – vacant

Parcel Size – 3.5 Acres

Staff Report: David Heinold

Staff Analysis:

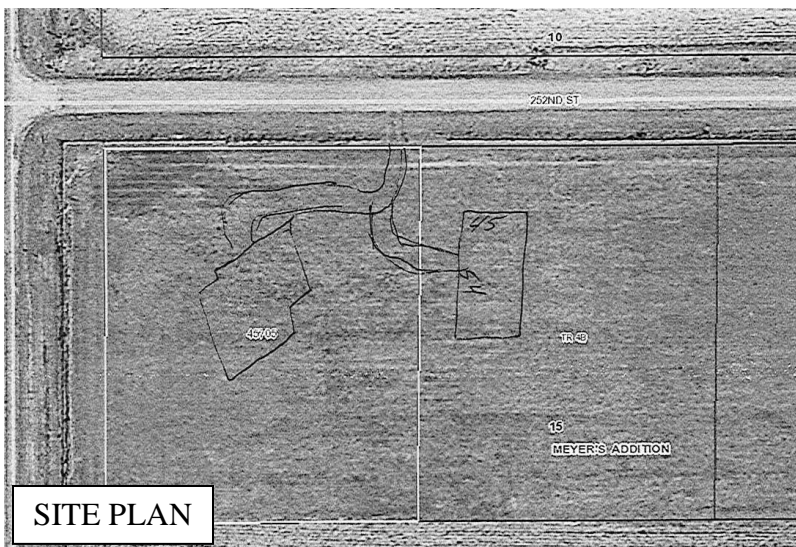
The petitioner is requesting conditional use permit approval to allow 2,500 square feet of total accessory building area. The site plan shows a proposed 45’x54’ accessory building for personal storage on the lot described as Tract 4B and the existing house is located on Tract 4A. The proposed accessory building will utilize a shared driveway off of 252nd Street with the house.

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, 45773 252nd St., located approximately one-half mile to the east of the subject property has 3,040 sq. ft. of total accessory building area on 10.01 acres. The property owner, 45721 252nd St., immediately to the east of the subject property has 576 sq. ft. on 3.5 acres.

On April 12, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed building in the southeast corner of the lot. The proposed building will be located on a 3.5 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 is one other property within a half-mile of the subject property that has a building size larger 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. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a few residential acreages in the immediate vicinity.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 2,500 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 a shared access from 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.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-15 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,500 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

Action

As part of the consent agenda, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** Conditional Use Permit #17-15. The motion passed unanimously.

Conditional Use Permit #17-15 – Approved

ITEM 3. CONDITIONAL USE PERMIT #17-16 to allow two (2) single family dwellings on the property legally described as NE ¼ SW ¼ & W ½ SW ¼ (Ex. 3.05 A & Ex Pt N 396' Gov't Lot 2 E of H-1) & Ex. S 729.84' Ex 191' Thereof) & (Ex. N 330' S 1061.5') 30-103-49.

Petitioner: Peggy Keller

Property Owner: same

Location: Approximately 2.5 miles northeast of Crooks

Staff Report: Kevin Hoekman

This would allow two (2) single family dwellings.

General Information:

Legal Description – NE ¼ SW ¼ & W ½ SW ¼ (Ex. 3.05 A & Ex Pt N 396' Gov't Lot 2 E of H-1) & Ex. S 729.84' Ex 191' Thereof) & (Ex. N 330' S 1061.5') 30-103-49.

Present Zoning – A1 - Agriculture

Existing Land Use – Cropland

Parcel Size – 75.73 acres (on two parcels)

Staff Report: Kevin Hoekman

Staff Analysis:

The properties are located approximately 2.5 miles northeast of the City of Crooks. The properties have access to County highway 133 near what was formerly the town of Morefield. Each parcel has one building eligibility that is labeled as required to have a conditional use permit to make the building eligibility available. This request is to make both building eligibilities available for a single family building site. Each building eligibility will remain on the designated parcel.

The petitioner explained at the time of application the intent of making the building eligibilities available. The building eligibility on the NE ¼ SW ¼ parcel is intended to be used this summer, while the other building eligibility will be available for future use. The petitioner plans on platting parcel with a long driveway to reach the interior quarter quarter section. The placement and use of this building eligibility will take up some active farmland, but the use of this land for a dwelling unit is consistent with density zoning.

Conditional Use Permit Criteria:

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

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area. Several single family dwellings already line the road near the location of these eligibilities. Another residential parcel will not significantly change the uses 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 proposed location of the building eligibilities are on parcels with access to a County Highway. Many building eligibilities remain in the area that have the potential to be developed. The development of these eligibilities will not change the potential residential development. Even with the cluster of single family dwellings, it is likely that the surrounding area will continue to remain agriculturally based. A large stable is located about ½ mile to the east of the site and a class C dairy CAFO is located approximately 1 mile northeast of the site as well. The current or future landowners of this parcel may contest the expansion of these rural uses. The current and future landowners should be aware of this possibility because of the Right to Farm Notice Covenant that is required for all new residential dwelling building permits.

