

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
October 26, 2009**

A meeting of the Planning Commission was held on October 26, 2009 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Don South, Susie O'Hara, Mike Cypher, Wayne Steinhauer, Becky Randall, Mark Rogen and Dick Kelly.

STAFF PRESENT:

Scott Anderson, Phil Kappen, Pat Herman and Ryan Streff -County Planning
Gordy Swanson - Office of the State's Attorney

The meeting was chaired by Chair Don South.

CONSENT AGENDA

At the request from the audience, Item #2 was removed from the consent agenda and placed on the regular agenda. At the request from staff, Item #6 was added to the consent agenda. There being no other objections from the Planning Commission or audience, a motion was made by Commissioner Rogen and seconded by Commissioner Randall to approve the consent agenda (Item #2 removed and Item #6 added). The motion passed unanimously.

ITEM 1. MINTUES – August 24, 2009

A motion was made by Commissioner Rogen and seconded by Commissioner Randall to **approve** the minutes. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #09-65 to transfer one residential building eligibility (#070462).

From – SW ¼ (ex. W40 Rds N80 Rds S100 Rds & ex Wildlife) in Section 33-T103N-R52W (eligibility from E ½)

To – Tract 1 of Beckers Addition in the SE1/4 and NE1/4 of Section 33-T103N-52W

Location – 2.5 miles north of Humboldt

Petitioner / Owner- Philip Becker

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size - 91.29 Acres

Report by: Phil Kappen

Staff Analysis:

The subject property is located on the west side of 457th Avenue (Highway 19) and between ¼ and ½ mile north of 256th Street. Surrounding properties are in agricultural uses. The petitioner wishes to transfer one building eligibility from a land-locked property to a 91-acre platted lot which includes both his farmstead and the driveway that accesses the property. Any new residences would likely be placed to the south of this driveway and towards the highway.

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 parcel currently has two eligibilities, one available and one locked by the existing farm house. Approval of this permit would make one more eligibility available on the property. Other than the petitioner's own farmstead, the closest farmsteads are located approximately one mile to the northeast and to the south. The clustering of two residences on the property containing his farmstead should have a minimal impact on the surrounding properties.

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 predominant use in the area. The placement of the home in this location will not change that use.

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

Access to the site is via Highway 19. There is a no passing zone along this portion of the roadway and safe access can be made only at either the south end of the subject property or from the existing driveway accessing 25549 457th Street. The policies of the South Dakota Department of Transportation discourage the placement of any additional driveways onto a state highway. The petitioner has indicated that he would likely make access from the existing driveway.

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

There is ample space for any parking required by the approved residential use on the site.

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 impact from the allowed residential use on this site. Any lighting along the highway should be of a full cutoff and fully shielded style to prevent light from impacting drivers on the highway.

Recommendation

Staff finds that the proposed use conforms with density zoning and recommended approval of Conditional Use Permit # 09-65 with the following conditions:

1. The sites for the homes shall be platted and a right-to-farm notice covenant filed on each property prior to the issuance of any building permit.
2. Access to any additional homes shall be shared with the existing subject property driveway which currently accesses 25549 457th Avenue. A shared access easement shall be designated on any plat.
3. Any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the property boundaries.

Action

Based on the staff report, a motion was made by Commissioner Rogen and seconded by Commissioner Randall to **approval** Conditional Use Permit #09-65 with the conditions as stated. The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT #09-66 to allow a class one home occupation – fire arms dealer.

Legal Description – Lot 2 Block 3 Corson Sampson Subd Fauskes Addn in
Section 27-T102N-R48W
Location – 26018 Jackson Avenue, Corson
Petitioner / Owner- Kim Anderson

General Information

Present Zoning - R1 Residential
Existing Land Use - Residential
Parcel Size - 0.27 Acres

Report by: Scott Anderson

Staff Analysis: The applicant is requesting to operate a class 1 home occupation. The proposed home-based business would be a gun business. The applicant would sell firearms, ammunition and accessories out of the home by appointment only, through an internet site and at gun shows. Zoning approval by the County is required before the applicant can update his ATF (Alcohol, Tobacco & Firearms) license. Customers will visit the property to order and pick up the firearms once they arrive. Due to the low volume of sales, customer visits to the subject property will be limited and by appointment only from 9:00 a.m. to 5:00 p.m.

