

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

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

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

STAFF PRESENT:

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

Mike Cypher chaired the meeting. Planning Commission Chair Mike Cypher called the Minnehaha County Planning Commission meeting to order at 7:12 p.m.

**CONSENT AGENDA**

Commissioner Cypher read each item on the agenda individually. Commissioner Barth requested to remove Item number 8 from the consent agenda to the regular agenda for discussion purposes. Item 4 was requested to be moved from the consent agenda to the regular agenda.

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

**ITEM 1. Approval of Minutes – June 26, 2017**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** the meeting minutes from June 26, 2017. The motion passed unanimously.

**Consent Agenda**

**ITEM 2. CONDITIONAL USE PERMIT #17-44 to exceed 1,200 square feet of total accessory building area – requesting 5,012 sq. ft. on the property legally described as Tract 1, Engebretson Addition, S1/2 SW1/4, Section 18- T103N-R47W.**

Petitioner: Eric Nicolai

Property Owner: same

Location: 48426 253<sup>rd</sup> St. Approximately 0.5 mile west of Garretson

Staff Report: Kevin Hoekman

This would allow 5,012 square feet of total accessory building area.

**General Information:**

Legal Description – Tract 1, Engebretson Addition, S1/2 SW1/4, Section 18- T103N-R47W.

Present Zoning – A1 - Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 9.94

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The property is located approximately ½ mile west of Garretson where a group of building eligibilities have been utilized in a row along the road. The site is located within an area of more than 4 platted lots. In subdivisions or residential developments which exceed four lots in number, accessory building area is limited to 1,200 square feet, unless approval for a larger size is obtained through the conditional use permit process.

The petitioner would like to construct a 40 foot by 70 foot accessory building. This proposed 2,800 square foot building would be built as a replacement of a 1,200 square foot building that will be torn town. Several other accessory buildings exist on the property that date back to when the site was a farmstead. One of the existing large accessory buildings is open on one side and was built for animal shelter. The total size of all requested structures is 5,012 square feet of accessory building space. The total accessory building request for this property is rather large in comparison of nearby acreages, but the size of the individual new structure is similar to neighboring properties.

The property is currently a large acreage including a single family dwelling. The proposed accessory building is shown on the site plan to be located north of the existing dwelling and south of a grove of trees. The property has one driveway access to the township road 253<sup>rd</sup> Street.

The subject property is located within a subdivision, but much of the nearby land is agricultural crop land. The provided map of accessory building sizes are only properties that are not currently agricultural farmsteads. Some of these acreages were once farms that have been turned

into residential acreages. The acreages that were once farms include both nearby properties with accessory building areas that are larger than this request as depicted on the existing accessory building map. In addition to residential accessory buildings, a large implement dealer has very large commercial buildings located approximately ½ mile from the site and along the highway.

**Conditional Use Permit Criteria:**

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

The construction of the proposed accessory building should have little impact on surrounding properties. The accessory building will have no effect on the agricultural use nearby. The accessory structure shall not be used as a commercial operation at any time.

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

The accessory structure may only be used for residential purposes, no commercial or business activities are allowed. The large square footage may create a precedent if the neighboring residential property owner was to request a similar sized building area. The surrounding agricultural land will likely remain for agricultural uses. All the building eligibilities in the southwest quarter section have been developed and used; therefore, the requested accessory building will not affect future rural residential development. The proposed accessory building is set back far from the road and any neighboring dwellings. It is unlikely that it will have any effect on the future development of agricultural or residential development in the area.

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

The petitioner will be responsible for attaining and extending utilities to the proposed accessory building, and the proposed accessory building will utilize the same driveway as the dwelling.

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

No off-street parking will be needed as a result of personal activities in this accessory building. No commercial or business parking will be allowed at any time.

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

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

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

The proposed accessory building should have little to no effect on the health, safety, and general welfare of the public as well as the Envision 2035 Comprehensive Plan. Other large accessory building totals are located on far and non-farm properties in the near area.

**Recommendation:**

Staff finds that the proposed accessory building is reasonable to the size of the existing

structures, the size of the property, and the location on the property. Staff recommends **approval** of Conditional Use Permit #17-44 with the following conditions:

- 1.) The total accessory building square footage shall not exceed 5,012 square feet.
- 2.) A building permit is required prior to construction of the accessory building.
- 3.) That an inspection be made on the proposed addition to an accessory building to ensure that the total floor area of the proposed structure does not exceed 2,800 square feet.
- 4.) That only personal residential storage shall be allowed in the building, and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

**Action**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #17-44 with staff recommended conditions. The motion passed unanimously.

**Conditional Use Permit #17-44 – Approved**

**ITEM 3. CONDITIONAL USE PERMIT #17-45 to transfer one (1) building eligibility from the SE1/4 NW1/4 to the NE1/4 NW1/4; all in Section 4-T102N-R47W**

Petitioner: Jason Williamson

Property Owner: same

Location: NW1/4, Section 4-T102N-R47W      Approximately 3 miles south of  
Garretson

Staff Report: David Heinold

This would allow the transfer of one (1) building eligibility.

**General Information:**

Legal Description – NW1/4, Section 4-T102N-R47W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agricultural

Parcel Size – 160 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The applicant is requesting conditional use permit approval to transfer one building eligibility from the SE1/4 NW1/4 to the NE1/4 NW1/4 of Section 4 in Red Rock Township. The proposed location for the building eligibility transfer will be near 256<sup>th</sup> St. and from crop to pasture land.