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

The petitioner will be required to obtain any necessary utilities. The petitioner will be required to obtain a driveway permit from the County Highway Department in order to obtain an entrance for a driveway. If possible a shared driveway is preferable as many accesses already exist on this section of the highway, and minimizing access points will minimize potential conflicts with drivers.

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

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

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

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

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

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

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #17-16 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.) A driveway permit must be obtained for the driveway from the Highway Department prior to the building permit.

Action

As part of the consent agenda, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** Conditional Use Permit #17-16. The motion passed unanimously.

Conditional Use Permit #17-15 – Approved

ITEM 4. CONDITIONAL USE PERMIT #17-17 to exceed 1,200 square feet of total accessory building area – requesting 2,200 sq. ft. on the property legally described as Tract 1 Knochenmus Addn., SW1/4, SW1/4, Section 5-T101N-R48W.

Petitioner: Corey Herding

Property Owner: same

Location: 7710 E. Maple St. Approximately 1.5 miles west of Brandon

Staff Report: David Heinold

This would allow 2,200 square feet of total accessory building area.

General Information:

Legal Description – Tract 1 Knochenmus Addn., SW1/4, SW1/4,
Section 5-T101N R48W.

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 9.09 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow 2,200 square feet of total accessory building area. The site plan shows a proposed 30'x60' accessory building for personal storage of motor vehicles and equipment located just southeast of the existing house. The proposed accessory building will utilize an extension off of the existing driveway.

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, 2901 N. Six Mile Rd., located approximately one-half mile to the north of the subject property has 3,888 sq. ft. of total accessory building area on 3.22 acres. The property owner, 7400 E. Maple St., immediately to the west of



the subject property has 1,584 sq. ft. on 9.62 acres. There are a few properties located in the Indian Hills Estates Subdivision that have accessory building sizes ranging from 1,728 sq. ft. to 3,300 sq. ft. on similar sized parcels.

On April 12, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed building in the southeast corner of the lot. The proposed building will be located on a 9.09 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 several other properties within a half-mile of the subject property that have a building size larger 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. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a few residential acreages in the immediate vicinity.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 2,200 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 transition area for

the City of Brandon identified in the Envision 2035 Comprehensive Plan, which have the primary purpose of maintaining the rural landscape until the eventual development of residential and/or municipal development.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-17 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,200 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

Action

As part of the consent agenda, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** Conditional Use Permit #17-17. The motion passed unanimously.

Conditional Use Permit #17-17 – Approved

ITEM 5. CONDITIONAL USE PERMIT #17-20 to allow a Bed and Breakfast Establishment on the property legally described as W1/2, SW1/4, Section 11-T102N-R52W.

Petitioner: Mike & Jana Miles

Property Owner: same

Location: 45816 Hwy 38

Approximately 0.5 miles east of Humboldt

Staff Report: Kevin Hoekman

This would allow a Bed and Breakfast Establishment.

General Information:

Legal Description – W 1/2, SW 1/4 (Ex Lots H-1, H-02 & RR Right of Way in 11-102-52

Present Zoning – A1-Agriculture

Existing Land Use – Farmstead & Pasture

Parcel Size – 78.1 acres,

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioners, Mike & Jana Miles, are requesting conditional use permit approval for a bed and breakfast establishment for one day, weekend, and week-long stays. The petitioner recently began a similar establishment through the conditional use permit process last year, and they decided to use this former farmstead for a bed and breakfast.

The subject property is located on South Dakota Highway 38 approximately one mile east of Humboldt. Several outbuildings are located on the site in addition to the house. The farmstead is surrounded by pasture land and a large open water wetland is located a short distance to the northeast. The nearest dwelling is approximately 900 feet to the south of the site.

When staff visited the site it was noticed that the property is still actively being used for agricultural uses. It is unknown if the agricultural uses will continue while the bed and breakfast is operating. The dwelling appeared to be under some renovation as a building permit sign was in the window and some bathroom fixtures were on the deck.

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 with a few residential acreages within the vicinity. The site has access from SD Hwy 38 and is setback approximately 900 feet away from the nearest dwelling. The highway and setback should mitigate potential increase in traffic and complaints from “noisy neighbors.” There is already an existing farmstead home and shed on the lot; therefore, there is no plan or need for additional buildings on the subject property. As a result of the proposed land use approval for a bed and breakfast rental establishment, no significant changes to property values or hindrance to the use and enjoyment of properties within the immediate

vicinity should be expected.

