

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
June 26, 2017

A meeting of the Planning Commission was held on June 26, 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 8:02 p.m.

**CONSENT AGENDA**

Commissioner Cypher read each item on the agenda individually. Commissioner Barth requested to remove Items 2 and 3 from the consent agenda to the regular agenda for discussion purposes.

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

**ITEM 1. Approval of Minutes – May 22, 2017**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** the meeting minutes from May 22, 2017. The motion passed unanimously.

**Consent Agenda**

**ITEM 4. CONDITIONAL USE PERMIT #17-42 to allow the reconstruction of a nonconforming off-premise sign on the property legally described as S1/2 SE1/4 (Ex. Hy), Section 33-T104N-R49W.**

Petitioner: Baltic FFA (Mark Roelfsema)  
Property Owner: David Weiland  
Location: Approximately 0.5 mile east of Baltic  
Staff Report: Kevin Hoekman

This would allow the reconstruction of a nonconforming off-premise sign.

**General Information:**

Legal Description – S1/2 SE1/4 (Ex. Hy), Section 33-T104N-R49W.  
Present Zoning – A-1 Agriculture  
Existing Land Use – Cropland  
Parcel Size – 78.72

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The property is located approximately ¼ miles east of Baltic. The proposed reconstructed sign is shown on a site plan to be located between Silver Creek and the west end of the property. The parcel had a nonconforming off-premise sign that blew down in a storm and was removed last spring. Article 18.05 of the 1990 Revised Zoning Ordinance for Minnehaha County allows for the extension or enlargement of a nonconforming use with a conditional use permit.

On May 4, 2017, planning staff saw what looked like the construction of an off-premise sign on the property and sent a letter indicating that permits were needed before construction and noted that off-premise signs are greatly limited in the A-1 Agricultural zoning district. Shortly after the letter was sent, staff was contacted by the petitioner who indicated that the beginning structure was for a replacement sign. The former sign was located east of the new structure on the property for many years for the purpose of supporting the FFA in Baltic. The petitioner would like to reconstruct a new sign on the property to replace the one that blew down last spring.

Staff visited the site and reviewed the area. The reconstructed sign is proposed to be located approximately ¼ mile west of where the old sign was located. The ground where the old sign was located is now tilled crop land, and the proposed location is on a ridge between Silver Creek and the property fence line. The area where the proposed sign has posts in the ground, is located within a designated floodplain. If this CUP is approved, a floodplain development permit will be required before a building permit may be obtained.

A similar nonconforming sign is located west of Baltic and along the highway. An image of the former sign is located below.



Photo: Google Earth Street View image of the former sign and location.

**Nonconforming Use Criteria:**

As a reconstruction of a nonconforming use, the ordinance requires the review of the request for several specific criteria in addition to the CUP criteria. Each criteria is listed with the review below.

**(A). Effect on surrounding property values.**

The proposed sign will not likely have a negative effect on surrounding property values. The primary use of the land in the area is for agricultural purposes. The landowner where the sign is located may charge rent for the sign. This may raise the value of the property owners land.

**(B). The density of land use zoning for the subject and adjacent properties.**

The area surrounding the proposed sign is primarily agriculture in nature. The City of Baltic is located approximately ¼ mile west of the proposed sign. Several building eligibilities are located on the surrounding land. The presence of this sign will not likely hinder the development of these building eligibilities or the used eligibilities with dwellings located south of the highway.

**(C). The degree of hardship upon the applicant which would be caused by failure to grant the permit.**

A couple of options exist to place the sign on a property that would meet the county ordinance. A Commercial zoned property is located ½ mile to the east where the Baltic Corner Bar is located. The sign could also be placed within the city limits of Baltic where several commercial properties exit along the highway. The hardship for the petitioner could include difficulties of

obtaining permission for other sites and to remove and relocate the posts that have already been placed on the site. Other sites may also not be as clearly visible for the sign.

**(D). It can be demonstrated that it was the owner's intent to use the entire premises for said use prior to the adoption, revision or amendment of this ordinance.**

The petitioner states in a narrative that a sign has been maintained on the property for 60 years. The sign has been regularly maintained. And that the organization had already purchased a printed sign to place on the new site.

**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 sign will not likely have any adverse effect on the uses in the immediate vicinity. The area around the sign is primarily agricultural land and located along a county highway.

