

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
January 28, 2008**

A meeting of the Planning Commission was held on January 28, 2008 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Deb Bunde, Susie O'Hara, Don South, Wayne Steinhauer and Carol Twedt.

STAFF PRESENT: Scott Anderson and Phil Kappen - County Planning

CONSENT AGENDA

A motion was made by O'Hara and seconded by Bunde to approve the consent agenda with Items 1 (minutes of the November 26, 2007 meet), 3,4,5,6,7,8,9 and 10 and without Item 11. The motion passed unanimously.

REGULAR AGENDA

A motion was made by O'Hara and seconded by Twedt to approve the addition of Item 11 to the regular agenda. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT # 07-74 to allow a 300 animal unit concentrated animal feeding operation.

Legal Description – Tract 1 & 2 Nelson's Addition NW1/4 of Section 28-T102N-R47W

Location - 26012 486th Ave. 2 miles north of Valley Springs

Petitioner / Owner- Ronald Kuipers

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size - 25.39 Acres

Report by: Phil Kappen

This item had been deferred from the November 26, 2007 meeting. The petitioner recently requested that this item be withdrawn.

No action needed to be taken on this item.

ITEM 3. CONDITIONAL USE PERMIT # 07-90 to allow storage units.

Legal Description - Lot 2 Block 1 Brower 2nd Addn. in Section 27-T102N-R51W

Location – 26070 Jesse St. South edge of Hartford

Petitioner / Owner- Jon Maras

General Information

Present Zoning - I-1 Light Industrial

Existing Land Use - Vacant

Parcel Size - 1 Acre

Report by: Scott Anderson

Staff Analysis: The applicant is requesting a conditional use permit to allow for storage units. The site plan indicates two (2) structures. Both are 63 feet wide and 174 feet long. One building appears to be designated for boat and RV storage, while the other building is indicated to be used

only for twelve (12) RV storage units. The applicant is not proposing any outdoor storage. Staff will state in the conditions of approval that no outdoor storage will be allowed.

The Brower Addition consists of mostly commercial and industrial buildings and uses. There are contractor's equipment yards located to the east and north of the subject property. Several buildings of mini-storage units are located directly to the west. The applicant's proposed use is similar to the existing uses in the area.

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.

This is an industrial area, so the proposed use blends in quite well and should not impact the use and enjoyment of the property in the area. This type of business will not impact property values, provided a proper fence meeting the County's requirements is installed and maintained.

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

This expanded use is located in an existing commercial/industrial area. The proposed use should not impede future or existing industrial development in the area.

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

Jesse Street provides access to the site. Jesse Street is under construction. The Planning Commission has encouraged this development to hard surface the interior roads. Property owners within the development have been pursuing this. Drainage and other needed facilities all appear to have been provided.

The Zoning Ordinance required the parking area to be paved if the road or street providing access to the subject property is paved. The applicant will be required to pave his parking lot. The applicant did not provide an approximate building schedule, however staff is willing to give the applicant ample time to pave the parking area, allowing the buildings to be constructed and then the parking area paved. This being the case, staff recommends that the parking area be paved by July 1, 2008 or within 2 weeks of the completion of the first storage unit. The parking area is the area needed for the access into and out of the storage units and access onto Jesse Street.

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

The applicant is required to provide two (2) spaces for each three (3) employees. There are no permanent employees associated with this type of use. Furthermore there is ample parking between the buildings. No additional off-street parking will be required.

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 applicant is conducting a business that may periodically produce some noise. The area is located within an industrial area and should not be out of line with noises typically found in an industrial area.

Staff finds that the proposed use is appropriate for this commercial area, provided adequate parking can be provided. The recommended conditions of approval will ensure that harmonious development will occur.

Recommendation

Staff recommended approval of Conditional Use Permit #07-90 to allow for storage units with the following conditions.

- 1) There shall be no outdoor storage of any kind allowed on the property. No more than two (2) storage units measuring 63 feet by 174 feet shall be allowed.
- 2) That the business operator obtains and maintains a South Dakota sales tax license.
- 3) Any new exterior lighting shall be shoe box style that directs the lighting downward.
- 4) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance and a building permit shall be obtained prior to the erection of any sign.

Based on the staff report, a motion was made by O'Hara and seconded by Bunde to approve conditional use permit # 07-90 with the conditions as stated. The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT # 08-01 to transfer one building eligibility.

