



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
August 26, 2019**

A meeting of the Planning Commission was held on August 26, 2019 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Adam Mohrhauser, Mike Ralston, Ryan VanDerVliet, and Doug Ode.

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning
Donna Kelly – States Attorney

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:16 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. No items were moved.

A motion was made to **approve** the consent agenda consisting of Item 1, 2, and 3 by Commissioner Ode and seconded by Commissioner Randall. The motion passed unanimously.

ITEM 1. Approval of Minutes – July 22, 2019

As part of the consent agenda, a motion was made by Commissioner Ode and seconded by Commissioner Randall to approve the meeting minutes from July 22, 2019. The motion passed unanimously.



ITEM 2. CONDITIONAL USE PERMIT #19-34 to transfer three (3) building eligibilities from NE1/4, SE1/4, & SW1/4 of the NW1/4 to the NW1/4 of the NW1/4; all in Section 2-T102N-R51W.

Petitioner: Darwin Sletten

Property Owner: same

Location: Located approximately 2.5 miles northeast of Hartford

Staff Report: David Heinold

General Information:

Legal Description – NW1/4 NW1/4, Section 2-T102N-R51W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 40 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to transfer three building eligibilities towards the intersection of 256th Street and County Highway 149. There is an existing cattle yard immediately to the north of 256th Street; however, it appears that the property only has about 24 animals from the aerial view. The proposed transfer of building eligibilities request would allow a total of four single family dwellings in the NW1/4 NW1/4, including the existing building eligibility.

On August 14, 2019, staff inspected the site of the proposed building eligibility transfers and determined that the future location of 4 single family dwellings is more suitable than the current locations. Each of the three existing 40 acre building eligibility locations have a considerable amount of land area located within the 100 year floodplain. There is an existing cattle yard located to the immediate north of 256th Street that appears to have approximately 24 cows, but no concentrated animal feeding operations within one mile of the proposed transfer location.

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 area is primarily agriculture with a few residential acreages in the immediate vicinity. There should be no negative effect on property values with the addition of the single family dwellings.

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

There may be the potential for an impact to the nearest cattle yard, but should not cause a significant negative effect on surrounding agricultural land. There is an existing mining extraction site to the southwest of the subject property, but is set back about a quarter mile off the County Highway. While the proposed transfer of building eligibility location is currently used for cropland, the northwest quarter is appropriate for the placement of four single family



dwellings away from the existing mining operation and floodplain.

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

The petitioner has all of the necessary facilities provided, but will need to contact the appropriate governmental entity for approval of access driveways to the single family dwellings.

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

The parking requirements will be met as a result of the construction of the single family dwellings on the subject property. No parking is allowed in the road right-of-way.

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 transfer of three building eligibilities. The intent of the Envision 2035 Comprehensive Plan will be met under the requirements of density zoning. The City of Hartford Administration was notified of the requested transfer to provide comments on the conditional use permit. The City of Hartford Planning Commission did not express any concerns regarding the proposed transfer of building eligibilities.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #19-34 with the following conditions:

1. A right-to-farm notice covenant shall be placed on each deed prior to the issuance of building permits for the single family dwellings.
2. That a driveway or culvert permit be obtained from the appropriate governmental entity prior to the issuance of building permits.

Action

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #19-34 with amended conditions by Commissioner Ode and seconded by Commissioner Randall. The motion passed unanimously.

Conditional Use Permit #19-34 – Approved



ITEM 3. CONDITIONAL USE PERMIT #19-35 to transfer two (2) building eligibilities from SW1/4 NW1/4 and SE1/4 NW1/4, Section 13-T104N-R49W to the NE1/4 NW1/4, Section 13-T104N-R49W and the NE1/4 NE1/4, Section 14-T104N-R49W.