**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 sign will have little effect on the development of the area. The area will likely remain agriculture for the considerable future. The City of Baltic has some potential to extend east towards the sign. The sign would not prevent this expansion from happening.

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

The proposed sign will not need any utilities. The petitioner and landowner will have to work out access to the sign for sign updates and maintenance.

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

No off-street parking will be needed as a result of the off-premise sign.

**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 presence of an off-premise sign will not create any offensive odor, fumes, dust, noise, or vibrations. The plans do not include the use of lights. The previous sign did not have lights. Considering the previous sign did not have lights, staff recommends that a condition for approval that the sign remains unlit to prevent nuisance lighting.

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

The planning Commission should be aware that this proposal for the reconstruction of a sign pertains to the presence of a sign and not for the message of the sign. At any point the message on the sign may change from the petitioner's FFA intent to a commercial use.

The proposed off-premise sign should have little to no effect on the health, safety, and general welfare of the public as well as the Envision 2035 Comprehensive Plan. The Envision 2035 Comprehensive Plan indicates that the Planning Commission "create safe, healthy, and livable

communities in Minnehaha County.” As the intent of this sign is to support the community of Baltic and the FFA within, the sign has been on the property for considerable time, and that adverse impacts of the sign are minimal, the planning staff supports this request.

**Recommendation:**

Staff finds that the proposed reconstruction of a non-conforming off-premise sign reasonable with the criteria and comprehensive plan. Staff recommends **approval** of Conditional Use Permit #17-42 with the following conditions:

- 1.) The total area of the sign face shall not exceed 192 square feet as indicated on the design plan.
- 2.) A floodplain development permit is required prior to the issuance of a building permit for the sign.
- 3.) A building permit is required prior to placement of the sign.
- 4.) The sign shall not be illuminated.

**Action**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #17-42 with staff recommended conditions. The motion passed unanimously.

**Conditional Use Permit #17-42 – Approved**

**ITEM 5. CONDITIONAL USE PERMIT #17-43 to exceed 1,200 square feet of total accessory building area – requesting 1,440 sq. ft. on the property legally described as Tract 6, Lot 7, Voigt’s Subdivision, Section 21-T101N-R51W.**

Petitioner: Jeff Martens

Property Owner: same

Location: Approximately 5.5 miles south of Hartford

Staff Report: David Heinold

This would allow 1,440 square feet of total accessory building area.

**General Information:**

Legal Description – Tract 6, Lot 7, Voigt’s Subdivision, Section 21-T101N-R51W.

Present Zoning – RR Rural Residential District

Existing Land Use – Vacant

Parcel Size – 6,000 square feet

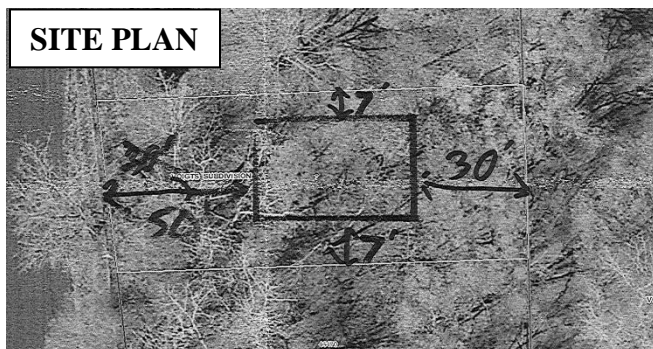
**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 1,440 square feet of total accessory building area. The proposed building, below, will be a 36’x40’ accessory building located approximately in the center of the lot with access to the right-of-way off of West Shore Place. The proposed use of the accessory building will be for personal storage.

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 all Residential Districts, the total area of accessory buildings shall not exceed 1,200 square feet unless a conditional use has been approved.

There are a few other properties in the surrounding area with comparable accessory building sizes ranging from 800 sq. ft. to 1,990 sq. ft. The largest size, 1,990 sq. ft., is located a little over 100 feet north of the subject property along West Shore Pl. There is another lot about 50 feet further from the largest building size that has 1,272 sq. ft. included in a detached garage and small shed along the curve of West Shore Pl. A majority, if not all, of the lakefront properties on West Shore Pl. have individual detached garages on small lots across the road from the single family dwelling with additions over the last few years on some accessory buildings.