The applicant has provided a narrative explaining how his home occupation will be conducted. A copy of the narrative is attached for your review.

On October 7, 2009 staff conducted a site visit. The property is located in a small urban subdivision in Corson. The subject property has direct access from Jackson Avenue, a graveled township road. There was adequate sight distance to the north and south. The speed limit on this urban gravel road is 25 m.p.h. The subject property consists of a single family residence. The applicant has indicated that the proposed home occupation will be conducted completely within the existing single-family residence. No external employees will be needed.

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 home occupation of gun sales as a home occupation should have limited effect on the uses already permitted in the area or property values. The applicant has indicated that traffic to the site should be very limited. Traffic will be limited to those ordering and picking up firearms.

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

The proposed Conditional Use Permit should not impact the agricultural/residential nature of the surrounding properties. The applicant may not change the outside appearance of the residence to indicate any business activity. The proposed home occupation will have minimal impact on the development and improvement of any vacant properties in the area.

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

Jackson Avenue provides access to the site. This road is graveled and in good condition. No new roads will be needed to access the site. All required utilities exist to the single-family residence.

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

The applicant must provide one (1) off-street parking space for the existing single-family residence and should provide two (2) off-street parking spaces in front of the building to be used for the home occupation. Staff's inspection of the site found that 4-6 parking spaces are available.

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 has indicated that the business conducted on the property will be gun sales. If the home occupation is conducted within an enclosed structure located on the property and the traffic to and from the site is limited, the home occupation should create little of the above-listed elements in amounts that would constitute a nuisance.

Recommendation: Staff recommended approval of Conditional Use Permit #09-66 to allow gun sales as a Class 1 home occupation with the following conditions:

1. That no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential or agricultural use.
2. That the applicant be limited to one (1) non-illuminated wall sign, which shall not exceed two (2) square feet and one (1) non-illuminated free-stranding sign, which shall not exceed four (4) square feet each in area for the home occupation. A Sign Permit shall be obtained prior to the installation of any sign.
3. That the employees of the home occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
4. That no stock or trade shall be displayed or stored outside the enclosed structures located on the property.
5. That a minimum of three (3) off-street parking spaces be provided. Each parking space shall measure at least nine (9) feet by eighteen (18) feet and shall be kept in a dust free manner.
6. That the home occupation be limited to gun sales, ammunition and gun accessories. Any expansion beyond this will require the Conditional Use Permit to be reviewed.
7. That the applicant obtain a state Sales Tax License.

Action

Based on the staff report, a motion was made by Commissioner Rogen and seconded by Commissioner Randall to **approval** Conditional Use Permit #09-66 with the conditions

as stated. The motion passed unanimously.

ITEM 5. CONDITIONAL USE PERMIT #09-68 to allow retail sales – grain handling equipment.

Legal Description - Lot 9 Block 1 Brower Addition SE ¼ of Section 27-T102N-R51W

Location – 46324 Kelsey Drive south edge of Hartford

Petitioner / Owner- Maras Inc.

General Information

Present Zoning - I-1 Light Industrial

Existing Land Use - Vacant

Parcel Size - 1.0 Acres

Report by: Phil Kappen

Staff Analysis:

The subject property is located in Brower Addition, a commercial/industrial subdivision at the southeast corner of the Hartford exit on I-90. The property is immediately adjacent to the I-90 right-of-way. The surrounding properties on the east and west are vacant commercial lots. The lot to the south has a commercial building with individual bays which are rented out for various uses. The petitioner proposes to operate a grain dryer equipment sales lot and would construct building and office on the west end of the property with a fenced storage area to the north of the building for the display of equipment. A model grain bin would be erected in the northeastern portion of the property.

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

As the surrounding properties to the east, north and west are either currently in commercial uses or are planned for commercial uses it is not likely that the proposed use would be in conflict. As the property is immediately adjacent to I-90 and the city of Hartford across the interstate care must be taken to preserve the appearance of the property. The petitioner proposes to have equipment that is for sale located within the fenced area north of the building. All other materials would be kept inside the building. The petitioner does not propose any outside storage area for the storage of equipment parts, materials or scrap. However, a provision for screened outside storage of such items could be included with the permit in the event that such an area is needed in the future. No inoperable, damaged, or dismantled equipment should be allowed to accumulate on the site. In order to mitigate the view from the highway, landscape trees should be required along the I-90 right-of-way.