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

Given that a majority of the surrounding vacant property in the area is primarily agriculture, the use of the subject property for a bed and breakfast establishment would likely not cause a significant impact to the normal and orderly development.

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

All needed infrastructure is in place and the proposed bed and breakfast will utilize the existing driveway.

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

No off-street parking will be needed as a result of the residential nature of the proposed use of the subject property. The site has enough parking area to accommodate the number of guests the existing house is designed to serve.

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.

Although this type of use is somewhat uncommon in rural areas, any nuisances should not likely be anticipated due to the residential nature of the bed and breakfast establishment. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

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

The proposed use will be located in an area about a half mile east of the transition area of Humboldt identified in the Envision 2035 Comprehensive Plan. The primary goal of this area is to focus new growth and development within municipalities and areas adjacent to existing municipalities where infrastructure will be available. The proposed use of the existing residential dwelling for a bed and breakfast rental establishment is compatible with surrounding land uses and should not negatively affect the health, safety, and general welfare of the public.

The petitioner did not consider potential signage for the site. Proper signage may be in the best interest of the county to allow customers to efficiently locate the property along a fast moving highway. Agricultural producers can locate a 16 square foot sign to communicate hybrid seed. Planning staff feels that 16 square feet would allow for effective communication while maintaining similar sized signage as allowed elsewhere.

Recommendation:

Staff finds that the proposed bed and breakfast establishment is an appropriate land use for the surrounding area consistent with the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #17-20 with the following conditions:

- 1.) That CUP #17-20 shall allow a bed and breakfast establishment.
- 2.) That the property shall adhere to the submitted site plan dated.

- 3.) That a sign may be posted on the property, with a building permit, not to exceed 16 square feet.
- 4.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 5.) The house must have functioning smoke and carbon monoxide detectors as required by the 2015 IRC as adopted by Minnehaha County.
- 6.) The proprietor must obtain any applicable South Dakota Sales Tax that is required.
- 7.) The proprietor must obtain the required lodging license with the South Dakota Department of Health.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the bed and breakfast establishment 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 Ordinances.

Action

As part of the consent agenda, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** Conditional Use Permit #17-20. The motion passed unanimously.

Conditional Use Permit #17-20 – Approved

ITEM 6. CONDITIONAL USE PERMIT #17-21 to exceed 1,200 square feet of total accessory building area – requesting 2,688 sq. ft. on the property legally described as Tract 2 Meadow View Estates Addition, SE1/4, SE1/4, Section 23-T103N-R51W.

Petitioner: Steven Roth & Misti Truman

Property Owner: same

Location: 25397 465th Ave. Approximately 5 miles north of Hartford

Staff Report: David Heinold

This would allow 2,688 square feet of total accessory building area.

General Information:

Legal Description – Tract 2 Meadow View Estates Addition, SE1/4, SE1/4,
Section 23-T103N-R51W.

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 5 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow 2,688 square feet of total accessory building area. The site plan shows a proposed 42'x64' accessory building for personal storage and shop area located just west of the existing house. The proposed accessory building will utilize an extension off of the existing driveway.

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 is one building in the surrounding area that exceeds the 1,200 sq. ft. requirement. The property owner, 46484 254th St., located immediately to the west of the subject property has 3,200 sq. ft. of total accessory building area on 5 acres.

On April 12, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed building on the west portion of the lot. The proposed building will be located on a 5 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 is one other property within a half-mile of the subject property that has a building size larger 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. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a few residential acreages in the immediate vicinity.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 2,688 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.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-21 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,688 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

Action

As part of the consent agenda, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** Conditional Use Permit #17-21. The motion passed unanimously.

Conditional Use Permit #17-21 – Approved

ITEM 7. CONDITIONAL USE PERMIT #17-22 to exceed 1,200 square feet of total accessory building area – requesting 2,700 sq. ft. on the property legally described as Tract 9, Hokenstad’s Addn., SW1/4, SE1/4, Section 1-T102N-R48W.

Petitioner: Chris Stewart

Property Owner: same

Location: 48352 257th St. Approximately 3 miles southwest of Garretson

Staff Report: David Heinold

This would allow 2,700 square feet of total accessory building area.

