



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
JUNE 22, 2020**

A meeting of the Planning Commission was held on JUNE 22, 2020 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building and in the Zoom Personal Meeting Room ID 728 439 8039.

David Heinold, County Planning Department, presented Zoom Meeting Room instructions on raising hands to speak on agenda items.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: David Heinold called roll of members present to determine a quorum. Commissioners Bonnie Duffy, Becky Randall, Adam Mohrhauser, Mike Ralston, Ryan VanDerVliet, Doug Ode, and Jeff Barth responded present at the meeting.

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 7:00 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak or no hands were raised in the Zoom Personal Meeting Room.

ITEM 1. Approval of Minutes – May 18, 2020

Chair Duffy called for any comments or amendments to the minutes. Nobody raised any comments or amendments.

A motion was made by Commissioner Ode and seconded by Commissioner VanDerVliet to approve the meeting minutes from May 18, 2020. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 2. CONDITIONAL USE PERMIT #20-16 to amend Conditional Use Permit #13-15 to allow Private Campground of up to eight (8) camping units on the property legally described as Tract 1, Bour Addition, N1/2, Section 27-T102N-R52W.

Petitioner: Hunter’s Pointe Shooting Complex

Property Owner: same

Location: 45761 260th St. Located Approximately 2.5 miles south of Humboldt

Staff Report: David Heinold

General Information:

Legal Description – Tract 1, Bour Addition, N1/2, Section 27-T102N-R52W

Present Zoning – A-1 Agricultural District

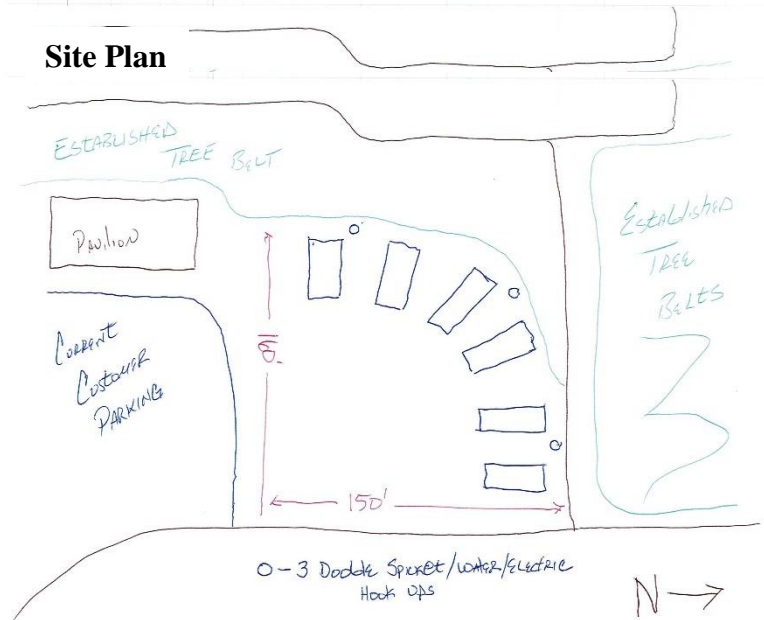
Existing Land Use – Shooting Range

Parcel Size – 60 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting a conditional use permit amendment to allow a private campground for up to eight camping units in addition to the existing Hunters Pointe Shooting Complex. The proposed camper area would be located north of the Pavilion along the main entrance driveway. The existing conditional use permit allows a trap shooting, rifle, and pistol range. Conditional Use Permit #13-15 requires approval by the Planning Commission for major changes to the site plan.



The site plan, at right, shows the location of the proposed camping area just north of the existing pavilion at the shooting complex. There is an existing parking lot to the east of the pavilion that would be adequate to provide parking spaces for the camping area.

On May 5, 2020, staff visited the subject property and determined that the proposed use for primitive camping is an appropriate addition to the existing shooting complex. The camping area is located with adequate setbacks to the existing trap shooting, rifle, and pistol ranges.

On May 20, 2020, staff received notification from Google Maps that the requested revision to the driving directions to Hunters Pointe Shooting Complex from the east was accepted in the system. Staff has included a printout of the Google Maps driving directions to Hunters Pointe Shooting



Complex from Sioux Falls that shows three different routes arriving via 260th Street to the west avoiding Mr. Leuth's driveway.

On May 27, 2020, staff received a letter from the applicant with details from discussions he has made with the Township as well as Mr. Leuth, the neighboring property owner. The letter has been included in the staff report packet for your information.

Conditional Use Permit Criteria:

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

There should be no negative effect on the use and enjoyment of farm land in the immediate vicinity. The petitioner owns much of the surrounding land around the shooting complex. There should be no change in property values since the petitioner has no plans for the construction of any buildings to serve the proposed camping area.

