



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
June 28th, 2021**

A meeting of the Planning Commission was held on June 28th, 2021 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Adam Mohrhauser, Doug Ode, Ryan VanDerVliet, Mike Ralston, and Jeff Barth were present at the meeting.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Eric Bogue – States Attorney's Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:22 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

Consent Agenda

Commissioner Duffy read each item of the consent agenda, and no items were requested to be moved to the regular agenda.

A motion was made to approve the consent agenda consisting of Items 1, 2, 3, 4, 5, and 6 by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.

ITEM 1. Approval of Minutes – May 24th, 2021

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Randall to approve the meeting minutes from May 24th, 2021. The motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.



ITEM 2. CONDITIONAL USE PERMIT #21-45 to allow a Manufactured House on the property legally described as the N ½ SE ¼ (Ex Tract 1) & Tract 3 in the SE ¼, Section 18-T103N-R49W.

Petitioner: John Wehde

Property Owner: Same

Location: 47275 Big Sioux Road, Located Approximately 2 miles South of Baltic

Staff Report: Kevin Hoekman & Mason Steffen

General Information:

Legal Description – N ½ SE ¼ (Ex Tract 1) & Tract 3 in the SE ¼, Section 18-T103N-R49W

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 82.30 Acres

Staff Report: Mason Steffen & Kevin Hoekman

Staff Analysis:

The petitioner is requesting to place a manufactured house for a primary residence on a site where a previous farmstead was recently removed. The placement of a manufactured house on a lot outside of a designated manufactured home park, requires a conditional use permit.

On June 7th, 2021, staff conducted a site visit of the proposed site for the manufactured house. The area around the proposed site consists of agricultural uses. There are two existing residences located approximately a 1/4 mile from the proposed site. One to the southeast and one to the northwest. Also, approximately a 1/4 mile to the southeast is the Retreat at Pointer's Ridge, which received approval for a manufactured house through a conditional use permit in 2000. All the other area surrounding the proposed site is farmland. Section 12.06 includes several requirements for the placement of manufactured houses, which the petitioner must follow if the conditional use permit is approved.

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 subject property is located on Big Sioux Road approximately 2 miles south of Baltic. The area is mostly comprised of agricultural lands with farmsteads and there are few non-farm acreage sites. A residential acreage of any kind, manufactured house or stick built, may create conflict of agricultural practices and residential expectations. A Right-To-Farm covenant will be required prior to a building permit being issued for the proposed manufactured house. The Right-to-Farm covenant informs property owners of some of the realities of living on a rural site. The low density of residential properties in the area will reduce much of the concerns of a manufactured house being different than a typical stick framed house.



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

The primary use of the general area is agriculture. The erection of a manufactured house on a site where a previous farmstead resided will not inhibit the agricultural production of the area. There should be no anticipated impact on the normal or orderly development of vacant properties in the area.

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

The proposed site of the manufactured house will be in the same location as a previous farmstead. The site is already serviced with utilities and a driveway onto Big Sioux Road. The placement of a manufactured house will cause minimal effect to the drainage of the property.

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

Each residence is required to have two (2) off-street parking spaces. The site of the proposed manufactured house is large enough to accommodate this residential parking requirement.

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.

A typical residential use will not create any offensive odor, fumes, dust, noise, or vibration. Any new lighting will be required to be shielded and pointed downward, and the property must be maintained in accordance with the public nuisance ordinance.

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

The zoning ordinance includes requirements to minimize the negative aesthetics associated with a manufactured house. The requirements include minimum width, roof pitch, and standard building materials. A manufactured house can be an affordable housing option for the owner. With general requirements and low density of the area, the placement of a manufactured house will not negatively affect the health, safety, or general welfare of the public.

Recommendation: Staff recommends **approval** of Conditional Use Permit #21-45 with the following conditions:

- 1.) A building permit must be obtained prior to the placement of the mobile home.
- 2.) Each section of mobile home must bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.
- 3.) The manufactured house must comply with all requirements of Article 12.06 (C). of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 4.) Prior to the issuance of a building permit, a Right-to-Farm Notice Covenant must be filed on the deed with the Register of Deeds.