General Information:

Legal Description – Tract 9, Hokenstad’s Addn., SW1/4, SE1/4,
Section 1-T102N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 3.51 Acres

Staff Report: David Heinold

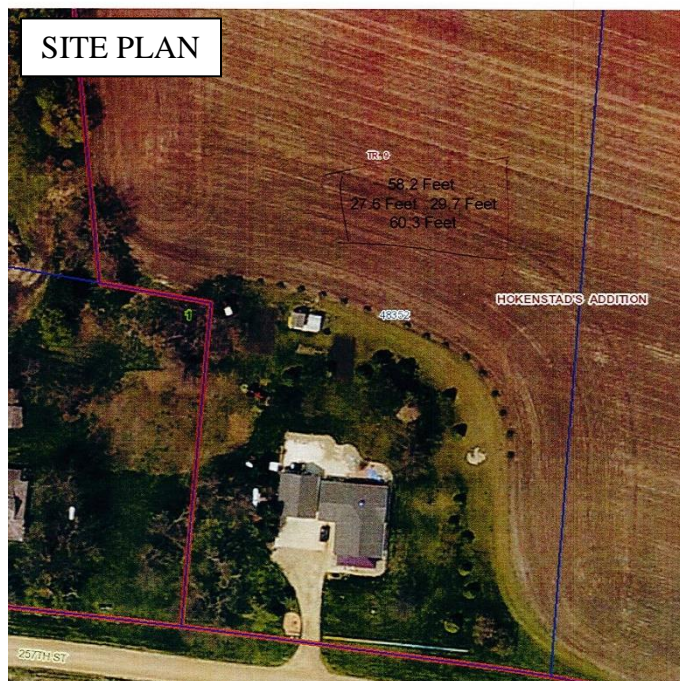
Staff Analysis:

The petitioner is requesting conditional use permit approval to allow 2,700 square feet of total accessory building area. The site plan shows a proposed 30’x60’ accessory building for personal storage located just north of the existing house. The proposed accessory building will utilize an extension off of the existing driveway.

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 exceeds the 1,200 sq. ft. requirement. The property owner, 48397 257th St., located one-half mile to the east of the subject property has 3,220 sq. ft. of total accessory building area on 7.80 acres. There are a few other properties located within one-half mile to the west that have accessory building sizes ranging from 1,350 sq. ft. to 7,336 sq. ft. on similar-sized parcels.

On April 12, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed building on the north portion of the lot. The proposed building will be located on a 3.51 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 several other properties within a half-mile of the subject property that has a building size larger 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. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a few residential acreages in the immediate vicinity.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 2,700 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.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-22 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,700 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

Action

As part of the consent agenda, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** Conditional Use Permit #17-22. The motion passed unanimously.

Conditional Use Permit #17-22 – Approved

ITEM 8. CONDITIONAL USE PERMIT #17-23 to exceed 1,200 square feet of total accessory building area – requesting 2,400 sq. ft. on the property legally described as NE1/4 SW1/4 30-103-49

Petitioner: Peggy Keller

Property Owner: same

Location: Approximately 2.5 miles northeast of Crooks

Staff Report: Kevin Hoekman

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

General Information:

Legal Description – NE ¼ SW ¼ 30-103-49

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 40 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 2.5 miles northeast of the City of Crooks. The petitioner plans on platting a site in the described forty acre section and building a single family dwelling with a detached accessory building. Since the petitioner intends to plat the property and have the dwelling and accessory building at the same time, this permit request is being made for the not yet determined parcel of property. Once platted, the property will be within a subdivision of more than four platted lots. The site is located within an area of more than 4 platted lots. In subdivisions or residential developments which exceed four lots in number, accessory building area is limited to 1,200 square feet, unless approval for a larger size is obtained through the conditional use permit process.

The petitioner would like to construct a 40 foot by 60 foot accessory building. This proposed 2,400 square foot building would be built after a permit is issued for a single family dwelling for the property. As the proposed lot will be within a subdivision, area buildings have been reviewed to understand the sizes of similar properties in the area. Attached with this staff report is a map of area buildings on non-farm properties. Several large non-farm accessory buildings exist in the area that are the same or larger than the square foot area requested in this application.

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. Several large accessory buildings already exist in the area. The accessory building will have no effect on the agricultural use nearby. The accessory structure shall not be used for a commercial operation at any time.

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

vacant property for uses predominant in the area.

The accessory structure may only be used for residential purposes, no commercial or business activities are allowed. The surrounding agricultural land will likely remain for agricultural uses. Several building eligibilities exist nearby and outside of the subdivision. These building eligibilities may also be used for residential dwellings in the future. The proposed accessory building is on a parcel that is set back far from the road and neighboring dwellings. It is unlikely that it will have any effect on the future development of agricultural or residential development in the area.

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.

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. Other large accessory building totals are located on farm and non-farm properties in the near area.