From - SW1/4 NE1/4 of Section 3-T102N-R49W
To - SE1/4 NE1/4 of Section 3-T102N-R49W
Location - 2.25 miles north of Renner
Petitioner / Owner- Harlan Wehde

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Agriculture
Parcel Size - 40 Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located 1 mile east and 1½ mile north of the Renner Corner. The petitioner wishes to transfer an eligibility from a land-locked quarter-quarter to a quarter-quarter next to 476th Avenue to allow the petitioner's daughter to build a home adjacent to the existing farmstead.

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 predominantly agricultural except a few scattered acreages and an existing manufactured home park ½ mile to the west. Horses would be kept near the proposed home. The location of an additional home at this location should have little impact on neighboring properties. A right-to-farm notice covenant will be required to be filed on the property before any building permit can be issued.

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

Agriculture will continue to be the predominant land use in the area in the future. The location of this home should have little impact on continued agricultural uses.

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

Access to the new home would be from 476th Avenue, a township road. There are some sites along the road at which there is limited sight distance. The crest of the hill on the road is by the farmstead immediately to the south. By placing the driveway at a distance from this crest that allows adequate sight distance in both directions from the driveway. Written approval for a driveway location should be required from Mapleton Township before a building permit is issued. This will allow the township to ensure that the driveway is placed in a safe location.

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

There is ample space on the site for any required parking. No parking is allowed on 476th Ave.

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

There should be little odor, fumes, dust, noise, or vibration from a single-family residential use. Any outside lighting should be of a shoe box style that directs light downward and prevents light spillage beyond the boundaries of the site.

Recommendation

Staff found that the proposed use could be made compatible with surrounding land uses and recommended approval of Conditional Use Permit # 08-01 with the following conditions:

1. A right-to farm notice covenant shall be required to be filed on the property prior to the issuance of any building permit.
2. Written approval shall be obtained from Mapleton Township for the location of the driveway prior to the issuance of any building permit.
3. All outside lighting shall be a of a shoe box style that directs light downward and prevents the spillage of light beyond the property boundaries.

Based on the staff report, a motion was made by O'Hara and seconded by Bunde to approve conditional use permit # 08-01 with the conditions as stated. The motion passed unanimously.

ITEM 5. CONDITIONAL USE PERMIT # 08-02 to transfer two building eligibilities.

From - W1/2 S1/2 (EX N1152' W1871' & EX H-2) of Section 12-T104N-R49W

To - SE 1/4 of Section 12-T104N-R49W

Location - 2 miles east of Dell Rapids

Petitioner / Owner- Roger Weinacht / Martin Morse

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size - 40 Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located approximately 2 miles east of Dell Rapids between Jasper Street and 246th Street and to the west of 478th Avenue. The majority of the land in the area is in agricultural uses with a number of residential acreages. The petitioner and another party are purchasing the property and wish to move the two eligibilities from the southwest quarter in order to preserve the majority of that land for agricultural purposes. One of the parties will retain the agricultural land and the other will have the land with the six eligibilities. The area to which the eligibilities would be transferred is hillier ground and not as conducive to farming.

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 petitioner has not indicated the specific location at which the transferred eligibilities would be used as they merely want to remove them from the farm ground at this time. There are, however, 4 existing eligibilities on the SE 1/4 and the addition of two additional houses could be done in a manner that minimizes any potential impact to neighboring properties. As the exact location of the residences is unknown at this time, a requirement for a preliminary subdivision plan prior to the issuance of any building permits will allow the Planning Commission to review the specific locations prior to any construction. A right-to-farm notice covenant will also be required to inform potential buyers of the agricultural 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 area will remain predominantly agricultural in nature. The transfer will allow more productive land to be retained for agricultural production and will allow the potential eligibilities to be placed on the less productive land.

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

Access to the property would be from one of three roads: Jasper Street (Co, Hwy 104), 478th Avenue (Co. Hwy 121), or 246th Street (Dell Rapids Township road). There are some locations along these roads that sight distance limitations. It is also desirable to limit the total number of driveways, particularly along the County Highways. As we are not sure of the particular locations of the houses, a preliminary subdivision plan will again allow review of the proposed driveway locations before any construction commences. Due to topography, there are some sites in which shared driveways are not practical. A preference should be given to the use of shared driveways, where possible, to ensure that the number of access points is kept to a minimum. This can also be addressed during a preliminary subdivision plan process.

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

There is adequate room on the property for the required parking for any approved residential uses.

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

There should be little odor, fumes, dust, noise, or vibration from authorized residential uses. All outdoor lighting should be of a shoebox style that directs light downward in order to reduce light pollution.