On June 6, 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 middle of the lot and the access to the private road connected with the current terminus of West Shore Pl. The proposed building will be located on a 6,000 square foot parcel located directly west of the petitioner's home property.



**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 larger building sizes 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 single family dwellings situated around Wall Lake 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, 1,440 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 new driveway off of West Shore Pl. 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 Wall Lake 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 #17-43 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 1,440 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 Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #17-43 with staff recommended conditions. The motion passed unanimously.

**Conditional Use Permit #17-43 – Approved**



Commissioner Barth motioned to approve the regular agenda. Commissioner Kostboth seconded the motion. The motion passed unanimously.

**Regular Agenda**

**ITEM 2. CONDITIONAL USE PERMIT #17-40 to exceed 1,200 square feet of total accessory building area – requesting 10,554 sq. ft. on the property legally described as Tract 1A, Larsen’s Addn., S1/2 SW1/4, Section 3-T101N-R47W and N1/2 SW1/4, Section 10-T101N-R47W.**

Petitioner: Sadie Steen

Property Owner: same

Location: 911 Dunham St.

Approximately 0.5 mile south of Valley Springs

Staff Report: David Heinold

This would allow 10,554 square feet of total accessory building area.

**General Information:**

Legal Description – Tract 1A, Larsen’s Addn., S1/2 SW1/4, Section 3-T101N-R47W and N1/2 SW1/4, Section 10-T101N-R47W.

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 7.70 acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 10,554 square feet of total accessory building area. The existing accessory building total area is 7,314 sq. ft. and the site plan, below, shows a proposed 54’x60’ addition to the north side of the 54’x81’ building. The proposed use of the accessory building will be for a personal, indoor horseback riding arena.

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 a few properties in the surrounding area with comparable accessory building sizes to the conditional use permit request. The property owner, 48772 263<sup>rd</sup> St., has 4,320 sq. ft. on an approximately 11.95 acre parcel. Similarly, the property located less than a quarter mile away from the subject property at 48763 263<sup>rd</sup> St. has 3,156 sq. ft. on 3.49 acres.



On June 14, 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 addition on the north part of the lot. The accessory building is situated on a 7.70 acre parcel.

**Conditional Use Permit Criteria:**

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

There are several other properties within a half-mile of the subject property that have similar building sizes 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 and Valley Springs town limits 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, 10,554 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 just outside the transition area for the City of Valley Springs 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. Goal 2, Action 2.4, on Page 91 of the Envision 2035 Comprehensive Plan recommends supporting growth that is compatible to adopted municipal comprehensive plans.

In the Future Land Use Plan section of the Envision 2035 Comprehensive Plan,

*Goal #2* aims to coordinate growth and land use planning among Minnehaha County, Cities, Townships, and other relative organizations. The result of this coordination is cooperation between County, Cities, and Townships for planning and implementing strategies and land use procedures.

The subject property is located on the edge of the City of Valley Springs growth area. In the Valley Springs Comprehensive Plan 2035, the Future Land Use Plan identifies the area as commercial with the immediate area to the north and west as low-density residential, which Section 9 of the Plan states it will be necessary to ensure that all proposed development is serviceable with municipal utilities, including water and sewer, during the planning period.

**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 #17-40 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 10,554 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

**PUBLIC TESTIMONY**

David Heinold, Planning Department, presented the staff report and recommendation.

Commissioner Barth asked for clarification of the distances to the property line. David responded that the distance between the building and property line is 120 feet to the north and 170 feet to the west and the setback area is filled with trees.

Sadie Steen, the petitioner from 911 Dunham Street, was present for questions.

Commissioner Ode asked how many horses the petitioner had. Sadie responded that they had 4 horses and were trying to sell one.

Commissioner Cypher asked what the other large buildings are used for. Sadie responded that the other building are used for hay storage and property upkeep equipment such as lawnmowers and snow removal items.

Commissioner Barth asked if the petitioner thought that a riding arena was appropriate for an area so close to Valley Springs. Sadie responded that she did not believe there is a conflict because there are several other riding arenas in the area and the building is not very visible with all the trees on the property.