Recommendation:

Staff finds that the proposed accessory building is reasonable to the size of the existing structures, the size of the property, and the location on the property. Staff recommends **approval** of Conditional Use Permit #17-23 with the following conditions:

- 1.) The total accessory building square footage shall not exceed 2,400 square feet.
- 2.) A building permit is required prior to construction of the accessory building.
- 3.) That an inspection be made on the proposed addition to an accessory building to ensure that the total floor area of the addition does not exceed 2,000 square feet.
- 4.) That a building permit must be issued for a single family dwelling prior to the issuance of a building permit for the accessory building.
- 5.) That only personal residential storage shall be allowed in the building, and no commercial uses or commercial storage will be allowed at any time.
- 6.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7.) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the

property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** Conditional Use Permit #17-23. The motion passed unanimously.

Conditional Use Permit #17-23 – Approved

ITEM 9. CONDITIONAL USE PERMIT #17-24 to allow temporary retail sales of fireworks on the property legally described as E850.95' of the Abandoned RY ROW & S1147.92' in the NE1/4 Lying North of Highway 38 (Ex. H-6), Section 28-T101N-R48W.

Petitioner: Andy Jorgensen

Property Owner: Samuel R. Assam

Location: NW Corner Lot of SD State Highway 42 and 481st Avenue

Approximately 1 mile west of Sioux Falls

Staff Report: Kevin Hoekman

This would allow temporary retail sales of fireworks.

General Information:

Legal Description – E850.95' of the Abandoned RY ROW & S1147.92' in the NE1/4 Lying North of Highway 38 (Ex. H-6), Section 28-T101N-R48W.

Present Zoning – A1 Agriculture

Existing Land Use – Vacant land/pasture

Parcel Size – 5.57 acres

Staff Report:

Staff Analysis:

The subject site is located at the northwest corner of the intersection of South Dakota Highway 42 and South Dakota Highway 11 near the Iverson Crossing subdivision. The parcel is a vacant lot that includes a portion of the vacated railroad right-of-way. The lot has two existing accesses onto SD Hwy 42 and on access onto SD Hwy 11. The petitioner plans on placing a tent on the property to house the temporary fireworks sales. Temporary (9 day) fireworks sales are allowed in the A-1 Agricultural zoning district with a conditional use permit. The approval of this permit would allow the petitioner to have a fireworks stand in subsequent years, as long as the conditions of the permit are met and the use does not stop for more than one year.

The site is currently undeveloped cropland. The petitioner has submitted a simple site plan that shows the location of a 20 foot by 30 foot sales tent, parking area, and a portable sign. A portable toilet is included in the site plan as well. The site will share a driveway with the neighboring farmstead.

Staff recognizes that many fireworks stands create common issues that should be considered when placing conditions on this proposed use. Signage and attention grabbing devices are necessary to direct people safely to a business location. Too much signage or attention grabbing devices, like flags and pennants, may create visual clutter and distract drivers. Total signage for the temporary fireworks stand should be limited to a total of 64 square feet. Pennants and stringers may be used only for the 9 day period of operating days for fireworks sales. Flags should have a limited total quantity regardless of each flag's content. The land use will likely include hours of operation into the night. The nighttime use of the property may lead to lights and traffic that can disturb neighbors. Any temporary lighting should be designed to prevent light from spilling onto neighboring property.

Conditional Use Permit Criteria:

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

The proposed use will create a busy retail business for a limited time period. The parcel is located adjacent to the residential development known as Iverson crossing. Lights and commotion may lead to nuisance complaints from those who live in the dwellings. Several rows of trees are located on a berm on the residential properties that will provide some visual barrier from the temporary use. A veterinarian clinic is located across the road that houses primarily horses on the property. The igniting of fireworks should be prohibited to avoid nuisance to neighbors and to avoid freighting the animals. Much of the operations surrounding the fireworks stand will take place around the week before Independence Day. The limited duration of the use may lead to fewer complaints with the understanding of the temporary nature of fireworks sales.

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

The proposed fireworks sales is located on at the intersection of two busy highways. The site is also located within the Red Rock Corridor. In the Red Rock Corridor Plan, the parcel is located within an area considered appropriate for commercial use. The boundary for joint jurisdiction for the City of Sioux Falls is proposed to extend to SD Hwy 11 and include this parcel.

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

The site plan shows access to the site from both highways. The petitioner will be required to obtain any necessary utilities for the use. The temporary sales will not significantly affect the drainage of the site.

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

The submitted site plan indicates room for 30 spaces. It is likely the site could hold more vehicles than that if needed. The petitioner indicated a loading and unloading storage area next to the tent.

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 fireworks sales will create a busy temporary retail site. Fireworks should not be allowed to be discharged on the site, because the discharge of fireworks may create nuisance noise and hazards for the neighboring properties. If artificial light is brought to the site for night time sales, then the lighting should be directed away from residential uses.

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

The site is located near busy paved intersection. If applicable state laws are followed, the proposed fireworks sales should not create concerns for the health, safety, or general welfare of the public. The Red Rock Corridor Plan indicates this parcels is located within a future commercial zoning area. As an area conducive for commercial uses, temporary fireworks sales should fit with the intent of the plan.