Recommendation

Staff found that the transfer of the eligibilities could be done in a manner to minimize any potential for impact to surrounding properties. Staff, therefore, recommended approval of conditional use permit #08-02 with the following conditions:

1. A right-to-farm notice covenant shall be filed on each lot prior to the issuance of any building permit.
2. Where possible, preference will be given to the use of shared driveways in order to limit the number of access points onto the surrounding roads.
3. A preliminary subdivision plan shall be prepared for county approval prior to the issuance of any building permit in the SE¹/₄ SE¹/₄ of Section 12-T104N-R48W. The preliminary subdivision plan shall address all potential houses and lots in the SE¹/₄ SE¹/₄ and shall, in addition to the regular requirements all potential access points onto any public roads or highways.
4. Written approval shall be obtained from the appropriate agency having jurisdiction over a road or highway for any driveway access points prior to the issuance of any building permit.
5. All outside lighting shall be of a shoe box style that directs light downward and prevents the spillage of light beyond the property boundaries.

Based on the staff report, a motion was made by O'Hara and seconded by Bunde to approve conditional use permit # 08-02 with the conditions as stated. The motion passed unanimously.

ITEM 6. CONDITIONAL USE PERMIT # 08-03 to replace a house with a manufactured dwelling.

Legal Description - NW¹/₄ NW¹/₄ & N 10 RDS SW¹/₄ NW¹/₄ & W 10 RDS N 90 RDS OF E¹/₂ NW¹/₄ in Section 6-T102N-R49W

Location – 47221 256th St. 2 miles northeast of Crooks

Petitioner / Owner- Susan Moe Jensen / Hazel Moe

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Agricultural/Residential
Parcel Size - 50.63 Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located along 256th Street two miles east-northeast of Crooks. The property lies immediately southeast of the intersection of 256th Street and 472nd Avenue. The majority of the land is in agricultural uses, however, there are a series of non-farm residences on the north side of 256th Street and additional homes to the south. The petitioner proposes to replace an old existing house on the property with a manufactured home.

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

A newer manufactured home would be an improvement over the existing structure and would fit well in the area. The specific site is bounded by trees. The placement of a manufactured home at the site instead of an older home should have no appreciable impact on surrounding properties. There are also standard conditions for manufactured home set forth in the zoning ordinance that ensure that the appearance of the home blends in with other houses in the neighborhood.

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

Most of the surrounding area will continue to be used for agricultural production. The replacing of one home with another should have no added impact on the use of the properties for agriculture. A right-to-farm notice covenant will also provide notice to potential owners or tenants of the home that there are agricultural activities in the immediate vicinity.

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

Access is via 256th Street, a township road, and is made on an existing driveway. No additional driveways onto the township road, or onto 472nd Avenue (Co. Hwy 133), should be allowed without added approval.

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

There is adequate room on the property for the required parking for any approved residential uses.

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

There should be little odor, fumes, dust, noise, or vibration from authorized residential uses. All outdoor lighting should be of a shoebox style that directs light downward in order to reduce light pollution.

Recommendation

Staff found that the proposed home would not pose any added impacts on surrounding properties and recommended approval of conditional use permit #08-03 with the following conditions:

1. The structure shall have been constructed on or after July 15, 1976.
2. The exterior dimensions of the structure, measured by excluding overhangs, shall not be less than 22 feet.
3. The structure shall be supported by a foundation system consisting of walls along the

perimeter and piers on the interior. All foundation walls and piers shall extend a minimum of 42 inches below final grade.

4. The roofing and siding material shall be consistent with the material used in site-built dwellings.
5. The roof pitch shall not be less than a 3 in 12 slope.
6. No additional driveways shall be constructed accessing either 256th Street or 472nd Avenue without additional approval from the Minnehaha County Planning Commission.
7. All outside lighting shall be of a shoe box style that directs light downward and prevents the spillage of light beyond the property boundaries.
8. The existing home shall be completely removed from the property upon placement of the new home.

Based on the staff report, a motion was made by O'Hara and seconded by Bunde to approve conditional use permit # 08-03 with the conditions as stated. The motion passed unanimously.

ITEM 7. CONDITIONAL USE PERMIT # 08-04 to place a manufactured dwelling on the site.