**ACTION**

Commissioner Barth made a motion to **approve** Conditional Use Permit #17-40 with staff recommended conditions. The motion was seconded by Commissioner Ralston. The motion passed unanimously.

**Conditional Use Permit #17-40 – Approved**

**ITEM 3. CONDITIONAL USE PERMIT #17-41 to exceed 1,200 square feet of total accessory building area – requesting 9,574 sq. ft. on the property legally described as Vintage Village Tract 1, NE1/4 SE1/4 (Ex. W. 175’ N570’, Section 7-T102N-R49W.**

Petitioner: Dennis Leitheiser

Property Owner: same

Location: 25764 Packard Ln. Approximately 3 miles north of Sioux Falls

Staff Report: David Heinold

This would allow 9,574 square feet of total accessory building area.

**General Information:**

Legal Description – Vintage Village Tract 1, NE1/4 SE1/4 (Ex. W. 175’ N570’, Section 7-T102N-R49W.

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 8.22 acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 9,574 square feet of total accessory building area. The site plan, below, shows the existing accessory building total area of 8,134 sq. ft. with the removal of a 20’x30’ machine shed and adding a 30’x48’ post frame structure on the lot. The narrative describes that the proposed use of the accessory building will be for motorhome and car storage.

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 accessory building sizes in the surrounding area ranging from 528 sq. ft. to 2,160 sq. ft. The largest size is located about a half mile southwest of the subject property at 25815 Kiwanis Ave. with 3,278 sq. ft. of total accessory building area on an 8.35 acre parcel. The property, 47267 258<sup>th</sup> St., located about a half mile south has 2,160 sq. ft. on 2 acres. The properties at 25718 Packard Ln., 47291 Renberg St., and 25790 Country Ln. all have 1,344 sq. ft. on varying lot sizes 1.47 acres to 5.71 acres. Similarly, the property at 25740 Packard Ln. is one of the remaining lots that has over 1,200 sq. ft. with 1,296 sq. ft. on 5.33 acres.

On June 14, 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 middle part of the lot. The accessory building is situated on an 8.22 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 similar building sizes 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 residential with over fifty single family dwellings 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, 9,574 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 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. Goal 1, Action 1.2, on Page 90 of the Envision 2035 Comprehensive Plan recommends utilizing existing and future development policies and regulations in a consistent manner for similarly sited parcels in order to create fair and orderly development.

In the Future Land Use Plan section of the Envision 2035 Comprehensive Plan,

*Goal #1* aims to develop a countywide land use pattern that ensures compatibility and functional relationships among jurisdictions and related land use activity.

The subject property is located outside all of the incorporated municipality growth areas. The surrounding area is a fully developed with few remaining building eligibilities for residential development and over one-half mile outside of the rural service area to the southwest at the Crooks/Renner Exit off of Interstate 29. The immediate area does not have availability of sanitary sewer, which the present land use composition will likely remain the same except for the addition single family dwellings with available building eligibilities during the planning period.

**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 #17-41 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 9,574 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

**PUBLIC TESTIMONY**

David Heinold, Planning Department, presented the staff report and recommendations. Commissioner Cypher asked for clarification of the building size. David responded that the proposed structure is 30 feet by 48 feet.

Commissioner Cypher called the petitioner up for questions regarding the request. The petitioner was not present to speak.

Commissioner Barth asked staff if the petitioner plans on using the building for rental or some similar use based on the signage on the property indicating "Party Lane." Staff responded that renting the property was not listed as an intended use.

Commissioner Cypher acknowledged that the Planning Commission normally defers items when the petitioner is not present.

**ACTION**

Commissioner Barth motioned to **defer** action on Conditional Use Permit 17-41 until the next Planning Commission meeting in July. Commissioner Ode seconded the motion and the motion passed unanimously.

**Conditional Use Permit #17-41 – Deferred to the July 24<sup>th</sup> 2017 meeting**



**ITEM 6. 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.

**Staff Report:** Scott Anderson

**Staff Analysis:**

Staff received a request to continue the rezoning request for another month to allow the petitioner to revise the site plan.

**Recommendation:**

Staff recommends deferral of Rezoning #17-01 based on petitioner request.

**PUBLIC TESTIMONY**

Scott Anderson, of the Planning department, explained that the petitioner requested another month of deferral, and recommended to accept the deferral.