On July 13, 2017, staff visited the property and determined that the proposed location is appropriate for a single family dwelling. The attached questionnaire indicates that the building eligibility is being moved from crop land to pasture land and near 256<sup>th</sup> St. There are no concentrated animal feeding operations within the immediate vicinity.

**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.**

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area. The addition of residential land use should not negatively affect the nearby residences and farmland.

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

The approval of the building eligibility for a single family dwelling will not increase the number of dwelling units allowed in this section. The surrounding area is primarily agriculture with an existing single family dwelling and farmstead west of the proposed location for the dwelling.

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

The placement of the building eligibility will result in the construction of a single family dwelling with a separate driveway, which requires permission from Red Rock Township.

**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 otherwise constitute a nuisance.

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

The health, safety, general welfare of the public should not be significantly impacted by the placement of one single family dwelling with a building eligibility. The intent of the Envision 2035 Comprehensive Plan will be met under the requirements of density zoning.

**Recommendation:**

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #17-45 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 the single family dwelling.
2. That the construction of a single family dwelling shall require permission of Red Rock Township for a new driveway or culvert permit.

**Action**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #17-45 with staff recommended conditions. The motion passed unanimously.

**Conditional Use Permit #17-45 – Approved**

**ITEM 5. CONDITIONAL USE PERMIT #17-47 to transfer two (2) building eligibilities from the NW1/4 SW1/4 & SW1/4 SW1/4, S of I-90 (Ex. Hwy. & Ex. Haensel Addn.), Section 6-T102N-R52W to Slocum's Tract 1 & the proposed Tract 1 Wegner Addition, NE1/4, Section 7-T102N-R52W.**

Petitioner: Janell Haensel

Property Owner: same

Location: Approximately 1 mile northwest of Humboldt

Staff Report: Kevin Hoekman

This would allow the transfer of two (2) building eligibilities.

**General Information:**

Legal Description – Slocum's Tract 1 & the proposed Tract 1 Wegner Addition, NE1/4, Section 7-T102N-R52W

Present Zoning – A1 Agriculture

Existing Land Use – pasture and home site

Parcel Size – 76 acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The subject property is located approximately 1 mile northwest of Humboldt. The parcel that would receive the proposed transfer is located at the intersection of 257<sup>th</sup> St. and 455<sup>th</sup> Ave. as the intersection curves out of the Interstate 90 right-of-way. The subject property is a large platted parcel which already has one single family dwelling located on it. The result of the proposed transfer would be three total building eligibilities on the receiving parcel with one of those building eligibility's used by an existing dwelling.

The petitioner would like to transfer two building eligibilities from a quarter section about ¾ miles west of the receiving site. The location of the eligibilities to be transferred would only have access from minimum maintenance roads in their current locations. The transfer will move eligibilities from productive cropland to pasture land and an existing residential dwelling site.

**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 will be required to notify potential buyers to the realities of locating in an agricultural area. Staff reviewed aerial photography and found the nearest confined animal feeding operation is approximately 1 mile southwest of the receiving parcel and located in McCook County.

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

The clustering of eligibilities would help preserve farmland in the future as development pressures continue. In addition, the cluster will benefit future agriculture as development will

not create situations of discontinuous farmland.

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

The landowner will be responsible for extending any necessary utilities once the building eligibilities are used. The transfer allows for the potential for sharing a driveway access. The receiving parcel has access to two different township roads. The sharing of driveways should be considered for the future development of the building eligibilities.

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

The off-street parking requirements will be provided for once single-family residences are constructed on the subject property.

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

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

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

The proposed conditional use will have little to no effect on the health, safety and general welfare of the public. Placing building eligibilities in this location allows for residential uses to be clustered together.

**Recommendation:**

Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #17-47 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 all single family dwellings.
2. Lots must be platted for each dwelling prior to building permits being issued.

**Action**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #17-47 with staff recommended conditions. The motion passed unanimously.

**Conditional Use Permit #17-47 – Approved**



**ITEM 6. CONDITIONAL USE PERMIT #17-49 to transfer one building eligibility from Tract 9 Grimmus Addn. to Tract 10 Grimmus Addn.; all in SE1/4 SE1/4, Section 34-T101N-R48W and SW1/4 SW1/4, Section 35-T101N-R48W.**

Petitioner: Dalton Grimmus

Property Owner: Sandra Grimmus

Location: Approximately 3 miles east of Sioux Falls

Staff Report: David Heinold

This would allow the transfer of one (1) building eligibility.

**General Information:**

Legal Description – Tract 10 Grimmus Addn., SE1/4 SE1/4, Section 34-T101N-R48W and Section 35-T101N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 9.31 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The applicant is requesting conditional use permit approval to transfer one building eligibility from Tract 9 to Tract 10 Grimmus Addition. The proposed transfer location, Tract 10, will allow Tract 9 to be entirely agriculture.

On July 13, 2017, staff visited the property and determined that the proposed location is appropriate for a single family dwelling. The attached questionnaire indicates that the proposed single family dwelling will utilize a shared driveway off of County Highway 150. There are no concentrated animal feeding operations within the immediate vicinity.

**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.**

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area. The addition of residential land use should not negatively affect the nearby residences and farmland.

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

The approval of the building eligibility for a single family dwelling will not increase the number of dwelling units allowed in this section. The surrounding area is primarily agriculture with a few existing single family dwellings west of the proposed location for the dwelling.

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

The placement of the building eligibility will result in the construction of a single family

dwelling with shared driveways, which the driveway has already been installed.

**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 otherwise constitute a nuisance.

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

The health, safety, general welfare of the public should not be significantly impacted by the placement of one single family dwelling with a building eligibility. The intent of the Envision 2035 Comprehensive Plan will be met under the requirements of density zoning.