Legal Description - Lot 1 Nyhus Addition NW1/4 NW1/4 of Section 13-T104N-R51W

Location – 46515 246th St 2 miles northeast of Colton
Petitioner / Owner- Thomas Zeller

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Residential
Parcel Size - 17.68 Acres

Report by:

Staff Analysis

The subject property is located at the intersection of 246th Street (Co. Hwy 104) and 465th Avenue (Co. Hwy 149). Most of the land in the area is in agricultural uses. The property is the site of an old farmstead and has one eligibility available by right. The petitioner wishes to place a manufactured home on the site.

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 use of a manufactured home instead of a site-built home will have no impact on the surrounding agricultural uses. There are standard conditions for manufactured home set forth in the zoning ordinance that ensure that the appearance of the home blends in with other houses in the area.

Staff did note a semi trailer and a backhoe parked on the property. The petitioner should be made aware that the property is not zoned for any type of commercial activity and that no commercial uses or the storage of commercial vehicles or equipment is not allowed on the site.

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

The use of a manufactured home instead of a site built home should have no impact on the future agricultural uses in the area, which is the predominant use at this time and will continue to be the main use in the future.

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

Access to the property is from 246th Street (Co. Hwy 104). No additional driveways should be allowed off of either 246th Street or 465th Avenue (Co. Hwy 149) without specific approval from Minnehaha County.

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

There is adequate room on the property for the required parking for any approved residential uses.

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

There should be little odor, fumes, dust, noise, or vibration from authorized residential uses. All outdoor lighting should be of a shoebox style that directs light downward in order to reduce the spillage of light onto other properties.

Recommendation

Staff found that the proposed home would not pose any added impacts on surrounding properties and recommended approval of conditional use permit #08-04 with the following conditions:

1. The structure shall have been constructed on or after July 15, 1976.
2. The exterior dimensions of the structure, measured by excluding overhangs, shall not be less than 22 feet.
3. The structure shall be supported by a foundation system consisting of walls along the perimeter and piers on the interior. All foundation walls and piers shall extend a minimum of 42 inches below final grade.
4. The roofing and siding material shall be consistent with the material used in site-built dwellings.
5. The roof pitch shall not be less than a 3 in 12 slope.
6. No additional driveways shall be constructed accessing either 246th Street or 465th Avenue without additional approval from the Minnehaha County Planning Commission.
7. All outside lighting shall be of a shoe box style that directs light downward and prevents the spillage of light beyond the property boundaries.
8. No commercial use or the storage of commercial vehicles or equipment shall occur on the property.

Based on the staff report, a motion was made by O'Hara and seconded by Bunde to approve conditional use permit # 08-04 with the conditions as stated. The motion passed unanimously.

ITEM 8. CONDITIONAL USE PERMIT # 08-05 to transfer three building eligibilities.

From– NE1/4 SE1/4, NW1/4 SE1/4 & SW1/4 SW1/4 of Section 3-T103N-R49W

To – NW1/4 NW1/4 of Section 10-T103N-R49W

Location - 1 mile southeast of Baltic

Petitioner / Owner- Oscar Krogstad

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size - 40 Acres

Report by: Scott Anderson

Staff Analysis: The petitioner is requesting to transfer three (3) residential building eligibilities.

The subject property is currently zoned A-1 Agricultural. On January 8, 2008, staff conducted a site visit. The area is an agricultural area with rolling fields. The closest agricultural operation is located approximately ½ mile to the east.

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

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

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

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

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

Rural water is available in the area and on-site waste water systems will be utilized.

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

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

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

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

Recommendation: Staff found the conditional use permit request to be consistent with density zoning and recommended approval of Conditional Use Permit #08-05 with the following conditions:

- 1) The lot(s) shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.
- 2) That Sverdrup Township shall approve the driveway approach prior to a building permit being issued.

Based on the staff report, a motion was made by O'Hara and seconded by Bunde to approve conditional use permit # 08-05 with the conditions as stated. The motion passed unanimously.

ITEM 9. CONDITIONAL USE PERMIT # 08-06 to allow a daycare.

Legal Description - Lot A Tract 2 Reurink's Addition (ex. H-1) SW1/4 of Section 20-T104N-R51W

Location - 46116 248th St. 3 miles west of Colton

Petitioner / Owner- Hilary Cypher

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Residential

Parcel Size - 2 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting this conditional use permit to allow for a day care in her home. She has indicated that she will have seven (7) children in her care. Three of the seven are her own children. The day care will be operated on the main level of the residence, approximately 1000 square feet. In addition the children will play outside in the back yard. On January 10, 2008, staff

staff conducted a site inspection of the subject property. It is located on a county oil road. There are residential parcels located to the east and west, as well as two agricultural operations. The farms are located approximately ½ mile to the east and west.