Action

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #21-45 with staff recommended conditions by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-45 – Approved



ITEM 3. CONDITIONAL USE PERMIT #21-46 to adaptively reuse the dwelling on the property legally described as W ½ NE ¼ all in Section 31-T104N-R48W.

Petitioner: Travis Jervik

Property Owner: Emelius Kringen

Location: 47851 249th Street Located Approximately 4 miles east of Baltic

Staff Report: Scott Anderson

General Information:

Legal Description – W ½ NE ¼ all in Section 31-T104N-R48W

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 80.00 Acres

Staff Report: Scott Anderson

Staff Analysis: On June 3, 2021, staff conducted a site visit. The area consists of agricultural uses. There are two existing residences located approximately 1/8 mile to the west. The areas to the north, south and east are farm fields.

The applicant has indicated that they will be constructing a new single-family residence on the subject property sometime later this summer or early fall. They would like to utilize the existing single-family dwelling on the subject property for storage. The Zoning Ordinance allows for this with a Conditional Use Permit provided the old residence is modified to render it not usable as a residence. This would require the kitchen to be removed. The applicant will be required to obtain a building permit to modify the former residence into storage.

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 should be no impact on the permitted uses in the area. It is unlikely that a modified house into a storage building will impact property values. A storage facility will allow for a tidier homesite. Once the former residence is converted into storage, it can no longer be used as a residence, only as storage.

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

The primary uses of the general vicinity are agriculture. The conversion of an older residence into storage will not impede the agricultural production of the area. No impact to the normal or orderly development of vacant properties should be anticipated.



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

There has been a farmstead located on the subject property for many years. The site is already serviced with utilities and a driveway onto 249th Street. No other improvements are needed. The applicant will be constructing a new residence, which will be serviced by the existing utilities to the site.

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

Each residence is required to have two (2) off-street parking spaces. The proposed new residence will have an attached garage and ample parking near the 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.

The adaptive reuse of the older residence will not create nuisance dust, fumes, noise or vibrations. Any new lighting will be required to be shielded and pointed downward.

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

The health and safety of the community will not be impacted by the adaptive reuse of the older residence. The reuse of an older building conserves building materials and lessens construction debris, which benefits the overall community.

Recommendation: Staff recommends **approval** of Conditional Use Permit #21-46 with the following conditions:

1. The applicant shall obtain a building permit for the conversion of the existing, older residence into a storage building.
2. All new outside lighting shall be of shoe-box style directing lights directly downward onto the property.
3. The Planning & Zoning Department reserves the right to enter and inspect the adapted re-use structure at any time, after proper notice, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

Action

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #21-46 with staff recommended conditions by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-46 – Approved



ITEM 4. CONDITIONAL USE PERMIT #21-47 to make available two (2) building eligibilities on the SE ¼ SE ¼ Section 22-T103N-R50W.

Petitioner: Scott Swanson

Property Owner: Same

Location: Approximately 2 miles North of Crooks

Staff Report: Scott Anderson

General Information:

Legal Description – SE ¼ SE ¼ Section 22-T103N-R50W

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 149.28 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 2.5 miles to the north of Crooks at the intersection of County Highways 122 and 137 (254th St. and 470th Ave.). The petitioner is requesting to assign the Conditional Use building eligibilities to the SE ¼ of SE ¼ of the section for the intent to use them in the near future. The noted location of the building sites would be between the existing platted residence to the north and the County Highway to the south.

Conditional Use Permit Criteria:

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

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

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

The transfer of a building eligibilities does not increase the number of dwelling units allowed in this section. The requested location for the eligibilities places them near other residentially used property and closer to the County Highway. Access would have to be approved by the County Highway Department. The siting of the building eligibilities in this location would have little to no effect on the orderly development of the surrounding properties.

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

No other extra utilities or services will be required for this site to utilize the building eligibilities. The applicant may wish to consider for the potential for sharing a driveway access. The County Highway Department may require a shared driveway approach.