Recommendation:

Minnehaha County planning staff finds that the proposed use is generally compatible with the site and surrounding land uses. Staff recommends **approval** of Conditional Use Permit #17-24 with the following conditions:

- 1.) The property shall adhere to the submitted site plan.
- 2.) No outside storage shall be allowed at any time.
- 3.) The retail sales of fireworks must abide by all applicable SD laws and regulations.
- 4.) The retail sales of fireworks may only be marketable for nine (9) days per calendar year.
- 5.) All outdoor lights in use for the building or to illuminate the parking area shall be directed away from the single family dwellings on the north side of the property.
- 6.) Temporary signs for the business are allowed to be placed no earlier than June 13th and must be taken down by July 10th. One temporary freestanding sign is allowed for each street frontage not to exceed 64 square feet and shall be placed on the subject property.
- 7.) Any flags, pennants, and similar attention grabbing devices shall not be located in the right-of-way, shall not block the view of traffic entering or exiting the property, and shall only be placed during the regular nine (9) day selling period of June 27th through July 5th.
- 8.) No parking or stacking of vehicles shall be allowed in the right-of-way at any time.
- 9.) The hours of operation for the public must not exceed 8:00 am to 12:00 am (midnight). Set up and tear down activities outside of the nine day sales period must take place between 8:00 am and 8:00 pm.
- 10.) No fireworks shall be stored on the site before June 10th or after July 31st.
- 11.) That the Planning & Zoning Department reserves the right to enter and inspect the fireworks stand 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, a motion was made by Commissioner Kostboth and seconded by Commissioner Barth to **approve** Conditional Use Permit #17-24. The motion passed unanimously.

Conditional Use Permit #17-24 – Approved

Regular Agenda

ITEM 10. CONDITIONAL USE PERMIT #17-18 to exceed 1,200 square feet of total accessory building area – requesting 13,440 sq. ft. on the property legally described as Jerda’s Tract 1, Peterson’s Subd. and Oline’s Tract 1, Peterson’s Subd.; all in Section 34-T103N-R49W.

Petitioner: Tim and Maren (Skroch) McCleish

Property Owner: same

Location: 25543 475th Ave. Approximately 4.5 miles north of Sioux Falls

Staff Report: Kevin Hoekman

This would allow 12,240 square feet of total accessory building area.

General Information:

Legal Description – Jerda’s Tract 1, Peterson’s Subd. and Oline’s Tract 1, Peterson’s Subd.; all in Section 34-T103N-R49W.

Present Zoning – A1 Agriculture

Existing Land Use – Residential acreage

Parcel Size – 3.75 acres (2 parcels)

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 4½ miles North of Sioux Falls on South Dakota Highway 115. The area subject parcel is located near the Peterson Subdivision that is 1.5 miles south of Midway Station. The site is located within an area of more than 4 platted lots. In subdivisions or residential developments which exceed four lots in number, accessory building area is limited to 1,200 square feet, unless approval for a larger size is obtained through the conditional use permit process.

The total size of the requested structures is 13,440 square feet of accessory building space. The petitioner would like to construct a 60 foot by 184 foot accessory building which is 11,040 square feet in area. The current property has a structure that is 2,000 square feet in area that is included in the total requested area.

The property has received two conditional use permits in the past. In 2005 the 2,400 square foot accessory building was approved. In 2014, a major home occupation was approved to allow a truck body restoration business to work within the existing accessory building. Staff is unsure if this home occupation is still active, but one condition of the permit is that the home occupation shall take place in a maximum of 2,000 square feet of the building. If approved, the new building will not be allowed to be used for the permitted home occupation.

Planning staff has several concerns with the proposed accessory building. The Planning Commission should consider conditions to address these concerns if the permit is to be approved. The proposed structure is very large. The 11,040 square foot building would require a conditional use permit even if it was located in a commercial zoning district. As denoted on the

existing building square feet map, many buildings in the area are larger than 1,200 square feet; however. One parcel even has accessory buildings totaling approximately 20,600 square feet; however this property was, and is, an active farm. One residential used property in the vicinity has the largest accessory building total area of 4,560 square feet. The requested 13,440 square feet of accessory building space is nearly three times the size of the largest square foot area for an accessory building on a residential property.

The Chief Building Inspector for Minnehaha County has been requiring engineer stamped drawings for structures that span a distance of greater than 50 feet. The proposed structure is 60 feet wide, and it should be engineered to show that it meets the requirements of the building ordinances for Minnehaha County if the building is approved.