Staff must note that the applicant is the daughter in-law of Mike Cypher, Planning Commissioner. As such, Commissioner Cypher will need to abstain from voting on this item on the consent calendar.

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.

Typically daycare facilities do not impact property values in the immediate vicinity, especially a small one such as the one proposed by the applicant. The proposed use should not have an impact on the use or enjoyment in the area. Staff's primary concern is with traffic. In some cases, neighbors are not happy with the increase in traffic, as each child or set of children represents two (2) additional vehicular trips per day. The scale of the proposed use however is quite limited.

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

A daycare would not have any significant impacts on the normal or orderly development of the area. The predominant use in the area is agriculture. This would continue and not be impacted by a small daycare facility.

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

All existing infrastructure requirements are currently in place. The applicant should take the precaution of having their septic tank pumped more regularly in order to minimize the impact the additional sewage will have on the wastewater system.

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

The applicant has indicated that the driveway is long enough to accommodate the additional vehicular traffic associated with the proposed use. Staff estimated that the driveway is approximately 16 feet wide, which is minimally wide enough for two vehicles to pass each other. It is important for two vehicles to be able to pass each other on the driveway, as it allows for a safer access into the subject property when children may be dropped off or picked up around the same times.

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.

Recommendation

Staff found this conditional use permit request to be consistent with goals of the Comprehensive Plan and in conformity with the Zoning Ordinance and recommended approval of Conditional Use Permit #08-06 with the following conditions:

- 1) That the children's play area be completely enclosed with a secure fence.
- 2) That a smoke detector be installed and properly maintained on each floor of the house and that the applicants keep a charged fire extinguisher on each level of the house.
- 3) That no more than twelve (12) children, including the provider's children, be kept in the daycare or home.
- 4) That the applicant obtain and keep in good standing all required state permits and a sales tax license.

- 5) That a minimum of 5 (five) off-street parking spaces be provided for use by the owners of the residence, guests and clients. Each parking space shall measure at least nine (9) feet by eighteen (18) feet.
- 6) That any signage for the daycare meets the requirement of Article 16 of the Minnehaha County Zoning Ordinance and that a building permit is obtain prior to any signage being erected.

Based on the staff report, a motion was made by O'Hara and seconded by Bunde to approve conditional use permit # 08-06 with the conditions as stated. The motion passed unanimously.

ITEM 10. CONDITIONAL USE PERMIT # 08-07 to transfer one building eligibility.

From- Tract 1B Porter's Addition SE1/4 of Section 21-T102N-R50W
To - SE1/4 (ex N1221.8 N1/2 SE1/4 & ex Porter's Addn) in Section 21-T102N-R50W

Location - 2 miles northwest of Sioux Falls
Petitioner / Owner- Robert Porter

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 40 Acres

Report by: Scott Anderson

Staff Analysis: The petitioner is requesting to transfer one (1) residential building eligibility. The subject property is currently zoned A-1 Agricultural. On January 8, 2008, staff conducted a site visit. The area is an agricultural area with rolling fields. The closest agricultural operation is located approximately one (1) mile to the north.

There is an existing residence located on the subject property. The applicant has indicated that the house is to be demolished. Staff is recommending that the vacant house located on Tract 1B be demolished by May 15, 2008. The applicant has indicated that eventually Tract 1B will be replaced into the lot with the existing residence to the south. Demolition of the residence is necessary to avoid having two (2) residences on one parcel.

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

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

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

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

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

Rural water is available in the area and on-site waste water systems will be utilized.

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

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

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

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

Recommendation

Staff found this conditional use permit request to be consistent with density zoning and recommended approval of Conditional Use Permit #08-07 with the following conditions:

1. The lot(s) shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.
2. That Benton Township shall approve the driveway approach prior to a building permit being issued.
3. That the existing residence located on Tract 1B of Porter's Addition be demolished by May 15, 2008 and that the applicant notify the Planning Department once demolition occurs.

Based on the staff report, a motion was made by O'Hara and seconded by Bunde to approve conditional use permit # 08-07 with the conditions as stated. The motion passed unanimously.

ITEM 11. CONDITIONAL USE PERMIT # 08-08 to transfer one building eligibility and to allow a manufactured dwelling.

From- Lot A Hartman's Tr. 6 in Section 16-T103N-R47W

To - the west side of Hartman's Tr. 6 (ex. Lot A) in Section 16-T103N-R47W to be platted as 10 acres adjacent to Hwy 120.