**ACTION**

Commissioner Barth made a motion to **defer** Rezoning #17-01 to the July 24, 2017 Planning Commission Meeting. The motion was seconded by Commissioner Kostboth. The motion passed unanimously.

**Rezoning #17-01 – Deferred to July 24, 2017**

**ITEM 7. REZONING #17-03 to rezone from the A-1 Agricultural District to the I-1 Light Industrial District on the property legally described as N1/2 NW1/4 (Ex. Lot R-1 and Lot H-1), Section 34-T101N-R51W.**

Petitioner: Laura Benson & Brent Antonan

Property Owner: Derry Benson

Location: Approximately 0.5 mile north of Sioux Falls

Staff Report: Scott Anderson

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

**General Information:**

Legal Description – The East 250’ of the North 700’ of the South 1386’ (ex Benson’s Second Addition), NE ¼, Section 13, Township 102 North, Range 50 West, Minnehaha County, SD

Present Zoning – A-1 Agriculture

Existing Land Use – Agriculture

Parcel Size – 4.0174 acres

**Staff Report:** Scott Anderson

**Staff Analysis:** On June 1, 2017, staff conducted a site visit to the subject property. There is existing light industrial and commercially zoned property located to the north and east of the subject property at the Crooks exit of Interstate 29 and County Highway 130. The subject property is located at the south end of Cottonwood Avenue. The applicant indicated that a portion of the property will be used to construct a warehouse in which a business would be operated.

Envision 2035, Minnehaha County’s recently adopted comprehensive plan, encourages commercial uses at interstate highway interchanges and high traffic intersections. Such uses should be developed in a nodal pattern, as specified in Action 1.4 on page 30 of the plan.

While the applicant is only rezoning approximately 4 acres of land at this time, he owns more land adjacent to the subject property. The Crooks/Renner Interchange has been developing into a significant commercial/industrial area over the past 10 years. There have been several rezoning requests approved at the southeast and northwest quadrants of the interchange. It is likely that commercial/industrial development will continue at this interstate interchange. The subject property meets this criterion of the County’s Envision 2035 Comprehensive Plan and an expansion of the existing commercially zoned land in the general vicinity.

**Recommendation:** Staff recommends **approval** of Rezoning #17-03 to rezone the subject property from A-1 Agricultural District to I-1 Light Industrial District.

**PUBLIC TESTIMONY**

Scott Anderson, of the Planning Department, presented the staff report and recommendation.

Laura Benson, the petitioner form 46039 249<sup>th</sup> Street, was present at the meeting.

**DISCUSSION**

No further discussion happed for this item.

**ACTION**

Commissioner Kostboth made a motion to **recommend approval** Rezoning #17-03. The motion was seconded by Commissioner Ode. The motion passed unanimously.

**Rezoning #17-03 – Approval Recommended**

**ITEM 8. ZONING TEXT AMENDMENT #17-02 to amend regulations pertaining to CAFOs and add aquaculture facility regulations to the 1990 Revised Zoning Ordinance for Minnehaha County.**

Petitioner: Minnehaha County Planning Commission

Staff Report: Kevin Hoekman

This will amend regulations pertaining to CAFOs and add aquaculture facility regulations to the 1990 Revised Zoning Ordinance for Minnehaha County.

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

In the fall of 2016, the Planning Commission requested planning staff to review possible updates to how concentrated animal feeding operations (CAFOs) are regulated within the A-1 Agricultural zoning district. In addition to CAFOs, staff also was asked to review aquaculture to be added into the zoning ordinance. Staff researched and presented several drafts for the Planning Commission to review over the last several months. During the May Planning Commission meeting, staff was directed to take the latest draft forward to a public hearing in the June 26, 2017 regular Planning Commission meeting.

The comprehensive plan for Minnehaha County, Envision 2035, includes sections and goals regarding agriculture production in the county. One goal for rural conservation is to support the country lifestyle including all aspects of agricultural operations. Much of the area where CAFOs will likely expand is located in the Agricultural Production Area of the Future Land Use map. In the Agricultural Production Area, the first listed typical use is “Larger-scale farms and related agricultural uses including feedlots, and livestock raising.” A goal for this future land use area is to “protect, preserve, and promote agricultural uses and the economic viability of farming operations.” An action step of this goal is to “evaluate potential constraints for operation and expansion of agriculture production such as separation criteria for concentrated animal feeding operations.”