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

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

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

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

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

The proposed conditional use will have a no effect on the health, safety and general welfare of the public. Placing these building eligibilities in this location will move the building eligibilities in closer proximity of similar uses.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #21-47 with the following conditions:

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

Action

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #21-47 with staff recommended conditions by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-47 – Approved



ITEM 5. CONDITIONAL USE PERMIT #21-48 to transfer one (1) building eligibility from Tract 4 Jandl's 2nd Addition to Tract 1 Jandl's Second Addition in the E ½ Section 32-T104N-R52W.

Petitioner: Tetonka LLP.

Property Owner: Same

Location: Approximately 8 miles West of Colton

Staff Report: Scott Anderson

General Information:

Legal Description – Tract 4 Jandl's 2nd Addition to Tract 1 Jandl's Second Addition in the E ½ Section 32-T104N-R52W.

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 24.69 Acres

Staff Report: Scott Anderson

Staff Analysis: The subject property is located approximately 8 miles west of Colton. The surrounding properties are in agricultural uses with a few non-ag residences. The petitioner proposes to transfer an eligibility from one existing tract to Tract 1. Tract 1 is located north of an existing small lake along 456th Avenue.

Conditional Use Permit Criteria:

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

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

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

The transfer of a building eligibility does not increase the number of dwelling units allowed in this section. The siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

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

No other extra utilities or services will be required for this site to utilize the building eligibility. There is already a field approach leading onto Tract 1.

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

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



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

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

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

The proposed conditional use will have a no effect on the health, safety and general welfare of the public. Placing this building eligibility in this location will move it closer to similar uses.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #21-48 with the following conditions:

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

Action:

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #21-48 with staff recommended conditions by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-48 – Approved



ITEM 6. CONDITIONAL USE PERMIT #21-49 to exceed 3,600 square feet of accessory building space (requesting 4,260 square feet) on the property legally described as Tract 1 Ace Addition in the SW ¼ NW ¼ Section 22-T101N-R51W.

Petitioner: Brian Schmidt

Property Owner: Same

Location: 26544 463rd Avenue, Located approximately 5 miles South of Hartford

Staff Report: Kevin Hoekman & Mason Steffen

General Information:

Legal Description – Tract 1 Ace Addition in the SW ¼ NW ¼ Section 22-T101N-R51W.

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 8.99 Acres

Staff Report: Mason Steffen & Kevin Hoekman

Staff Analysis: The petitioner is requesting a conditional use permit approval to allow 4,260 square feet of total accessory building area. The accessory building will be used for personal storage of vehicles and equipment. The proposed conditional use permit will allow for an eight (8) foot extension on the east side of the existing pole shed, and a 10'x 42' L shaped porch on the southwest corner.

On June 7th, 2021, staff conducted a site visit of the proposed site for the accessory building. The proposed accessory building is located approximately 1/8 mile north of the residence in a converted crop field of approximately 8.99 acres. Directly north of the proposed building site is still crop land. Approximately a 1/4 mile to the northwest at the address 26531 463rd Avenue an accessory building with a total square footage of 5,400 was approved in 2005 on approximately six (6) acres of land.

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 should be no anticipated negative effect upon the use and enjoyment of the residential properties in the immediate vicinity. Property values in the area should also not be negatively impacted due to the personal use of the proposed accessory building.



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

The proposed site of the accessory building is located in an area surrounded by large lots of agricultural land. There should be no anticipated impacts to the normal and orderly development and improvement of the surrounding vacant farmland. The proposed size of the accessory building is generally compatible with other residential properties in the immediate vicinity.

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

The petitioner will be required to extend all required utilities to the structure. The current driveway is shared with the neighboring property and will provide access to the shed and house.

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

The proposed site of the accessory building is large enough to accommodate the off-street parking requirement. The new shed will add additional parking and storage to the 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.

No commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

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

The health, safety, general welfare of the public will not be negatively affected by the construction for the proposed accessory building. The proposed use will fit within the uses of other properties in the rural area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #21-49 with the following conditions:

- 1) The building location shall adhere to the submitted site plan.
- 2) The total area of all accessory buildings may not exceed 4,260 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That only personal 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.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.



Action

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #21-45 with staff recommended conditions by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.