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

The surrounding lots are planned for commercial uses. The land immediately across the interstate is within the city limits and is planned for commercial uses. The equipment sales use can be made to conform with the future commercial uses.

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

provided.

Access to the property is via Kelsey Drive. The roadway currently has a gravel surface and is in poor condition. The property owners in the area are in the process of reactivating their existing road district and there is a possibility that the road will be improved and possibly hard-surfaced in the foreseeable future.

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

Given the type of proposed use there will likely not be numerous people on the site at any time. However, specific parking areas must be reserved for employees and customers. A minimum of 15 spaces should be provided for such parking. There is ample space on the property to accommodate that amount of parking. The current site plan does not specify where the parking would be provided. A revised, more-detailed site plan should be prepared which better shows the location of all planned features on the site as well as any required landscaping.

Though the access road is not hard-surfaced at this time, there is a potential that it could be in the foreseeable future. All driveways and the customer and employee parking should be hard-surfaced at such time as Kelsey Drive is hard-surfaced.

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.

With the proposed use there should be little incidence of offensive odor, dust or vibration. Noise should be required to remain in tolerable ranges. Outdoor lighting must be given careful consideration given the proximity of the site to the interstate highway. Requiring that all outdoor lighting be of full cutoff and fully shielded design will lessen any potential for impact on neighboring properties or on travelers along the interstate.

Recommendation: Staff finds that the proposed use is consistent with the uses typically found in commercial or industrial areas and that the use can be managed in a manner that will reduce the potential for any impacts to the neighboring properties. Staff, therefore, recommended approval of conditional use permit #09-68 with the following conditions:

1. The use shall be for grain bin and grain dryer equipment sales.
2. No inoperable, damaged, or dismantled equipment shall accumulate on the site.
3. Any outside storage of parts or materials shall be screened from public view by a earth-tone screening fence of at least 8 feet in height with a minimum opacity of 90% maintained over the full height of the fence.
4. Landscape trees shall be planted along the I-90 right-of-way at a maximum spacing of 40 on center. Deciduous trees shall be a minimum caliper of 1-1/2 inches and coniferous trees shall be a minimum height of 5-6 feet.
5. A minimum of 15 parking spaces shall be provided. These parking spaces and any driveways shall be hard-surfaced at such time as Kelsey Drive becomes hard-surfaced.
6. No vehicles or equipment shall be parked within any street right-of-way.
7. The petitioner shall provide a revised site plan for planning staff approval which delineates where the parking spaces and driveways will be located and all other features of the site. All operations shall follow the approved site plan.

8. All outdoor lighting shall be of a full cutoff and fully shielded style to prevent spillage of light beyond the property boundaries.
The petitioner shall obtain and maintain a state sales tax license.

Action

Based on the staff report, a motion was made by Commissioner Rogen and seconded by Commissioner Randall to **approval** Conditional Use Permit #09-68 with the conditions as stated. The motion passed unanimously.

ITEM 6. CONDITIONAL USE PERMIT #09-37 to allow the transfer of one residential building eligibility.

From - SW ¼ NE ¼ in Section 22-T103N-R51W
To - NE ¼ NE ¼ in Section 22-T103N-R51W
Location – 6 miles north of Hartford
Petitioner / Owner- Ron Steineke

General Information

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

Report by: Scott Anderson

Staff Analysis: The applicant had submitted a request to transfer a land locked eligibility from the SW ¼ of the NE ¼ to the NE ¼ of the NE ¼. At the May 2009 Planning Commission, this item was deferred until the October meeting in order to allow the applicant time to address the conditions of approval for a previous conditional use permit.

On October 6, 2009, staff contacted the applicant to determine if the conditions of approval for the previous conditional use permit had been met. He indicated that all of the tanks had been emptied and collapsed. He also indicated to staff that this transfer is no longer needed and requested to withdraw the request. Staff indicated that the withdrawal request would be forwarded to the Planning Commission for final action.

Recommendation: Staff recommended that the Planning Commission acknowledge the withdrawal of Conditional Use Permit #09-37 at the applicant's request.

Action

Based on the staff report, a motion was made by Commissioner Rogen and seconded by Commissioner Randall to **withdraw** Conditional Use Permit #09-37. The motion passed unanimously.