The subject property of this request is currently two separate parcels. The zoning ordinance does not allow an accessory structure on a parcel without a primary parcel such as the proposed accessory building is proposed. This type of situation occasionally occurs and can be corrected (if the CUP is approved) with a condition to require that the two parcels must be combined into one parcel before a building permit is issued.

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 accessory building will be the largest residential used structure in the area. The size of the structure raises concern for the intended use. Accessory structures are not allowed to be used for commercial uses except when Home Occupation requirements are met and approved. The petitioner has a Home Occupation within the existing structure; this home occupation will not be allowed to expand into the existing structure. The proposed accessory structure shall not be used as a commercial operation at any time if the permit is approved. The requirement for personal storage only will continue with the structure for future land owners. The size of the structure may dominate the views of neighboring dwellings to the west.

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

The proposed accessory building will be the largest residential used structure in the area. If the structure is approved, the new structure may create a precedent for future accessory buildings in the neighborhood. The area is well developed with residential acreages. The site of the proposed accessory building has a building eligibility that may become available through a conditional use permit. Several building eligibilities are available north of the property. The surrounding agricultural land will likely remain as agricultural uses. Even if the current property owner intend on using the proposed structure for residential uses, it may be difficult to prevent the use of such a large structure for commercial uses in future.

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.

As with any conditional use, 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 is of the size of structure more typically found in commercial or industrial locations. The property is a small acreage in a subdivision of dozens of other residential acreages. A residential use at this scale may appear to be commercial in nature. The building may also lead as a precedent for future large buildings in the neighborhood.

Recommendation:

Staff finds that the proposed accessory building exceeds the typical size of accessory building in the area. Staff recommends **Denial** of Conditional Use Permit #17-18.

PUBLIC TESTIMONY

Kevin Hoekman, County Planning Staff, presented the staff report and recommendation.

Tim McCleish spoke as the petitioner. He first asked what would be an appropriate sized building for the property. Planning staff responded that typically the Planning Commission would approve the square footage that is equal to the largest building in the area, and that would be 4,560 square feet of total accessory building area.

Commissioner Barth asked if the petitioner was going to run a business out of the building. The petitioner noted that the last CUP for a business was never started. He added that he would use the building mostly for storage and hopes to one day use it as a riding arena.

Commissioner Cypher asked how long is a CUP available. Staff responded that a CUP is good for one year after approval and based on the petitioner's comments the last CUP would be expired.

DISCUSSION

Commissioner Barth made a motion to deny CUP #17-18. Commissioner Duffy seconded the motion.

Planning staff pointed out that a denial action would require the petitioner to apply for a new CUP and pay all the required fees. Staff recommended a deferral of the action instead.

Commissioner Barth withdrew his motion to deny CUP #17-18.

ACTION

Commissioner Barth made a motion to **defer** Conditional Use Permit #17-18 to the May 22, 2017 Planning Commission Meeting. The motion was seconded by Commissioner Ralston. The motion passed unanimously.

Conditional Use Permit #17-18 – Deferred to May 22, 2017

ITEM 11. REZONING #17-01 to rezone from the A-1 Agricultural District to the PD Eagle Ridge Planned Development District on the property legally described as N1/2 NW1/4 (Ex. Lot R-1 and Lot H-1), Section 34-T101N-R51W.

Petitioner: Eric Willadsen (Willadsen Lund Engineering)

Property Owner: Douglas Bacon

Location: Approximately 6 miles west of Sioux Falls

Staff Report: Scott Anderson

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

General Information:

Legal Description – N1/2 NW1/4 (Ex. Lot R-1 and Lot H-1), Section 34-T101N-R51W

Present Zoning – A1 Agricultural

Existing Land Use – Agricultural

Parcel Size – 79 acres

Staff Report: Scott Anderson

Recommendation: Staff recommended **continuing the hearing** of Rezoning #17-01 to rezoning seventy-nine (79) acres into Eagle Ridge Planned Development District to the May 22nd 2017 Planning Commission meeting based on the request of the applicant.

PUBLIC TESTIMONY

Scott Anderson, County Planning Director, described the petition. Scott noted that he met with the applicants, and the applicants requested for the item to be deferred in order to revise the plan.

ACTION

Commissioner Barth made a motion to **defer action** for Rezoning #17-01 to the May 22, 2017 Planning Commission Meeting. The motion was seconded by Commissioner Duffy. The motion passed unanimously.

Rezoning #17-01 – deferred to the May 22, 2017 meeting.

ITEM 12. REZONING #17-02 to rezone from the A-1 Agricultural District to the RR Rural Residential District on the property legally described as

Petitioner: Robert G. Corey

Property Owner: same

Location: Approximately 2.5 miles north of Sioux Falls

Staff Report: Scott Anderson

This would rezone from the A-1 Agricultural District to the RR Rural Residential District.