**Recommendation:**

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #17-49 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 the single family dwelling.

**Action**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #17-49 with staff recommended conditions. The motion passed unanimously.

**Conditional Use Permit #17-49 – Approved**

**ITEM 7. CONDITIONAL USE PERMIT #17-50 to exceed 1,200 square feet of total accessory building area – requesting 2,616 sq. ft. on the property legally described as Tract 1A, A.J. Geiger Estates, SE1/4 NE1/4 & NE1/4 SE1/4, Section 23-T103N-R49W.**

Petitioner: Tyler Kehn

Property Owner: same

Location: 25345 477<sup>th</sup> Ave.                      Approximately 4 miles southeast of Baltic

Staff Report: David Heinold

This would allow 2,616 square feet of total accessory building area.

**General Information:**

Legal Description – Tract 1 A.J. Geiger Estates, SE1/4 NE1/4 & NE1/4 SE1/4,  
Section 23-T103N-R49W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 7 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 2,616 square feet of total accessory building area. The proposed 40' x 60' accessory building, pictured below, just to the southwest of the existing house and used for personal storage. There is an existing 216 sq. ft. shed located on the property.



According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

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

There are several accessory building sizes in the surrounding area larger than the applicant's request. The property owner, 25336 477<sup>th</sup> Ave., located a little less than a quarter mile north of the subject property has 2,520 sq. ft. of total accessory building area on approximately 4 acres. The property at 25465 477<sup>th</sup> Ave. located about one mile to the south was approved to allow 4,482 sq. ft. of total accessory building area on approximately 8.30 acres. The accessory building sizes range from 1,500 to 6,016 sq. ft. on lots with widely varied areas.

On July 13, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed accessory building to the southwest of the existing house. The proposed building will be located on an approximately 7 acre parcel.



#### **Conditional Use Permit Criteria:**

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

There are a few other properties within a half-mile of the subject property that have a building size larger than the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a few residential acreages in the immediate vicinity.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 3,584 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an existing driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided. The natural topography of the site slopes down towards the northeast. The proposed accessory building will undoubtedly produce stormwater runoff, but should not be at a level that would significantly affect surrounding property owners.

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

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

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

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

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the agricultural production area identified in the Envision 2035 Comprehensive Plan. The land area not designated as transition or rural service area is considered agricultural production area because it is likely to continue as primarily farm land through the duration of the planning period. Goal 2, Action 2.4, on Page 91 of the Envision 2035 Comprehensive Plan recommends supporting growth that is compatible to adopted municipal comprehensive plans.

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

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

The subject property is located outside all of the incorporated municipality growth areas. The surrounding area is a fully developed with few remaining building eligibilities for residential development and about one mile outside of the rural service area to the southwest at the Midway Corner intersection of South Dakota State Highway 115 and County Highway 122. The immediate area does not have availability of sanitary sewer, which the present land use composition will likely remain the same except for the addition single family dwellings with available building eligibilities during the planning period.

**Recommendation:**

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-50 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,616 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

**Action**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #17-50 with staff recommended conditions. The motion passed unanimously.

**Conditional Use Permit #17-50 – Approved**

Commissioner Kostboth made a motion to approve the regular agenda and the motion was seconded by Commissioner Barth. The motion passed unanimously.

**Regular Agenda**

**ITEM 4. CONDITIONAL USE PERMIT #17-46 to exceed 1,200 square feet of total accessory building area – requesting 3,584 sq. ft. on the property legally described as Lot 2, Holbeck Addn., E1/2 NE1/4, Section 34-T103N-R49W.**

Petitioner: James Holbeck

Property Owner: same

Location: 25515 Helen Trail      Approximately 5 mile north of Sioux Falls

Staff Report: David Heinold

This would allow 3,584 square feet of total accessory building area.

**General Information:**

Legal Description – Lot 2, Holbeck Addition, N1/2 & E1/2 NE1/4, Section 34-T103N-R49W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agricultural

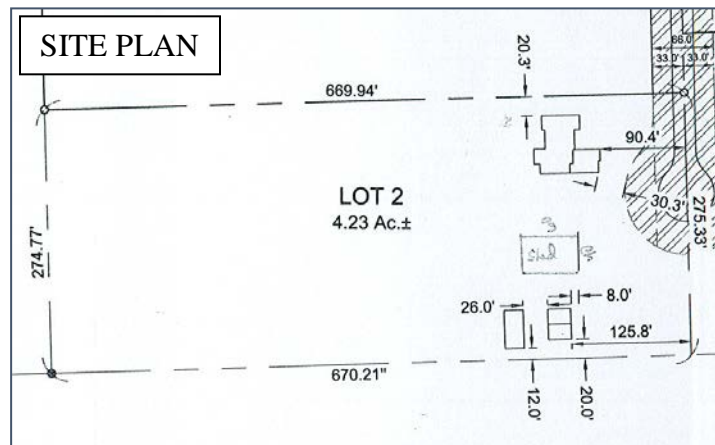
Parcel Size – 4.23 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 3,584 square feet of total accessory building area. The proposed 40'x60' accessory building, pictured at right, will be located just south of the existing house and used for personal storage. There are existing 16'x24' and 20'x40' buildings located on the property.