Petitioner: Marcia Siemonsma

Property Owner: same

Location: Located approximately 2 miles east of Dell Rapids

Staff Report: David Heinold

General Information:

Legal Description – NE1/4 NE1/4, Section 14-T104N-R49W and NE1/4 NW1/4, Section 13-T104N-R49W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 40 Acres

Staff Report: David Heinold

Staff Analysis:

The applicant is requesting conditional use permit approval to transfer two building eligibilities along 246th St. The proposed location of the building eligibilities are located one half mile west of the existing farmstead residence. There are no concentrated animal feeding operations within one mile of the subject property. The proposed transfer of building eligibilities request would allow one single family dwelling in the NE1/4 NE1/4, Section 14 and one single family dwelling in the NE1/4 NW1/4, Section 13 of Dell Rapids Township.

On August 14, 2019, staff visited the two sites for each proposed building eligibility transfer and determined the land areas are appropriate for single family dwellings. There are no concentrated animal feeding operations within one mile of the proposed building eligibility transfers.

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 area is primarily agriculture with a few residential acreages in the immediate vicinity. There should be no negative effect on property values with the addition of the single family dwellings.

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

The placement of one building eligibility in the NE ¼ NE1/4, Section 14 and one building eligibility in the NE1/4 NW1/4, Section 13 should not negatively impact the normal and orderly development of surrounding agricultural land. The proposed transfer locations will be closer to the road and preserves the existing farmland.

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



The petitioner has all of the necessary facilities provided, but will need to contact Dell Rapids Township for approval of access driveways to the single family dwellings.

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

The parking requirements will be met as a result of the construction of the single family dwellings on the two properties. No parking is allowed in the road right-of-way.

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 transfer of two building eligibilities. 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 #19-35 with the following conditions:

1. A right-to-farm notice covenant shall be placed on each deed prior to the issuance of building permits for the single family dwellings.
2. That a driveway or culvert permit be obtained from Dell Rapids Township prior to the issuance of building permits.

Action

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #19-35 with amended conditions by Commissioner Ode and seconded by Commissioner Randall. The motion passed unanimously.

Conditional Use Permit #19-35 – Approved



Regular Agenda

ITEM 4. CONDITIONAL USE PERMIT #19-27 to allow Salvage Repair, Collision Repair with Spraying Paint, Automotive Repair, and Used Car Sales on the property legally described as Lots 8 and 9, Haug's Addition, S1/2 SE1/4, Section 12-T102N-R50W.

Petitioner: Vitaly Silchuk

Property Owner: Vladimir Silchuk

Location: 47184 Wild Clover Cir.

Located north of Sioux Falls near the Crooks/Renner Exit of I-29

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 3A, Block 2, Brower's 2nd Addition

Present Zoning – I1 – Light Industrial District

Existing Land Use – Non-conforming Salvage Yard

Parcel Size – 1.54 acres

Staff Report: Kevin Hoekman

Application Update:

This item is continued from the June 24th Planning Commission meeting. Due to public comment and concerns regarding an oil spill cleanup, the Planning Commission deferred action in order to allow time to clean up property and to take care of oil spill clean up. Staff visited the property on August 14, 2019 to review changes that have taken place. One place that has changed is the ditch north of the property where oil clean up took place and now an area of rip rap rock is placed to slow water. The petitioner provided a final report from Houston Engineering to show the property as cleaned up. Another area of change was the area east of the east building that is highly visible from the interstate. This is an important area of change as keeping the area clear is listed as a condition of the permit. The petitioner has stated that 42 cars have been removed from the property for scrap metal. Many vehicles remain on the primary area of the lot, and this is to be expected as the petitioner is requesting to have a salvage yard and repair on the property.

Staff finds that the petitioner has shown the ability to work with the requests of the Planning Commission by completing the oil spill clean up and by clearing the highly visible area as required by the permit. Staff continues to recommend approval of the requested conditional use permit for a salvage yard and accessory uses as requested. The remaining staff report below is largely the same as presented at the June Planning Commission meeting.

Staff Analysis:

Prior to the initial application for a salvage yard, the planning department received a complaint about a salvage yard operating on this property without the necessary conditional use permit. Staff visited the site at that time and found dismantled vehicles on the property. The petitioner



responded quickly to the Violation letter in order to apply for the permit to continue operations on the site.