Below is a list of major items of change compared to the current operating ordinance.

**CAFO Ordinance Change Review**

Items that are largely removed from the current ordinance.

- The boring test requirement for CAFO’s that are proposed over a shallow aquafer was removed.
  - The requirement was replaced with a requirement for those CAFO’s over shallow aquafer’s to obtain a state permit.
- Plans for pest control and odor control were removed.
  - This removal was done because of difficulties for staff to review such plans and whether or not the plans would be effective.
  - Many of the items concerning odor has been reduced to having a shelter belt of trees or not and the potential setback reduction that comes from having trees.
- The nutrient management plan was removed.
  - It was removed because the DENR already requires nutrient management and

staff are not engineers that are capable of reviewing the accuracy of such a document in a manner that is defensible.

- It was replaced with a manure management plan that determines what, when, where, and how manure will be managed on and off the site.
- The allowance for the surface application of liquid manure application.
  - This is no longer at the primary discretion of the Planning Director. Documentation of state approval must be available to apply liquid manure on the surface without incorporation.

Items that are largely amended from the current ordinance.

- The flow of the ordinance was largely altered in order to better categorize what requirements were and where they belong in the ordinance.
- The setbacks and potential for waivers from various land uses surrounding the CAFO have been altered.
  - Generally the setbacks have been reduced.
  - The increasing setback with each 250 animal units has been removed.
  - In general, the setbacks have been reduced from the current ordinance. The SD Odor Footprint Tool was reviewed in many ways to determine how the ordinance meets the modeled odor setbacks.
- The ordinance maintains that the land use setbacks can be reduced, but it specifies that reduction requires a shelterbelt and can only be reduced by 50%.
- Minor changes were made to the other setback requirements for environment and for manure application setbacks.
- The notification section of the CAFO ordinance was removed from the CAFO section of the Additional Use Article of the ordinance. The section regarding a ½ mile notice was moved to Article 19.00 Conditional Use Permits. The petitioner will now be responsible for sending the notice for the ½ mile distance. The notice will be sent by certified/return receipt mail.

Items that are largely new from the current ordinance.

- A description of when a state general permit is required.
- Requirements for construction documents and when engineered plans are required.
- The ability for the elected body of a municipality to pass a resolution as a waiver for the reduction in the setback requirements of that municipality.
- Clarification of manure application requirements for non-liquid manure application.
  - This includes that a certified crop consultant or engineer to provide an application for livestock production surplus water.

### **Agricultural Zoning District CAFO Review**

Items of Change for new Class D operations

- There is proposed a separation of new CAFOs from existing CAFOs
- Add a 50 foot property line setback
- All CAFOs will require a Zoning Permit to show that they meet all requirements.

Items of Change for (existing) CAFO section

- Amend section regarding manure application to refer to CAFO regulations in Additional

Use Regulations.

- Remove expansion limit of 500 animal units.
  - It is difficult to determine the extent of animals that were on a property at 1998.
  - If animal units fluctuate from year to year, what year would we determine to be the starting point?

### **Aquaculture Items Review**

- All items pertaining to Aquaculture are newly proposed to the ordinance. Staff reviewed state and federal regulations that are already existing before determining aquaculture size requirements and regulations.
- Aquaculture facilities that would qualify as a small facility according to the South Dakota Department of Environment and Natural Resources will be allowed in the A-1 Agricultural zoning district as a permitted special use.
- Anything larger than what is listed as a permitted special use will require a conditional use permit. Facilities that require a conditional use permit must follow the regulations that are added to the Additional Use Regulation section of the ordinance for Aquaculture.
- Aquaculture was added to the I1 Light Industrial and I2 General Industrial zoning districts as allowable through conditional use permit.