According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:



(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

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

There are several accessory building sizes in the surrounding area with buildings larger than the applicant's request. The property owner, 47542 Washington St., located just less than one half mile from the subject property has 3,954 sq. ft. on approximately 25.2 acres separated into three different parcels with the same owners. Comparatively, the property at 47560 Washington St. was approved to allow 3,376 sq. ft. on 8.69 acres a few months ago by the planning commission and lies about a quarter mile south of the proposed area for the accessory building. The property owner, 47527 255<sup>th</sup> St., has a 2,400 sq. ft. accessory building located on approximately 1 acre. The accessory building sizes range from 1,200 to 4,560 sq. ft. on lots with widely varied areas.

On July 13, 2017, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed accessory building to the immediate south of the existing house. The proposed building will be located on a 4.23 acre parcel.



**Conditional Use Permit Criteria:**

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

There are a few other properties within a half-mile of the subject property that have building sizes larger than the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a few dozen residential acreages in the immediate vicinity.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 3,584 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an existing driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided. The natural topography of the site slopes down towards the northwest and north along Helen Trail. The proposed accessory building will undoubtedly produce stormwater runoff, but should not significantly affect surrounding property owners.

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

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

No offensive nuisances shall be permitted at any time during use of the proposed accessory



structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

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

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the agricultural production area identified in the Envision 2035 Comprehensive Plan. The land area not designated as transition or rural service area is considered agricultural production area because it is likely to continue as primarily farm land through the duration of the planning period. Goal 2, Action 2.4, on Page 91 of the Envision 2035 Comprehensive Plan recommends supporting growth that is compatible to adopted municipal comprehensive plans.

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

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

The subject property is located outside all of the incorporated municipality growth areas. The surrounding area is a fully developed with few remaining building eligibilities for residential development and about one mile outside of the rural service area to the northwest at the Midway Corner intersection of South Dakota State Highway 115 and County Highway 122. The immediate area does not have availability of sanitary sewer, which the present land use composition will likely remain the same except for the addition single family dwellings with available building eligibilities during the planning period.

**Recommendation:**

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-46 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 3,584 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

**PUBLIC TESTIMONY**

David Heinold, Planner I with the County Planning Department, presented the staff report and recommendation. Commissioner Barth asked the petitioner if there is additional square feet being added onto the buildings.

Jim Holbeck, 27339 Ridgeway Rd., identified himself as the petitioner and explained that he started building two smaller structures on the property. He continued to mention that he is applying for a conditional use permit to allow the construction of a 40'x60' accessory building.

Tony Lee, 47563 255<sup>th</sup> St., identified himself as neighboring landowner just to the north of the subject property and noted he bought the property in 2004. Mr. Lee indicated concerns about the amount of surface water being shed from the proposed accessory building size. He continued to mention that there should be a drainage plan and that he was denied an addition to his 30'x32' accessory building in the past because it was not of the area.

Commissioner Cypher asked Mr. Lee when the additional building size was denied and he indicated that it was about ten years ago. Mr. Lee continued to mention that every decision made by the planning commission over the last 13 years has devalued their land and flooded twice. He also questioned who the responsible party for maintenance of drainageways and why the county keeps permitting more buildings. Mr. Lee explained the increased surface water runoff with the changeover from row crop to alfalfa.

Commissioner Cypher asked planning staff what the area is considered and who is responsible for drainage. Scott Anderson, County Planning Director, explained that residential drainage is a civil matter between landowners.

Commissioner Barth asked the petitioner about the issues with neighboring landowners.

Jim Holbeck explained that the flooding took place before he took ownership of the property. Mr. Holbeck indicated that he installed a berm across Lot 4 immediately to the south of the neighbor's property. He continued to mention that the neighboring landowner asked him to put in a culvert in the berm as well. Mr. Holbeck explained that the flooding occurred during the latest freeze/thaw cycle earlier this year.

Mr. Holbeck explained the drainage with a contour map displayed on the overhead projector screen included in the powerpoint presentation created by the County Planning Staff.

Mr. Lee indicated that the problem should be solved by putting in a retention pond in the development. He discussed the subdivision ordinance and added that the developer should be required to show the effect on surrounding properties. Mr. Lee is concerned about thousands of gallons of water being shed towards his property north of the subject property.

Commissioner Cypher called for additional public testimony but there was no answer.

Commissioner Cypher closed the floor to public testimony.

**DISCUSSION**

Commissioner Barth explained the fact is that nothing will stop water from going downhill unless you dig a hole on top of the hill. Commissioner Barth also mentioned that changing row crop to alfalfa shouldn't cause a significant impact.

Commissioner Barth indicated that he believes that the drainage issue on the roads is a township problem. Commissioner Cypher added that most townships maintain section lines only.

Commissioner Barth made a motion to **approve** Conditional Use Permit #17-46 with the recommended conditions and the motion was seconded by Commissioner Kostboth with a comment. Commissioner Kostboth mentioned that the accessory building size fits with the general area and drainage doesn't present any particular concerns. There was additional discussion amongst the planning commission regarding drainage and controlling developing little towns out in the country.

**ACTION**

Commissioner Barth made a motion to **approve** Conditional Use Permit #17-46 with staff recommended conditions. The motion was seconded by Commissioner Kostboth. The motion passed unanimously.

**Conditional Use Permit #17-46 – Approved**

**ITEM 8. CONDITIONAL USE PERMIT #17-41 to exceed 1,200 square feet of total accessory building area – requesting 9,574 sq. ft. on the property legally described as Vintage Village Tract 1, NE1/4 SE1/4 (Ex. W. 175’ N570’, Section 7-T102N-R49W.**

Petitioner: Dennis Leitheiser

Property Owner: same

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

Staff Report: David Heinold

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

**General Information:**

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

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 8.22 acres

**Staff Report:** David Heinold

**Staff Analysis:**

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

According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

(1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.