The petitioner would like to use the property for multiple functions including salvage, repair, collision repair and paint, and used car sales and storage on the site. In addition, there is a plan to expand the property uses by constructing a new building on the site to allow for repair and spray paint of repaired vehicles.

The petitioner has submitted a site plan that shows the lot layout and building locations. A fence was built to surround most of the property and to protect the view of dismantled vehicles. The narrative includes an explanation that all salvage vehicles will be located within the fenced area.

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.

The proposed use could have some impacts on the use and enjoyment of other properties in the area. Many of the visual impacts have been reduced because of the existing metal fence, but because of topography some of the storage areas are visible over the fence in certain places. The addition of proposed building C would aid in reducing visibility of the property from the north. The property is within a developed industrial park where neighborhood properties also have outdoor storage of materials and vehicles. The proposed use is generally compatible with other light-industrial uses such as contractor shops and automotive repair shops. One area in the northeast corner of the property is specifically visible from the interstate off ramp. Some action should be taken to address the storage of dismantled vehicles and parts in the grass lawn east of existing building B as depicted on the site plan. Staff suggests that no storage of vehicles or parts are allowed in this portion of the property.

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

The neighborhood industrial park is nearly fully developed. In addition the use of the property for storage and repair of vehicles is generally compatible with area uses, and it should not affect future enhancement of the area.

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

The property is already largely developed with utilities already existing on the site. Since the access road of Wild Clover Circle is hard surfaced the property is required to have hard surfaced driveways and parking. The main building already has a large concrete parking area, but the driveway to the parking area is not yet hard surfaced. The petitioner must hard surface a driveway from the road to the parking area to be compliant with the zoning ordinance.

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

The parking requirements generally are met with hard surfaced parking area for customers and employee parking behind a gated fence. The loading and unloading of vehicles and equipment shall not be placed within the right-of-way. The driveway to the parking lot are to be hard



surfaced as they are coming off the hard surface road.

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.

This property was brought to the planning department as a complaint of visual concerns of junk and of concerns for environmental factors for things like automotive fluids. The property is located in an industrial zoned area, and a 6 foot tall fence surrounds all the storage area of the property. The petitioner states within his narrative that there will be proper storage and disposal of oil, antifreeze and etcetera. Conditions such as indoor storage and proper containers can be placed on the permit to reduce potential for leakage and environmental concerns of automotive fluids. The South Dakota Department of Environment and Natural Resources monitors potential air pollution sources such as commercial paint booths. This conditional use permit should require a DENR permit prior to the construction of the paint booth.

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

The Envision 2035 Comprehensive Plan indicates that the industrial areas in the county should be encouraged to develop in a cohesive and attractive manner. This property has already taken the step to construct a 6 foot tall screening fence around the property. In addition, when done correctly, the recycling of automotive vehicles and parts is an important part of the lifecycle of a vehicle and to save resources such as steel and salvageable parts. Staff finds the proposed use compatible with the other industrial uses within the area.

Recommendation:

Staff finds that the proposed salvage/junkyard is a reasonable use of the land within an I-1 Industrial zoning district. Staff recommends **approval** of Conditional Use Permit #19-27 with the following conditions:

- 1.) This permit is to allow the salvage, repair, service, and paint of automotive vehicles, and for the use of automotive sales on the property.
- 2.) All fluids and waste materials shall be stored in enclosed containers within a building and disposed of through a proper facility. No dumping or burning of waste fluids or materials will be allowed. No storage of hazardous waste will be allowed.
- 3.) The 6 foot opaque fence shall be maintained in good repair at all times.
- 4.) No stacking or piling of vehicles, materials, parts, and similar items higher than 6 feet tall from the ground, unless the vehicle is taller than 6 feet without stacking.
- 5.) No outdoor storage shall be allowed east of the east wall of the existing building at 47186 Wild Clover Cir. which is labeled as Existing Building B on the submitted site plan.
- 6.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7.) That a building permit is required prior to construction of the any building, structure, or sign.
- 8.) An air quality construction permit must be obtained from the DENR prior to the construction of the commercial paint booth.
- 9.) The driveway to customer parking shall be hard surfaced according to Article 15 of