Location - east edge of Garretson
Petitioner / Owner- Pat Jensen

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Agricultural/Residential
Parcel Size - 10 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting to move an existing eligibility for a small one (1) acre lot to a different area on property they own. Currently, there is an existing 30 foot by 90 foot hog house located on the subject property. The structure was used by the applicant. In addition, the applicant is requesting to allow the placement of a manufactured home on the property where the eligibility is being transferred to.

The area to which the eligibility will be moved is well suited for residential development. It would be located with an existing grove of trees and is also adjacent to the Garretson city limits. There are several existing single family residences located to the west and south of the subject property. Staff has serious concerns, however about the placement of any manufactured home on the subject property. On January 14, 2008, staff conducted a site visit to the area. Currently there are no manufactured homes in the general area. There are several stick built homes, one directly across the street and others to the west. Staff believes that the request for the placement of a manufactured home, even with the standards outlined in the Zoning Ordinance, is not consistent with the existing housing stock in the area. Staff can not support the request to place a manufactured home on the property. The parcel is best suited to a stick built structure.

The removal of the eligibility from Lot A Hartman's Tract 6 will leave a large building on the parcel which could then be sold off. This scenario has been a situation that the Planning Commission has attempted to control. The parcel could be sold off and since no residence could be located on it, it could potentially be used for storage or to run a business out of. To avoid this potential issue, staff will recommend that the parcel, Lot A Hartman's Tract 6 be vacated. This

would then combine that parcel back into the farmstead owned by the applicant. Vacation of the lot would eliminate that zoning issue.

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

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

The placement of a manufactured home on this area would have a potential negative impact on the enjoyment of the surrounding properties and may impact property values. Resale values for the existing stick built homes in the general vicinity could be impacted by the placement of a manufactured home. As a result of this, the placement of a manufactured home could have a significant effect on the future use and property values of the area.

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

The transfer of the building eligibility does not increase the number of dwelling units allowed in the area. The subject area is located on the outskirts of Garretson and it is likely that this area will continue to experience residential development.

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

Rural water is available in the area and on-site waste water systems will be utilized.

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

Off-street parking requirements will be provided for once the manufactured home is located on the site or a 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.

Recommendation

Staff found the request for the eligibility portion of this conditional use permit request to be consistent with density zoning and recommended approval of that portion of Conditional Use Permit #08-08 with the following conditions:

- 1) The lot(s) shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.
- 2) That Palisade Township shall approve the driveway approach prior to a building permit being issued.
- 3) That Lot A Hartman's Tract 6 be vacated or replatted into a larger parcel by June 1, 2008.

Staff recommended denial of the portion of this conditional use permit to allow a manufactured home to be placed on the subject property.

The petitioner Pat Jensen was present. She noted that the accessory building is used as a horse barn. She indicated some of her reasons for wishing to transfer the building eligibility. Upon questioning from the planning commission she noted that sale had fallen through of property to the person who wished to have a manufactured home. The petitioner does not care whether the manufactured home request is approved.

Based on the staff report and public testimony a motion was made by Steinhauer and seconded

by Bunde to approve the building eligibility transfer portion of CUP #08-08 with the proposed conditions and to deny the manufactured home portion of the item. The motion passed unanimously.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Appointment of chairperson and vice-chair.

A motion was made by Steinhauer and seconded by Twedt to keep the same chairperson and vice-chair as last year. The motion passed unanimously.

Briefing on applications for the Planning Commission opening.

Scott Anderson reported that we have received 6 applications for the Planning Commission position and that an application had been mailed out to another person. The Planning Commission determined that staff should send out copies of the applications to the commission members along with a map showing where the applicants live. This will be useful in ensuring that many areas of the county have representation on the commission. The applicants are to be invited to the February Planning Commission meeting and the planning commission will make a recommendation to the County Commission that may be used when the County Commission selects an appointee to the board.

Requested Zoning Ordinance Amendments

A report was given on the proposal by attorney Charles Dorothy to amend the zoning ordinance to allow contractor yards in the rural area. The Planning Commission had discussed this issue at the November, 2007 meeting and had determined that no action was needed because the home occupation ordinance had been completely rewritten in 2000 and a similar proposal had been addressed in 2006. Mr. Dorothy took the request to the County Commission on January 22nd. He listed the people that he felt should be included on a study committee and provided a list of questions that he felt the commission should address. Phil Kappen had provided a background on the issue at the meeting and Don South had explained the position of the Planning Commission. The County Commission took no action and deferred the matter until they could work with the Planning Director.