There are several accessory building sizes in the surrounding area ranging from 528 sq. ft. to 2,160 sq. ft. The largest size is located about a half mile southwest of the subject property at

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

On June 14, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed building on the middle part of the lot. The accessory building is situated on an 8.22 acre parcel.



During the June 26, 2017 County Planning Commission meeting, this item was deferred action to the July 24 planning commission meeting because the petitioner was not present to speak on behalf of the conditional use permit request.

#### **Conditional Use Permit Criteria:**

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

There are several other properties within a half-mile of the subject property that have similar building sizes than the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily residential with over fifty single family dwellings in the immediate vicinity.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory buildings, 9,574 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway between the house and location for the proposed accessory building. No further infrastructure will need to be provided.

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

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

No offensive nuisances shall be permitted at any time during use of the proposed accessory

structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

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

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The subject property is located within the transition area identified in the Envision 2035 Comprehensive Plan, which have the primary purpose of maintaining the rural landscape until the eventual development of residential and/or municipal development. Goal 1, Action 1.2, on Page 90 of the Envision 2035 Comprehensive Plan recommends utilizing existing and future development policies and regulations in a consistent manner for similarly sited parcels in order to create fair and orderly development.

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

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

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

**Recommendation:**

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-41 with the following conditions:

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

**PUBLIC TESTIMONY**

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

Commissioner Barth asked about the total size request and Mr. Heinold explained that the total request includes all of the accessory structures along with the proposed building.

Commissioner Barth asked how many buildings are currently on the property and staff noted that there are 8 or 9 accessory buildings total on the subject property.

Commissioner Barth asked the petitioner about the “party barn” sign that was on of the staff photos.

Dennis Leitheiser, 25764 Packard Ln., identified himself as the petitioner and explained that at the time staff was at the property they were getting ready for a family celebration.

Commissioner Cypher asked if this was the original farmstead and Mr. Leitheiser noted that they purchased the property 24 years ago.

**ACTION**

Commissioner Barth made a motion to **approve** Conditional Use Permit #17-41 with staff recommended conditions. The motion was seconded by Commissioner Ode. The motion passed unanimously.

**Conditional Use Permit #17-41 – Approved**

**ITEM 9. REZONING #17-01 to rezone from the A-1 Agricultural District to the PD Eagle Ridge Crossing Planned Development District on the property legally described as N1/2 NW1/4 (Ex. Lot R-1 and Lot H-1), Section 34-T101N-R51W.**

Petitioner: Eric Willadsen (Willadsen Lund Engineering)

Property Owner: Douglas Bacon

Location: Approximately 6 miles west of Sioux Falls

Staff Report: Scott Anderson

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

**Staff Report:** Scott Anderson

**Staff Analysis:** Minnehaha County utilizes several zoning techniques such as density zoning, the use of subdivision regulations and the Planned Development District to accomplish the goals of the Comprehensive Plan. The County's Comprehensive Plan states that occasionally, conventional zoning districts can be a barrier to innovative design and development techniques. The Planned Development District was added to the zoning regulations to provide developers with greater flexibility while at the same time increasing the public review of development proposals. Planned Developments can exactly outline proposed uses within the specific district and how development will occur. Furthermore, a specific set of guidelines for each planned development can be agreed upon by the County/City and developer. Planned Developments fill an important niche within the overall zoning of Minnehaha County.

The proposed site consists of 80 acres that are located south of Wall Lake at the intersections of County Highway 151 and 148. The applicant has included a detailed site plan depicting the future development. The site plan is included for the planning commission's review. The applicant is requesting to create a Planned Development consisting of five (5) sub areas.

The County Highway Department has reviewed the proposed development plan and indicated that they would not allow 3 approaches off of County Highway 148. The also indicated that no sediment shall be allowed to wash into the highway ditches from any construction activity. All of the new approaches onto the county highway system must meet the Minnehaha County Highway's Access Management Policy. The County Highway Department shall review the Final Development Plans to determine that the Access Management Policies are met.

**Sub Area A** - Sub area A is the residential component of the plan and the applicant is proposing to locate up to thirty-one (31) single family residences in this area. The proposed lot sizes would range from approximately 1.0 acre to 1.4 acres in size. There is a nice existing shelterbelt surrounding the existing farm residence located in Subarea B. Five of the proposed residential lots will benefit from by the existing shelterbelt. Furthermore, an additional seven (7) residential lots will abut the open space/community park located in the center of the 80 acre parcel. Each residence would have access to Minnehaha Community Water and will utilize a private on-site wastewater disposal system (septic system). The proposed plan clusters the single family residences away from the County Highways, with only five (5) lots abutting a county highway. None of the proposed lots in Sub Area A will be allowed to have any direct access



from a county highway. All roads within Sub Area A will need to be hard surfaced, as they are access from paved county highways.

**Sub Area B** - The existing farmstead is located in Sub Area B. The plan would allow for agricultural uses to continue on this 3.9 acre parcel.

**Sub Area C** - Sub Area C has been proposed to allow commercial uses. This proposed commercial area is approximately 4-5 acres in size and located at the intersections of County Highways 151 and 148. The Dakota Access Pipeline dissects the proposed commercial area. The applicant has depicted two (2) commercial buildings, one as a convenience store and car wash, the other structure would be an office building or some similar commercial use. Both proposed structures would not be allowed to exceed 10,000 feet. No tenant has been identified at this time and the uses and final development plan would have to be approved by the Planning Commission prior to construction. As part of the final development plan, the applicant would be required to submit a landscape plan, parking plan, signage plan and drainage plan for review and approval by the Planning Staff and Planning Commission. All parking and loading areas within Sub Area C will need to be hard surfaced, as they will be accessed from a paved private street.