- the 1990 Revised Zoning Ordinance for Minnehaha County. This shall be completed prior to November 1, 2019
- 10.) No loading or unloading shall take place in the right-of-way at any time.
 - 11.) Operating hours shall be limited to 7:00 am to 8:00 pm Monday through Saturday and 9:00 am to 6:00 pm on Sunday. Except work that takes place entirely within an enclosed structure.
 - 12.) The operator shall allow unrestricted entry, after proper notice to the owner or operator, during regular business hours for inspection by the state of South Dakota, Minnehaha County, and local fire department officials.
 - 13.) That the Planning & Zoning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner or operator, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance

Public Testimony

Kevin Hoekman, planning staff, presented the updated staff report and recommendation. Commissioner Duffy Confirmed with Kevin Hoekman that the recommended conditions have not changed since the June hearing.

Vitaly Silchuk, the petitioner, stated that he has worked to clean up the area to clean out many cars, clean up the oil, and to no longer store oil on the site. Commissioner Duffy asked if the petitioner owned a location in Sioux Falls. Mr. Silchuk stated that there location is on Rice Street in Sioux Falls.

Gary Schwartz, 47188 Wild Clover Circle, stated that some items are cleaned, but cars have continued to be brought in and tires and other junk remain. He raised concern that car sales at the site will raise activity on the low traveled road. He stated that the cars being sold are not high quality and the customers who will buy those cars will not be considerate of the neighborhood. Mr. Scwhartz continued that the gravel lot is a concern for oil leaking from junk cars and he asked how the county will control future junk on the property.

Kevin Wilson, 47187 Wild Clover Circle, shared his experience as a customer at other salvage yards such as Nordstrom's. He stated that Nordstrom's drains all fluids and tire prior to storage to prevent contamination. Mr. Wilson stated that simply storing the vehicles for years is not a good plan. He also raised concern about future cars being stacked and the property looking like a mess.

James Miron, 25731 Cottonwood Avenue, shared that when he received a permit for his collision repair facility in the area, he was required to have dry chemical fire suppression installed for his paint booth. He wondered why the requirement was placed on him and not for this proposed operation.

Kevin Hoekman, planning staff, stated that any paint booth will have to be approved by the South Dakota Department of Environment and Natural Resources prior to operation. He also stated that fire protection is an item typically required of the building code and not a conditional



use permit. If the building code requires fire suppression, then the Building Inspector will require it based on the International Building Code for a building permit.

Tracy Haggen, 47185 Wild Clover Circle, raised concerns about future junk and the ability to enforce problems. She stated that even with clean up the view from the interstate is still a problem. She also raised concern about the clientele of the proposed business.

Vitaly Silchuk spoke in response to concerns addressed by the public. He began by stating that he doesn't like the term "salvage yard" to describe what he wants to do. He said that his business does collision repair and also buys and fixes repairable vehicles and sells them on his lot in Sioux Falls. He said that they do not want to sell parts, recycle things, or dismantle vehicles.

Commissioner Ode asked how vehicles are inspected for usability. Vitaly responded that the operation already exists on Rice Street and collision damaged vehicles are parked on the lot. He stated that the vehicles run and drive. In addition, the paint booth is something planned for the future and won't be implemented immediately.

Gary Schwartz spoke again that he has experience working construction on commercial projects and codes. He continued that he is concerned that there will still be cars coming in and leaking oil. In addition selling cars will add heavy traffic to the road.

Discussion

Commissioner Duffy closed the floor for discussion when no additional public came to speak.

Commissioner Randall stated that she had concerns about the accumulation of cars on the property.

Commissioner Mohrhauser agreed that the accumulation of cars is a problem and if the cars were planned for salvage then why haven't they been disposed of earlier.