REGULAR AGENDA

A motion was made by Commissioner Cypher and seconded by Commissioner O'Hara to approve the regular agenda, Item #2 added. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #09-63 to allow the transfer of two residential building eligibilities.

From – SE ¼ NW ¼ & SW ¼ NW ¼ of Section 29-T102N-R501W
To - SE ¼ (Ex Melins Trs & Ex Andresen's Addn) of Section 19-T102

50
Location – 3 miles east of Hartford
Petitioner / Owner- John Andresen

General Information

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

Report by: Scott Anderson

Staff Analysis

The applicant wants to transfer a landlocked eligibility from the SE ¼ NW ¼ and from the non-landlocked SW ¼ NW ¼, to the SE ¼ of Section 19 to allow for the development of two residential lots. The proposed building sites would be located on the east side of 467th Avenue.

On September 9, 2009, staff conducted a site visit. There are existing farms located around the subject property. There are four existing farms that have cattle located on the property. The proposed transfer would move two potential single family residences closer to these operations. Two of the operations are located to the west and not visible from the subject property due to the bluff running along Skunk Creek. Two of the cattle operations are located less than ½ mile to the east on 467th Avenue. Staff will recommend approval as the eligibility is not moving significantly closer to the two farmsteads to the south.

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 eligibilities does not increase the number of dwelling units allowed in this section.

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

Rural water is available in the area and a waste water system will be utilized. The applicant hasn't indicated whether the proposed building sites will share an approach

between themselves or with any other residence. A new approach will have to be constructed onto 467th Avenue or Benton Avenue. Benton Township will have to approve the location of the proposed driveway approach prior to a building permit being issued.

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 finds this conditional use permit request to be consistent with density zoning and recommended approval of Conditional Use Permit #09-63 with the following conditions:

- 1) The lots 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.

Public Testimony

Commissioner Kelly asked where the cattle operations were in respect to the transfer area. Scott Anderson stated that there are cattle operations along 467th Street within ½ mile of this area. Mr. Anderson mentioned that there are a few smaller cattle and/or hobby farms located in this general area as well.

Commissioner South asked if the petitioner was present. He then proceeded to ask if the petitioner had any objection to this report. John Andersen (25947 468th Ave.) stated that he did not object to this report and that he had no comments at this time.

Vance Peterson (46684 Benton St.) stated that he lives just north of the subject property. He then questioned the number of building eligibilities allowed on a single piece of property. Commissioner South informed Mr. Peterson that the county only allows one (1) building eligibility per forty (40) acres. He continued to state that eligibilities can transfer to different property locations if all the property is owned by the same party.

Vance Peterson stated that he would like to see the homes built towards the south end of subject property. John Andersen proceeded to tell the commission that at this time he is not sure that he will be building but is just transferring the eligibilities at this time.

Action

Based on the staff report and public testimony, a motion was made by Commissioner O'Hara and seconded by Commissioner Rogen to **approve** Conditional Use Permit #09-63 with the following conditions. The motion passed unanimously.

- 1) The lots 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.

ITEM 7. CONDITIONAL USE PERMIT #09-67 to exceed 1200 sq. ft. of accessory building area – 1800 sq. ft. requested.

Legal Description - N185.5' E210' (Ex Tr. A Russman Addn.) W ½ SE ¼ SE ¼ of Section 10-T102N-R49W

Location – 47586 Neener Circle 1 mile east of Renner

Petitioner / Owner- Aaron Messenger

General Information

Present Zoning - RR Rural Residential

Existing Land Use - Residential

Parcel Size - 1.18 Acres

Report by: Ryan Streff

Staff Analysis: The subject property is located in McCroskey Subdivision approximately one (1) mile east of Renner on 476th Avenue. The petitioner has applied for a conditional use permit to exceed the 1,200 square feet of accessory building area. The petitioner is requesting that a 1,800 square foot accessory building that consists of a 30'x40' (1,200 sq. ft.) enclosed building with an attached lean-to that is 15'x40' (600 sq. ft.). The existing wood shed (192 sq. ft.) on the property that will be removed.