**Sub Area D** - Sub Area D has been proposed for multi-family. Two separate parcels are proposed to be located on either side of the greenway/common area. Both lots are approximately 4-5 acres in size. Each parcel is projected to have a maximum of 16 units. Each lot will have a community drain field. Community drain fields are required to be engineered and reviewed and approved by the S.D. Department of Environment and Resources. As part of the final development plan, the applicant would be required to submit a landscape plan, parking plan, signage plan and drainage plan for review and approval by the Planning Staff and Planning Commission. All parking areas within Sub Area D will need to be hard surfaced, as they will be accessed from a paved private street.

In reviewing the initial proposed site plan for Sub Area D, staff feels that the location of the four-plexes could be oriented to have better views of the community area/greenway. A modification of design in this area could accomplish that and move the proposed community drain fields away from the 100 year flood plain.

**Sub Area E** - Sub Area E is the proposed location of approximately 14 acres of common area, a playground, pond, hiking paths and open space. There is a proposed small parking area where residents could park and access the playground and hiking paths. Much of the 14 acres is located within the 100 year flood plain. The proposed use of Sub Area E as open space best addresses the environmental issues associated with the location of the 100 year flood plain and provides an excellent recreational opportunities to the residents at Eagle Ridge Crossing.

Staff supports the rezoning request. The County has rezoned similar parcels for residential development. On August 26, 2014, the County Commission approved Rezoning #16-03 which rezoned approximately 80 acres of agricultural land to 16 residential lots and horse riding arena north of Renner. The applicant has proposed a planned development that has several components that address community needs such as open space and multi-family dwellings.

**Recommendation:** Staff recommends **approval** of Rezoning #17-01 to create the Eagle Ridge Crossing Planned Development District as follows:

EAGLE RIDGE CROSSING PLANNED DEVELOPMENT DISTRICT. The regulations set forth herein or elsewhere in these regulations are the district regulations in the Eagle Ridge Crossing Planned Development District:

(A) SUBAREA A

- (1) USES PERMITTED. A building or premises shall be permitted to be used for the following purposes.  
  
Permissive uses, permitted special uses and conditional uses of the RR District.
- (2) ACCESSORY USES. Accessory uses and buildings permitted are those detached accessory buildings and uses customarily incident to any permitted use in the district. No accessory building shall exceed 1200 square feet in area.
- (3) PARKING REGULATIONS. Parking shall be regulated in conformance with the provisions of the RR zoning district.
- (4) SIGN REGULATIONS. Signs shall be regulated in conformance with the provisions of the RR zoning district.
- (5) DENSITY, AREA, YARD AND HEIGHT REGULATIONS. The same requirements shall apply as in the RR zoning district.
- (6) OTHER REGULATIONS. Other regulations for Subarea A shall be:
  - a) Subdivision roads shall be private and privately maintained.
  - b) A Home Owners Association shall be created and include all lots within the subarea to assure maintenance of the private roads and common areas.
  - c) That all connections onto the County Highway System meet the Minnehaha County Highway's Access Management Policies.
- (7) FINAL DEVELOP PLAN.
  - a) Prior to construction in Subarea A, a Final Development Plan shall be presented to the Planning Commission for their approval.

(B) SUBAREA B

- (1) USES PERMITTED. A building or premises shall be permitted to be used for the following purposes:

Those uses permitted in the A-1 Agricultural zoning district.

- (2) ACCESSORY USES. Accessory uses and buildings permitted are those detached accessory buildings and uses customarily incident to any permitted use in the A-1 Agriculture zoning district.
- (3) PARKING REGULATIONS. Parking shall be regulated in conformance with the provisions of the A-1 Agricultural zoning district.
- (4) SIGN REGULATIONS. Signs shall be regulated in conformance with the provisions of the A-1 Agricultural zoning district.
- (5) DENSITY, AREA, YARD AND HEIGHT REGULATIONS. The same requirements shall apply as in the A-1 Agriculture zoning district.
- (6) OTHER REGULATIONS. Other regulations for Subarea B shall be:
  - a) Single family dwelling units shall be limited to a maximum of two.
- (7) FINAL DEVELOP PLAN.
  - a) Prior to construction in Subarea B, a Final Development Plan shall be presented to the Planning Commission for their approval.

(C) SUBAREA C

- (1) USES PERMITTED. A building or premises shall be permitted to be used for the following purposes.
  - a) Convenience store with gas dispensing.
  - b) Restaurant with drive-thru.
  - c) Bank with drive-thru.
  - d) Office.
  - e) Personal services including barber shop, beauty salon, dry cleaning, coin-operated laundry, photographic and art studio, shoe repair.
  - f) Custom services including woodworking, taxidermy, and hobby and craft making.
  - g) Garden center, greenhouse and nursery.
  - h) Group day care, day care center.
  - i) Veterinarian clinic provided there is no outside kenneling of animals.
  - j) Banquet/Reception Hall
  - k) Permissive uses, permitted special uses, and conditional uses of the C Commercial zoning district.