General Information:

Legal Description – portion of Fredricksen Tract 1, N ½, NE ¼ of Section 14, T102N, R49W

Present Zoning – A1 Agriculture

Existing Land Use – single family residence

Parcel Size – 20 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is proposing to rezone a parcel of property approximately 3.5 acres in size from A-1 Agricultural District to RR Rural Residential District. The applicant has indicated that he would like to subdivide the 3.5 acre parcel into 3 residential lots.

On April 11, 2017, staff conducted a site visit to the subject property. There is an existing residence, owned by the applicant south of the area proposed to be rezoned. A rural subdivision consisting of 55 lots with residences on them is located approximately ¾ of a mile northwest of the subject property. In addition, Andes Acres, a rural subdivision consisting of approximately 40 residences, is approximately 1½ miles to the south.

The Minnehaha County’s Envision 2035 Comprehensive Plan, adopted in 2015, has identified areas of future growth. These future growth areas are called “Transition Areas”. The subject property is in an identified transition area. The concept behind the transition areas is to promote cooperative efforts with cities in dealing with development issues along their fringes. Ideally, growth should occur where and when municipal infrastructure can be provided. This area is outside of the area that the City of Sioux Falls has identified as being able to be serviced by municipal services. The subject property is also not located within the Renner Sanitary Sewer District.

The applicant’s desire to rezone 3.5 acres to allow for three additional houses to be constructed along 258th Street may set a precedent that would encourage many other properties in the area to request rezoning and creating many more new residential lots. The applicant has 16 additional acres which could also be rezoned and developed at a later date.

The rezoning proposal does not meet the policies and objectives of the Envision 2035 Comprehensive Plan. It ignores density zoning as the best means for residential development. Action 4.2 states that new growth and development should be focused within municipalities and areas adjacent to municipalities where infrastructure will be available.

Staff also has concerns that the proposal represents spot zoning. The rezoning of a lone 3.5 acre parcel away from a larger area of the same zoning appears to be spot zoning. The closest RR Rural Residential zoning district is located approximately 1.5 miles to the south within the Andes

Acres Subdivision.

For all of the above mentioned reasons, staff can not support the proposed rezoning request. It is not consistent with the intent of the Envision 2035 Comprehensive Plan and appears to constitute spot zoning.

Recommendation: Staff recommends **denial** of Rezoning #17-02 to rezone the subject property from A-1 Agriculture District to RR Rural Residential District.

PUBLIC TESTIMONY

Scott Anderson, County Planning Director, presented the staff report and recommendation. He also provided to the Planning Commission a letter received from Steve Haugaurd, a property owner in the neighborhood, who objected to the rezoning.

Robert Corey, 47653 258th Street, spoke as the petitioner. Mr. Corey described the project as north of the shelterbelt and having one entrance. He noted that he would not develop the remaining land on his property because he has animals that need that space for grazing. Mr. Corey described that he desired the rezoning to allow three lots as a way to ensure that he will be able to afford living at his location through retirement. Mr. Corey continued by reminding the commission of the recent rezoning of property along SD Highway 115 for residential use, and he described his current location as being well developed with single family residential already.

Commissioner Cypher raised concern regarding eligibilities, density zoning, and precedents for future development around the area.

Phil Eggers, 25748 476th Avenue, noted that he lives nearby and rents land across the road to the north of the petitioner. Phil raised the question of how the proposed rezoning differed from the Cedar Ridge Development that was referred to by the petitioner. Scott Anderson, the Planning Director was prompted to respond to the question. Scott pointed out that Cedar Ridge was an eighty acre development with a wider concept of development around an existing horse stable. He continued that the property was adjacent to an existing mobile home development and located on a quickly developing highway. It was also noted that the Planning Commission did not support the rezoning request for Cedar Ridge and the County Commission overturned the Planning Commission recommendation. Scott Anderson also noted that the rezoning around Sorum Heights was located within a sanitary sewer district.

Commissioner Barth asked Phil Eggers if he had any building eligibilities. Phil responded that he did.

DISCUSSION

Commissioner Barth commented that the proposed rezoning represents spot zoning and that Cedar Ridge development was a kind of ag related development.

Commissioner Cypher commented that he understood the dilemma of high taxes and retirement, and reiterated the density zoning regulations of the county.

ACTION

Commissioner Barth made a motion to recommend **denial** of Rezoning #17-02. The motion was seconded by Commissioner ODE. The motion passed unanimously.

Rezoning #17-02 – Recommended Denial

Old Business

Kevin Hoekman, Planning Department, answered questions regarding the proposed amendments to the CAFO ordinance for the County. The Planning Commission discussed when the proposal should be advertised for adoption. It was decided that next month would not work well because of planting season, and that June would probably work better.

New Business

None.

Adjourn

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