Conditional Use #21-49 – Approved



ITEM 7. CONDITIONAL USE PERMIT #21-50 to allow a bed and breakfast establishment inside an existing shop building on the property legally described as County Auditors Tract 2 in the SE ¼ (Ex N 200'), Section 33-T102N-R47W.

Petitioner: Argil & Eugene Hunter

Property Owner: Same

Location: 26191 487th Avenue, Located North of Valley Springs

Staff Report: Kevin Hoekman & Mason Steffen

General Information:

Legal Description – County Auditors Tract 2 in the SE ¼ (Ex N 200'), Section 33-T102N-R47W

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 2.55 Acres

Staff Report: Kevin Hoekman & Mason Steffen

Staff Analysis:

The petitioner is requesting to utilize their existing accessory building for short term rentals, such as what is done through the website Airbnb. Minnehaha County has classified such uses as a bed & breakfast, which requires a conditional use permit. The location of the property is located just north of Valley Springs on County Highway 138.

The petitioner submitted a narrative along with site plans for the accessory building and photos of the property. The narrative explains that the petitioner would be converting an existing accessory building into a bed & breakfast using a two-phase plan. Phase one of the plan includes converting an office on the first floor of the accessory building into a more livable space with a kitchen area and bedrooms. The narrative further explains that phase two would be developed if phase one is successful. Phase two includes adding a loft, bedrooms, and another bathroom to the second floor of the accessory building. A bathroom with a shower, and a laundry area are already in the building. Bathrooms and offices are common features of detached accessory buildings within the county, but because of density zoning, full kitchens and separate bedrooms are not allowed in a detached accessory building.

The quasi-residential nature of the proposed request located within an accessory building is of great concern for planning staff. If the Planning Commission considers approval of the proposed request, appropriate conditions should be in place to prevent the accessory building from being used as a dwelling. In order for the proposed bed and breakfast to comply with density zoning and Section 12.07(B) of the zoning ordinance, Planning staff recommends that an oven/range not be allowed in the kitchen of the accessory building. In addition, there should be a maximum limit of 2 weeks stay for any guest at the property (Section 12.07(B) of the ordinance states that accessory buildings may not be used for dwelling purposes). If the CUP is approved the petitioner would need to obtain a building permit for each phase of the proposed plan.



During review of the conditional use permit application, planning staff became aware that the proposed bed and breakfast (and the rest of the property) is located within the floodplain of Beaver Creek. No floodplain development permits have been found for the property. The dwelling was constructed in 1975, prior to the county adopting a floodplain ordinance. The accessory building was constructed in 2006, and staff found no records of floodplain protections for the structure. The petitioner was not the owner of the property when the accessory building was constructed.

The proposed bed and breakfast located in the floodplain is also a concern for staff. We do not know the elevation of the accessory building in comparison to the floodplain and if the building meets any floodplain development standards of the 2017 Revised Floodplain Management Ordinance for Minnehaha County. One of the standards of the floodplain ordinance is that any residential structure is required to be elevated so that the floor is at or above the base flood elevation (height of the “100 year” flood). Since the use of the structure will be quasi-residential, staff would require the structure to meet this standard. Staff cannot recommend approval of the request at this time until further information is received on whether this requirement can be met or not. This information can be received by the petitioner by hiring a qualified engineer or surveyor to complete an elevation certificate for the structure.

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 property will remain residential with a single-family home and detached accessory building. The visible aspect of the request will be a small sign that is visible for identification of the property for guests. The character of the neighborhood will not change with the presence of the proposed bed and breakfast. As long as adequate off-street parking is provided the use and enjoyment of the other properties in the vicinity should not be impacted.

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

The addition of a bed & breakfast establishment inside an existing accessory building should have little effect on future development and improvement of vacant properties in the vicinity. South of the property is the town of Valley Springs which will probably not grow north because of the floodplain.

If approved, the proposed bed and breakfast may be the first bed and breakfast allowed outside of the primary residence in an accessory building. The impact of allowing a bed and breakfast in an accessory building may be to set a precedent for other bed and breakfast types of facilities within accessory buildings. Staff suggests that if this is approved, appropriate conditions are applied to limit the accessory building from turning into a full residential use such as limits of time of stay and limited kitchen size.