- (2) ACCESSORY USES. Accessory uses and buildings permitted are those buildings and uses customarily incident to any permitted use in the C Commercial zoning district.
  - (3) PARKING REGULATIONS. Parking shall be regulated in conformance with the provisions of Article 15.00.
  - (4) SIGN REGULATIONS. Signs shall be regulated in conformance with the provisions of Article 16.00.
  - (5) DENSITY, AREA, YARD AND HEIGHT REGULATIONS. The same requirements shall apply as in the C Commercial zoning district.
  - (6) OTHER REGULATIONS. Other regulations for Subarea C shall be:
    - a) Subdivision roads shall be private and privately maintained.
    - b) A Home Owners Association shall be created and include all lots within the subarea to assure maintenance of the private roads and common areas.
    - c) That all connections onto the County Highway System meet the Minnehaha County Highway's Access Management Policies.
  - (7) FINAL DEVELOP PLAN.
    - a) Prior to construction in Subarea C, a Final Development Plan shall be presented to the Planning Commission for their approval.
- (D) SUBAREA D
- (1) USES PERMITTED. A building or premises shall be permitted to be used for the following purposes.
    - a) Single family dwelling.
    - b) Multi-family structure 4-Plex up to 8-Plex. Maximum of five dwelling units per acre.
    - c) Playground or swimming pool.
    - d) Neighborhood utilities.
    - e) Permissive uses, permitted special uses, and conditional uses of the R-1 zoning district.
  - (2) ACCESSORY USES. Accessory uses and buildings permitted are those detached accessory buildings and uses customarily incident to any permitted use in the district. No accessory building shall exceed 1200 square feet in area.

- (3) PARKING REGULATIONS. Parking shall be regulated in conformance with the provisions of Article 15.00.
  - (4) SIGN REGULATIONS. Signs shall be regulated in conformance with the provisions of Article 16.00.
  - (5) DENSITY, AREA, YARD AND HEIGHT REGULATIONS. The same requirements shall apply as in the R-1 zoning district.
  - (6) OTHER REGULATIONS. Other regulations for Subarea D shall be:
    - a) Subdivision roads shall be private and privately maintained.
    - b) A Home Owners Association shall be created and include all lots within the subarea to assure maintenance of the private roads and common areas.
    - c) That all connections onto the County Highway System meet the Minnehaha County Highway's Access Management Policies.
  - (7) FINAL DEVELOP PLAN.
    - a) Prior to construction in Subarea D, a Final Development Plan shall be presented to the Planning Commission for their approval.
- (E) SUBAREA E
- 1) USES PERMITTED. A building or premises shall be permitted to be used for the following purposes:
    - a) Those uses permitted as permissive uses in the RC Recreational/Conservation zoning district, except for single-family dwelling.
    - b) Park, playground, pond, or hiking trails.
    - c) Surface parking lot in support of a park, playground, pond, or hiking trail system.
  - 2) ACCESSORY USES. Accessory uses and buildings permitted are those accessory buildings and uses customarily incident to any uses permitted above.
  - 3) PARKING REGULATIONS. Parking shall be regulated in conformance with the provisions of Article 15.00.
  - 4) SIGN REGULATIONS. Signs shall be regulated in conformance with the provisions of Article 16.00.
  - 5) YARD AND HEIGHT REGULATIONS. The maximum height and minimum yard requirements shall be the same as the RC zoning district.
  - 6) OTHER REGULATIONS:

- a) Subdivision roads shall be private and privately maintained.
  - b) The RC property shall be owned and maintained by the home owners association created by this development.
  - c) No permanent structures shall be constructed within the FEMA current FIRM regulatory Flood Plain.
- 7) FINAL DEVELOP PLAN.
- a) Prior to construction in Subarea E, a Final Development Plan shall be presented to the Planning Commission for their approval.

### **PUBLIC TESTIMONY**

Scott Anderson, County Planning Director, presented a brief summary of the staff report and recommendation for approval.

Commissioner Ode asked if there are any CAFOs located nearby and Commissioner Cypher noted that there are none in surrounding area. Commissioner Cypher explained that the subject property is located adjacent to the Sioux Falls-owned landfill.

Eric Willadsen, 902 S. Cleveland Ave., identified himself as the petitioner and representative of the Arends family. Mr. Willadsen stated that the proposed rezoning request will strengthen economic development and add to the tax base of the county. He continued to mention that the rezoning proposal includes a mix of uses including commercial, residential, and open space.

Mr. Willadsen stated that they sent invitations to the surrounding landowners about a neighborhood meeting to present the proposal, but no one showed up at the meeting. He explained that he understands the County Highway Department's need to manage access and drainage along the two highways lying adjacent to the subject property.

Mr. Willadsen noted that there are existing rural commercial areas two miles to the north at Wall Lake Corner and three miles to the east past the landfill at another major highway intersection. He indicated that the approximately 80 acre farm has been in the Arends family for over 65 years and they have plans to do something with the property given proximity to the growth of Sioux Falls.

Commissioner Barth asked who will own the pond and Mr. Willadsen that there will be a Homeowners Association set up for homeowners to pay dues for management of the pond, open space, and roads by the association.

Commissioner Barth questioned the impact of a car wash on a septic system and if there would be overflow. Mr. Willadsen explained that the septic system will not be connected to a drainfield. He continued to mention it is likely that a large holding tank would be the only treatment system used for the commercial buildings and that engineering is available to design such a tank for the commercial uses.

Commissioner Cypher asked about the large pipeline project running through the subject property and constructing roads on or near the pipeline location. Mr. Willadsen explained that

Dakota Access Pipeline is not either opposed nor for the proposal. He continued to mention that they must meet the road and crossing design standards established by the pipeline company.

Commissioner Cypher indicated that the rezoning request is creating a town bigger than Rowena.

Commissioner Cypher explained that the planning commission has never approved this kind of development proposal. Commissioner Cypher continued to mention that this is a town with over 63 different kinds of housing units with commercial, and open house mixed throughout the parcel.