### **Other Changes**

- Definitions
  - Several definitions were added or amended to better align with the proposed ordinance.
  - Definitions for animal wastes were removed as the terms are no longer used in the ordinance. The definitions were largely replaced with definitions for manure.
  - Some changes were made to the calculation for animal units. The changes bring the county ordinance in line with the SD DENR.
- Conditional Use Permit Changes
  - The notification section of the conditional use permit article has been changed for additional requirements for CAFO and aquaculture applications for CUP. The applicant of a CUP for a CAFO or aquaculture facility will notify neighboring property owners within ½ mile by certified/return receipt mail.
  - The Planning Commission discussed that the expiration of a CUP for CAFOs. The concern was raised that a county permit is often the first item on a list of permits and financing that an applicant must receive before operation. Sometimes, one year is not enough time before a building permit can be obtained. Staff considered this scenario and found it to be true for other CUP items as well. Therefore, staff recommends that the expiration of a CUP be extended for all approved permits to two years.

### **Attached Materials:**

Attached with this staff report is two copies of the proposed ordinance. One copy has proposed additions to the ordinance underlined and proposed deletions to the ordinance marked with a strikethrough. The second copy has no marks on it, and includes all the new items as they are proposed to be written in the ordinance.

**Recommendation:**

Staff finds that the proposed text amendment changes are consistent with the intent of the Agricultural zoning district and the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Zoning Text Amendment #17-02.

**PUBLIC TESTIMONY**

Kevin Hoekman, Planning Department, presented the staff report. The presentation was open with the Planning Commissioners so that questions were asked throughout the presentation.

Patrick Andrews, Land Use Planner for SECOG at 500 N. Western Avenue, Suite 100, added some comments for the commission. Patrick started by noting that the proposed ordinance is similar to what has been discussed with other counties and councils of government. Turner County and Clay County have passed similar ordinances with great likelihood that each will be referred to a public vote because of low population threshold for referrals. The referrals for the two counties were based on setbacks for CAFOs, and Patrick noted that the changes for each county were considerably lower than each other counties. Commissioner Cypher asked what the other counties were doing. Patrick noted that some of the main changes included removal of items where administrator did not have the expertise to enforce such as nutrient management.

Commissioner Cypher called for additional input and nobody spoke for or against the item.

Commissioner Barth asked about the procedures that will follow this meeting. Scott Anderson, Planning Director, explained that the ordinance would move to the County Commission after action is taken on the item. There will be publication at one hearing and a public hearing at another and the ordinance can be approved, denied, or amended at the hearing.

Commissioner Kostboth noted removing the graduated setbacks is probably the most important aspect of the ordinance. This is especially true for larger setbacks. Commissioner Barth added that the count can always turn a facility down and say it's simply too large for the area.

**DISCUSSION**

Commissioner Barth motioned to recommend approval of Zoning Text Amendment #17-02 as staff has written it. Commissioner Ralston seconded the motion.

Commissioner Kostboth commented after the motion that planning staff should be prepared to show some odor modeling for the public hearing since the County Commissioners have not been a part of the process for as long. Commissioner Kostboth also discussed some concern for the lack of reduction of setbacks based on other technologies such covering lagoons, deep pit systems, and biofilters. He asked if the ordinance is restrictive if scientifically proven technologies are not allowed to reduce setback. Commissioner Kostboth also commented that the setbacks are reasonable enough that reducing the setbacks by other means may not be warranted.

Commissioner Cypher raised the discussion about the current ordinance and reducing setbacks from new technology since many new things have happened since the 20 years after adopting the CAFO regulations. Scott Anderson pointed out that one of the most concerning aspects of that is the word "new," since some of those technologies have been around for some time, only not

implemented. The commissioners discussed alternate phrases such as “alternate technology” to be placed in the ordinance. Scott Anderson pointed out that that would again put the Planning staff in the position of engineering that we don’t have the expertise to review. Commissioner Cypher commented that odor reducing items would then have to be sold by the producer to the neighbor to receive a waiver based on the technology used.

Commissioner Kostboth commented that eventually we will be stuck with a neighbor who cannot believe that a ¼ mile is enough setback for something like a 2400 head hog barn.

**ACTION**

Commissioner Barth made a motion to **recommend approval** Zoning Text Amendment #17-02. The motion was seconded by Commissioner Ralston. The motion passed unanimously.

**Zoning Text Amendment #17-02 – Approval Recommended**



**Old Business**

Scott Anderson, Planning Director, briefed the Planning Commission about the county tour that the Board of Commissioners went on since the last Planning Commission meeting.

Commissioner Cypher commented that the light on the radio tower near his place has been replaced by a less noticeable light.

**New Business**

**Adjourn**

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