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

The existing accessory building is already serviced with utilities required for the conditional use. There is already a driveway in place that connects the accessory building to County Highway 138.

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

The property is located at the corner of a gravel road and a county highway. Parking on the street should be discouraged. The petitioner should make available a dedicated off-street parking space for guests. The petitioner submitted pictures of their proposed parking solution with their narrative, and the staff finds this solution to be adequate for the number of proposed guests.

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 parties or events will be allowed in the proposed bed & breakfast. Not allowing parties should be a condition of approval to limit concerns of noise and disturbances in the neighborhood. The site plan shows enough room in phases 1 and 2 of the plan for six guests (2 guests per bedroom). In order to further limit parties, there should be consideration given to limit the number of guests to six. More than six guests would resemble a party.

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

Typically, small bed and breakfast locations should have minimal to no negative effect on the public. A running list of guests at the facility should be kept for inspection by law enforcement if the need arises for public safety. One concern about the proposed bed and breakfast is its location within a floodplain. The addition of a quasi-residential building may cause additional hazard when a flood happens. This is especially true when the structure does not meet minimum floodplain development standards.

Short term rentals such as the proposed, allows property owners to supplement income and utilize space that may otherwise not be needed.

The Planning Commission has options to consider regarding the request for a bed and breakfast. Staff is recommending deferral of the request, because further information about the building and the floodplain should be obtained. The Planning Commission may consider denial of the proposed bed and breakfast because of its quasi-residential use in an accessory building or its location within the floodplain. If approval is considered, now or in the future, below is a list of potential conditions of approval for review.

- 1.) That CUP #21-50 shall allow a bed and breakfast establishment.
- 2.) That the property shall adhere to the submitted site plan.
- 3.) That a sign may be posted on the property, with a building permit, not to exceed 32 square feet.
- 4.) That all new outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.



- 5.) All bedrooms and hallways of accessory building must have functioning smoke and carbon monoxide detectors as required by the 2018 IRC as adopted by Minnehaha County.
- 6.) The proprietor must obtain any applicable South Dakota Sales Tax that is required.
- 7.) The proprietor must obtain the required Lodging License with the South Dakota Department of Health.
- 8.) The number of guests shall not exceed 6 people at any one time, and no individual guest shall stay at the bed and breakfast for longer than 2 weeks per month.
- 9.) The proprietor of the bed and breakfast shall maintain a guest list and make such list available at the request of law enforcement.
- 10.) That the Planning & Zoning Department reserves the right to enter and inspect the bed and breakfast establishment at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Recommendation: Staff recommends **denial** of Conditional Use Permit #21-50 until the August 23rd Planning Commission meeting.

Public Testimony:

Kevin Hoekman, county planning staff, presented a brief explanation of the staff report and recommendation. Kevin also supplied the commissioners with copies of a new site plan for the proposed bed and breakfast. He then explained to the commissioners that county staff would be changing their recommendation from deferral to denial, due to a letter staff received from a neighbor that was sent by the petitioner. In the letter, the petitioner explains that the use of the accessory building would be for their son and his family to live in in order to help take care of the father who has health issues. Kevin explained that this would be in violation of the county ordinance because this would make the accessory building another dwelling, which is not allowed without another building eligibility on the property.

Commissioner Barth asked Kevin about the location of the property and Kevin explained that the property is at the intersection of County Highway 138 and 487th Street.

The petitioner Argil Hunter of, 26191 487th Street, was present and she presented a narrative to the commission. Mrs. Hunter explained that she never meant to hide the use of the building from the county staff, and that she planned on bringing the letter to the meeting. Mrs. Hunter told the commission about her husband's condition and that they wanted their son and his family to be close by in order to help out. Furthermore, she said that the plan would be to use the bed and breakfast for her son's family while they were in Minnehaha County, but then the bed and breakfast would be listed on Airbnb when the families went south to Arizona in the winter.

Commissioner Ode asked Argil Hunter how long her and her husband had lived at the property, and Argil Hunter said they have lived there for approximately two years.