Within McCroskey Subdivision and the Blys Addition there are three (3) accessory buildings that exceed the maximum size permitted of 1,200 square feet. The accessory buildings that exceed this limit in the area are 1,280 sq. ft., 1,350 sq. ft., and 1,440 sq. ft. in size. All three (3) of these accessory building were built before the current 2001 zoning update to the Minnehaha County Zoning Ordinance. After this update in 2001 the county enforced the maximum 1,200 sq. ft. of accessory building area in both the A-1 and RR districts where the properties were less than 40 acres in size. There is also one (1) additional larger building just south of the subject property in the Russman Addition that is 2,480 sq. ft. in size. This building was originally constructed on a farmstead in 1995 and in 1998 the NE portion of this property was platted to create a separate parcel.

Since this zoning update in 2001 four (4) conditional use permit applications to exceed the 1,200 sq. ft. of accessory building area have been denied within the McCroskey Subdivision and Blys Addition. The Planning Commission denied accessory building requests that ranged from 1,440 sq. ft. to 2,400 sq. ft. in size.

The petitioner obtained a building permit for a 30'x40' accessory building on September 30, 2009. He later called for a framing inspection and the Building Official found that a larger accessory building was being built on the property. At this time the Building Official told the contractor to stop construction on the lean-to. The petitioner did not stop construction on this portion of the building as the building is now completed. The petitioner did not call for a final inspection.

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

Due to the current circumstances existing in the area, accessory buildings of this size should not be permitted as four (4) other accessory buildings have been dined since the 2001 zoning update. Staff feels that permitting an accessory building of this size would

be unreasonable due to the fact that adjacent properties that have applied for conditional use permits to exceed the 1,200 sq. ft. accessory building area and have been denied.

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

An accessory building of this size is not considered to be normal development in this zoning district or rural subdivision. Currently there are sixteen (16) accessory building with McCroskey Subdivision and Blys Addition that do not exceed the 1,200 sq. ft. accessory building area. Accessory buildings located in the RR district shall not exceed 1,200 sq. ft. when such buildings are located in a subdivision of more than four (4) lots unless a conditional use permit is approved.

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

Access to the property is off of Neener Circle. A new driveway has been constructed along the west property line to access the accessory building. No other infrastructure improvements are required at this time.

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

There is ample space on the property for parking that is typically associated with a single-family residence.

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 shall be no offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property. The proposed building will only be used for personal storage and no commercial or business related activities will be allowed. All outside lighting shall be fully cut-off and fully-shielded with recessed lights that prohibit the spillage of light beyond the boundaries of the subject property.

Recommendation: Staff finds that the proposed building would not be in character with the other properties within this district or rural subdivision. Staff recommended denial of conditional use permit #09-67.

Public Testimony

Ryan Streff stated that two concerned neighbors have called his office about the oversized building that Aaron Messenger has constructed. They stated to Mr. Streff that a 1,200 sq. ft. building should be large enough to store residential items. The neighbors also made it clear that other residents in the area have been denied accessory buildings that exceed 1,200 square feet.

Petitioner Aaron Messenger (47586 Neener Circle) informed the commissioners that when the framing was complete he called the building official that Friday and left a message with our office so he could schedule a framing inspection. He stated that he was not called back until the following Tuesday or Wednesday. Mr. Messenger continued to

state that when the building official was at the property the contractor was told to stop construction on the lean-to portion of the building. He then stated that the contractor told him that it was his responsibility to get all the proper permits for the construction. Mr. Messenger informed and showed the Commission that when he applied for the building permit he had a building proposal from Cleary Buildings that listed the 15'x40' lean-to section which was copied by the staff. When this was not included on the building permit he assumed a lead did not need a permit. Mr. Messenger never verbally told the staff about the lean to.

Donald Wendt (25781 476th Ave.) stated that he was one (1) of the four (4) residents in the area that have been denied to exceed the 1,200 sq. ft. maximum accessory building area. He concluded that he wants to see the Commission be consistent with this regulation.

Delton Stroud (47580 Neener CIR.) stated that his home is directly to the west of Mr. Messenger's property. He informed the Commission that Mr. Messenger is improving his property and that this building will have little or no affects on the surrounding properties including his own. He concluded that the Commission should grant Mr. Messenger's request and approve his conditional use permit as an exception to the rule because it seemed as though there was a misunderstanding of what was expected during the application process.

Commissioner Cypher commented that the Planning and Zoning Office should have caught this error during the application process and not after the framing had been completed.

Commissioner O'Hara stated that it is unfortunate that the building is complete but it would be unfair to the other residents in the area that have applied to exceed the 1,200 sq. ft. of accessory building area and were denied.