Mr. Willadsen argued that the economic impact of the development should favor the county at a time of somewhat of a budgetary constraint.

Commissioner Cypher explained that this increases the density in the rural area, but we need to be supporting growth of small, rural communities and not create communities outside these areas. Dialogue continued between Commissioner Cypher and Mr. Willadsen regarding the proposed impact of the rezoning request on Minnehaha County.

Doug Bacon, 11 Woodland Drive in Humboldt, Iowa, identified himself as spokesman for the Arends family, Al and Jan Arends. Mr. Bacon indicated that the family has wanted to develop this property for years. He continued to mention that the rezoning request is a similar situation as the development he lives in Iowa. Mr. Bacon provided some examples from the development he lives in Iowa about the maintenance of roads and open space.

Commissioner Cypher asked if there was a major oil pipeline running through Mr. Bacon's house in Iowa. Mr. Bacon responded no and indicated that they had wanted to develop the property long before the oil pipeline was under discussion.

Tony Lee, 47563 255<sup>th</sup> St., mentioned that the rezoning request does not fit with what he has been preached to in prior meetings. Mr. Lee indicated that this is a disaster waiting to happen. He continued to explain that the Comprehensive Plan sets out to preserve agricultural land and this is not it.

Brian Duffy, 26748 463<sup>rd</sup> Ave., identified himself as a property owner about a quarter mile south of the subject property. Mr. Duffy pointed to the map overhead projector for the city-owned land that is about a quarter mile to the southeast of the rural residential lots. He continued to mention concerns over the number of septic systems and traffic safety at the intersection with the amount of trucks on 267<sup>th</sup> St.

Wayne Prostollo, 26681 463<sup>rd</sup> Ave., identified himself as the landowner kitty-corner to the immediate northwest of the subject property. Mr. Prostollo indicated that it is not his dream to have 80 acres turned into 100 people. He continued to mention that rural water won't have capacity for this size of development. He mentioned concern about drainage, impact to the agricultural community, and increasing the amount of people in the area. Mr. Prostollo noted that they only should have two building eligibilities. He stated concern over the appropriateness of this type of development on farmers and landowners.

Thomas Dossett, 26753 463<sup>rd</sup> Ave., identified himself as a resident a quarter mile south of the subject property. Mr. Dossett explained that he lived on Country Lane that seemed like country living, but wanted to get out of the development with increasing construction a little over one mile to the east along the county highway from the subject property. He continued to mention that he thought the building eligibilities would keep him secure from the amount of people with only two building eligibilities available, but is concerned about the size of the proposed subdivision just north of his home.

Jeff Wilson, 26745 463<sup>rd</sup> Ave., identified himself as a landowner about a quarter mile south of the subject property as well. Mr. Wilson stated concern over setting precedence for other requests from interested landowners, impacts to the rural quality of life, and traffic noise.

Commissioner Barth explained that the procedure for rezoning items go to the County Commission for public hearing, discussion, and final decision.

Commissioner Barth noted that the other Commissioners do read the minutes on each of the planning commission items forwarded to them.

Commissioner Cypher called for additional public testimony, but there was no answer.

Commissioner Cypher closed the floor for public testimony.

### **DISCUSSION**

Commissioner Cypher noted the last time there was a County Commission meeting on other rezoning items the Commission asked a lawyer in the audience what they thought of precedence and he thought that it doesn't apply. Commissioner Cypher mentioned that Sioux Falls won't be growing in this area for 30 years and that this request is creating a town without sanitary sewer.

Commissioner Cypher explained that the discussion needs to be about density zoning and that he is not worried about drainage except in major rainfall events. He added that 200 residents and commercial uses out in the country is not appropriate for the surrounding area.

Commissioner Duffy mentioned that the rezoning request is creating a small town in rural America and could potentially create huge problems for the area.

Commissioner Ode concurred with Commissioner Cypher and Commissioner Duffy. He added concerns about the future viability of agricultural production, animal livestock facilities, and the effects of having a landfill within close proximity would have on the proposed development.

Commissioner Randall echoed the thoughts of fellow planning commissioners and indicated concerns over septic systems in a confined area and not being adequate size.

Commissioner Ralston mentioned concerns about the increasing density proposed as part of the request. He added that he has a construction background, but this is too dense for the area.



Commissioner Kostboth indicated that he was surprised at the level of density in this proposal and mentioned concern over development feasibility and the number of people in the area.

Commissioner Barth noted that this is not right yet and stated concern over traffic, impact to the school district, limits to agricultural land, windmills, etc. He continued to mention that when we add people, we add feedback.

**ACTION**

Commissioner Randall made a motion to **recommend denial** of Rezoning #17-01 with staff recommended conditions. The motion was seconded by Commissioner Ode. The motion passed unanimously.

**Rezoning #17-01 – Recommended Denial**

**Old Business**

There was discussion amongst the planning commission and staff regarding the joint meeting with the Dell Rapids Planning Commission that is being moved to August 28.

Darrell Lindner, 909 Tracy Dr. in Brandon, SD, identified himself as the petitioner for Item #2 that was on the agenda for the joint Dell Rapids and Minnehaha County planning commission meeting. Discussion amongst the planning commission and staff continued regarding meeting procedures.

Commissioner Barth reported that there will be a public hearing before the County Commission on the zoning ordinance revisions the planning commission recommended approval, August 8.

**New Business**

None.

**Adjourn**

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Kostboth. The motion passed unanimously. The meeting was **adjourned** at 8:37 pm.