At this time, Eugene Hunter came to the podium and explained that before the petitioners left their house in Garretson the plan was to build a second house for their son and his family at this property. However, they had to leave their property in Garretson because their house burned down and they could not pay the taxes. Mr. Hunter also asked why he is allowed to have buildings for animals on his property, but is not allowed to have a building to house people on the property.

Kevin Sirovy of, 26187 487th Street, is the neighbor to the north of the subject property and he came to the podium to present his narrative. Mr. Sirovy told the commissioners that the floodplain issue with the property also affected the accessory building, and that the flooding that occurred two years ago caused the flooring in the accessory building to rise and crack. Mr. Sirovy also explained that he feels bad for the petitioner's situation, but they have no building eligibilities to support their proposed use of the accessory building. Furthermore, he explained that if the conditional use permit is approved it would double the living capacity of the property, and that he did not understand how the petitioners would be allowed to use the accessory building as a residential dwelling and as a bed & breakfast. In addition, Mr. Sirovy questioned why if the petitioner is allowed this conditional use, why would he not be allowed to also add an accessory building for the purpose of a dwelling unit without a building eligibility.

Mr. Sirovy then asked the commission and planning staff if the conditional use permit would transfer between owners if the petitioners were to leave the property. Scott Anderson replied that a condition could be added to the permit, so that it would only apply to the petitioners and no future property owners.

Susan Sirovy of, 26187 487th Street, also came to the podium to address the commission. Mrs. Sirovy explained that she and her husband have lived on their property for thirty years, and that she is opposed to the request for a bed & breakfast establishment at the subject property. In addition, she stated that she would like restrictions placed on the guests of the bed & breakfast if approved in order to limit their activities, such as what is done at hotels and apartments. Also, she stated that there is a limit to building eligibilities for a reason, and if this request is approved then building eligibilities will become invalid and garages could become additional homes. Mrs. Sirovy also explained that there are other options for the petitioners in order to have family close to home such as, apartments in Brandon and Valley Springs or assisted living. Mrs. Sirovy also explained that her parents had to move to assisted living when faced with the same issues. Then Mrs. Sirovy discussed her concern about the condition that limits the maximum stay length to two weeks. She asked how this would be policed, and if it was up to the neighbors or would county planning staff need to visit the property. Mrs. Sirovy also stated that she would like the commission to discuss additional conditions if the commission was considering approval such as, rules for guests, limiting the shooting of firearms and fireworks, and a full row of screening trees along the property line. Finally, Mrs. Sirovy stated that the flood from two years ago was worse in person than it looked in the pictures presented, and that the accessory building had inches of water on the floor.



Commissioner Barth asked Scott Anderson of county planning staff to explain how the flood plain risk was determined. Scott Anderson explained that the flood plain is based on the 100-year flood plain, and that the previous property owner obtained a flood plain development permit that allowed them to build the accessory building. In addition, Scott explained that the flood plain data is based on the best engineering data available, and that the flood that caused the damage to the accessory building could have been a 150- or 200-year flood.

Argil Hunter stated that Dirk Johnson inspected the accessory building and determined that it was above the floodplain.

Eugene Hunter and Kevin Sirovy continued to argue at this point, and Mr. Hunter was asked to leave by Scott Anderson. Mr. Hunter was escorted out of the room by Eric Bogue from the state's attorney office, and Mrs. Hunter left the room at this point as well.

Commissioner Barth commented that the discussion of this issued could not continue at this point, and that the item should be moved to the County Commission Meeting so a sheriff could be present. Commissioner Duffy commented that they could also motion to deny the conditional use permit at this time and Commissioner Barth agreed.

Action:

Commissioner Barth motioned to deny Conditional Use Permit #21-50, and the motion was seconded by Commissioner Randall. The motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.

Commissioner Randall commented that she understood the petitioner's hardship and sympathizes with it, but the ordinance is in place for a reason.

Conditional Use Permit #21-50 – Denied

Old Business

None.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Ode. The motion was approved unanimously. The meeting was **adjourned** at 8:00 p.m.