Action

Based on the staff report and public testimony, a motion was made by Commissioner Cypher and seconded by Commissioner Randall to **deny** Conditional Use Permit #09-67. The motion passed unanimously.

ITEM 8. CONDITIONAL USE PERMIT #09-70 to exceed 1200 sq. ft. of accessory building area – 4320 sq. ft. requested.

Legal Description - Tract 1 Bott's Addition (ex H-1) NW ¼ in Section 34-
T103N-R49W
Location – 25512 475th Ave. 3 miles north of Renner
Petitioner / Owner- Steven & Nancy Bott

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Agriculture
Parcel Size - 15.64 Acres

Report by: Phil Kappen

Staff Analysis: The subject property is located on the east side of 475th Avenue (SD Hwy 115) and about 1/8 mile south of 255th Street. The petitioner has an existing 2400 square foot accessory building and wishes to construct an additional 1920 square foot building for a total of 4320 square feet. The properties to the north and west are residential uses. The properties to the east and south are currently used for agricultural purposes.

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 already has the largest building among the immediate lots. The petition, however, also has one of the larger lots in the area. Earlier this year the commission addressed a request from the property to the northwest for an accessory building of 2400 square feet. That property owner's permit was approved and was justified primarily because of the size of the petitioner's existing building. The property owner in that instance had an additional accessory building on his site, but was required to remove that as part of his permit approval. This area continues to become more residentially oriented. As such, the addition of ever larger accessory buildings may pose a problem due to potential future conflicts with residential uses.

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

The property southwest of the subject property was recently approved for an additional 8 homes. That property owner has not yet brought forward a preliminary subdivision plan for approval, but the additional of more homes will increase the potential for conflicts in the area from the types of uses that may be found in larger accessory buildings.

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

Access to the site would be via an existing driveway onto Highway 115. No added driveways are proposed.

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

The property has ample space for any needed parking required as part of the residential use on the site.

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 would be little of these impacts from the allowed residential use on the subject property.

Recommendation: Staff finds that the requested building is out of character with the immediate area, particularly since the petitioner already has one of the largest buildings in the neighborhood and that the existing 2400 square feet was used as justification in order to approve a 2400 square foot building on a neighboring lot. Staff recommended denial of Conditional Use Permit #09-70.

Public Testimony

Steven Bott (25512 475th Ave.) stated that the current building (2,400 sq. ft.) was built approximately twenty years ago and is not large enough to contain all of his cars and equipment. He informed the Commission that he does have one of the largest buildings in the area but there are still has neighbors that have more building square footage then he does. He stated that his property is slightly larger then 15 acres and feels that he should be allowed more building square footage than a lot that is 1-2 acres in size. He indicated that by allowing him to construct this building he would ultimately be increasing the tax base in Minnehaha County. He concluded that he wants this building so he can work on his hobby of restoring his cars.

Commissioner Steinhauer asked Mr. Bott if he has looked into adding an attached garage. Mr. Bott stated that he has looked at adding an attached garage and it is his understanding that he can build a 40 stall garage onto his home and meet county regulations. He stated that he does not want to attach a large structure like this to his home.

Commissioner Steinhauer stated that it would be nice to have a way to scale the square footage of allowed accessory building area to the size of the lot. Commissioner Kelly stated that a lot of this size should be able to have additional building square footage. Commissioner Cypher commented that large building like this can cause problems down the road and that is why the Planning Commission has set this standard.

Action

Based on the staff report and public testimony, a motion was made by Commissioner O'Hara and seconded by Commissioner Rogen to **deny** Conditional Use Permit #09-70. The motion passed (Kelly Nay).

OLD BUSINESS

A. Briefing on Sioux Falls Comprehensive Plan

Sam Trebilcock, Transportation Planner for the City of Sioux Falls, gave a brief introduction to the new 2035 Comprehensive Plan.

B. Commercial Vehicles

Phil Kappen gave a short presentation of a possible zoning amendment that included adding regulations for the storage of commercial vehicles and heavy equipment.

NEW BUSINESS

A. Hard-Surfacing Requirement

Ryan Streff gave a short presentation on the current and possible new additions to the county's hard-surfacing requirement. More information will be provided to the Planning Commission on this item at the next meeting.

B. 2010 Chair And Vice-Chair

Commissioner Don South informed the Planning Commission and staff that he would be resigning as Chair as the first of the year.