Commissioner Ralston agreed with concerns about car accumulation and added that additional traffic is a concern too.

Commissioner Randall asked staff to show before and after photos again and comment if there was discernable change. Kevin Hoekman, planning staff, showed the photo power point and described the changes. Mr. Hoekman suggested that additional conditions could be placed to reduce concerns about accumulation of vehicles. Commissioner Randall responded that she does have the concerns but there has been significant progress already.

Commissioner Ode ask the petitioner how many cars are typically present at the Rice Street location. Vitaly Silchuk responded about 10-15 cars for sale and about 12 cars to repair at a time. Mr. Silchuk added that extra cars have been removed after the photos in the power point were taken. He stated that the goal for the lot is to have a better place to work than the limited space on Rice Street. Commissioner Ode asked if clients will come to the site. Mr. Silchuk responded



that he was insulted by the comments made about his clients by the neighbors, and he answered the question that they do not plan on having clients at the site and do not need to sell cars on the site. He further explained that they want to fix the cars at this site to then sell them on Rice Street.

Commissioner Ralston stated that removing auto sales would reduce concerns and he confirmed with Vitaly Silchuk that removing auto sales from the permit would be ok.

Commissioner Randall asked how many cars will be needed on the site. Vitaly Silchuk responded that 40-50 cars may be needed. Commissioner Randall motioned to amend the conditions to include removal of automotive sales and the addition of fire suppression for any future paint booth. Commissioner Ode seconded the motion.

Commissioner Mohrhauser commented that he would like to add a condition of a maximum of 30 vehicles on the site at any time.

Commissioner Randall withdrew her motion for added conditions and Commissioner Ode withdrew his second.

Action

Commissioner Randall motioned to approve conditional use permit #19-27 with amended conditions as follows:

- 1.) This permit is to allow the salvage, repair, service, and painting of automotive vehicles on the property.
- 2.) All fluids and waste materials shall be stored in enclosed containers within a building and disposed of through a proper facility. No dumping or burning of waste fluids or materials will be allowed. No storage of hazardous waste will be allowed.
- 3.) The 6 foot opaque fence shall be maintained in good repair at all times.
- 4.) No stacking or piling of vehicles, materials, parts, and similar items higher than 6 feet tall from the ground, unless the vehicle is taller than 6 feet without stacking.
- 5.) No outdoor storage shall be allowed east of the east wall of the existing building at 47186 Wild Clover Cir. which is labeled as Exiting Building B on the submitted site plan.
- 6.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7.) That a building permit is required prior to construction of the any building, structure, or sign.
- 8.) An air quality construction permit must be obtained from the DENR prior to the construction of the commercial paint booth.
- 9.) The driveway to customer parking shall be hard surfaced according to Article 15 of the 1990 Revised Zoning Ordinance for Minnehaha County. This shall be completed prior to November 1, 2019
- 10.) No loading or unloading shall take place in the right-of-way at any time.



- 11.) Operating hours shall be limited to 7:00 am to 8:00 pm Monday through Saturday and 9:00 am to 6:00 pm on Sunday. Except work that takes place entirely within an enclosed structure.
- 12.) The operator shall allow unrestricted entry, after proper notice to the owner or operator, during regular business hours for inspection by the state of South Dakota, Minnehaha County, and local fire department officials.
- 13.) That the Planning & Zoning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner or operator, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance
- 14.) Automatic fire suppression must be provided for the proposed paint booth area.
- 15.) No more than 30 vehicles can be stored on the property at any time.

Commissioner Ode seconded the motion.
The motion passed with a unanimous vote.

Conditional Use Permit #19-27 – Approved with conditions



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

August 26, 2019

Old Business

None.

New Business

Planning staff invited commissioners to attend the South Dakota Planners Conference which will take place on October 16th and 17th in Brookings.

Adjourn

A motion was made to **adjourn** by Commissioner VanDerVliet and seconded by Commissioner Ode. The motion passed unanimously.

The meeting was **adjourned** at 8:03 pm.