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

The immediate area is primarily agriculture with a few residential acreages. The future development of the vacant property in the surrounding area is dependent upon the availability of building eligibilities for single family dwellings. There should be no significant effect on the normal and orderly development of surrounding vacant property given that the proposed camping area will be located within the existing shooting complex.

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

The petitioner will add up to three double spicket water and electric hookups between the proposed camping spots. The remaining access roads, drainage, and other necessary facilities have been provided with the existing shooting complex.

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

The petitioner should provide a minimum of one (1) parking space per camping site.

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

The use of lighting should be designed to minimize potential impact to neighboring properties or right-of-ways. As the application specifically requests the use for only a temporary period, the petitioner does not propose any signage for the use. Any barbeque pits or fire pit areas should be located and constructed to control fire and prevent fire hazard.

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

The subject property is located in the Agricultural Production Area as identified by the Envision 2035 Comprehensive Plan. The goal of the Agricultural Production Area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. There should be no negative effect on the health, safety, general welfare of the public, or the Comprehensive Plan with the proposed camping area.



Recommendation:

Staff finds that the proposed conditional use permit amendment to allow a private campground in addition to the shooting complex is an appropriate use for the surrounding area. Staff suggests adding condition #25, “That the use shall be limited to eight (8) camping units placed on the subject property in accordance with the submitted site plan amendment dated 4-28-2020.” Staff recommends **approval** of Conditional Use Permit #20-16 major amendment to Conditional Use Permit #13-15 with the following conditions:

- 1) That Conditional Use Permit #13-015 shall allow for one (1) 20 Lane Rifle & Pistol Range at a maximum of 600 yards, Trap Shooting Range and banquet facility for larger shoots and associated fundraisers.
- 2) That the property shall adhere to the site plans and building plans dated 2-8-13. That if minor changes occur these plans shall be approved by the Planning Director and major changes approved by the Planning Commission and kept on file with CUP #13-015.
- 3) That the range officer(s) on duty shall not be participating in any shooting activities and shall only be there to enforce the safety rules by observing shooters and running the firing line and trap shooting range(s).
- 4) That a range officer shall be present at the active firing line at all times on the rifle and pistol range when in use. That a minimum of one (1) range officer for the trap shooting range shall be required in addition to the range officer at the rifle and pistol range. That one (1) range officer shall not be responsible for both the rifle and pistol range and trap shooting range at the same time.
- 5) That range officer requirements shall apply to both members and non-members participating in active shooting. A range officer shall always be required.
- 6) That a bar, led sled or similar device shall be placed across the firing bench or firing area on the rifle and pistol range to restrict the angle of fire and ensure that bullets remain within the embankments.
- 7) That minimum 8’ foot berms or earth embankments shall enclose the east and west sides of the rifle and pistol range. That a minimum of a 20’ foot berm or earth embankment shall enclose the most southern portion of the target range. That concrete retaining wall shall be placed within the range as according to the site plan.
- 8) That no weapon greater than a .338 caliber shall be permitted to fire at this facility unless it’s the use of guns that use black powder propellants.
- 9) That an authorization log defining the shooters ability/proficiency to gain access to targets on the rifle and pistol range that are beyond 200 yards shall be maintained by Hunters Pointe and/or the safety office.
- 10) That the public hours of operation shall be from 8 AM to sunset Monday-Friday, weekends and holidays from 10 AM to sunset. That the private hours of operation shall be from 5 AM to 2 AM Monday-Sunday.
- 11) That an exception to the hours of operation shall be only in the event of a scheduled night shoot at the trap shooting range. No shooting shall occur from the rifle and pistol range during a night trap shoot.



- 12) That when the sighting-in of any weapon takes place it shall be conducted in an area that is baffled or that has other measures taken to ensure the projectiles are contained within the boundaries of the property.
- 13) That the public address system shall be installed and maintained for the rifle and pistol range to voice commands for shooters on the range.
- 14) That further safety inspections and/or safety precautions shall be required if the public's health and safety are threatened due to the lack of projectile containment or similar life threatening incidents.
- 15) That a baffling system of the entire 600 yard range shall be required if projectiles are not contained within the boundaries of the property.
- 16) That a gate shall be erected and maintained at all entrances or exists in order to mitigate trespassing and to insure proper access to the facility. That the facility and gates shall be locked when the range is closed and staff is not present.
- 17) That building permits and other required inspections shall be obtained for all structures on the property and violations shall be corrected within 6 months.
- 18) That all materials, supplies and products associated with the facility shall be stored within an approved structure, storage facility or screened from public view.
- 19) That no unlicensed, inoperable or partially dismantled vehicle, equipment or parts shall accumulate on the property.
- 20) That an adequate restroom facility(s) shall be provided at the property. That when an onsite wastewater system is used it shall be constructed in conformance with South Dakota State and Minnehaha County regulations.
- 21) That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
- 22) That parking and loading regulations outlined in Article 15.00 of the Minnehaha County Zoning Ordinance shall be met. That parking shall not be allowed along 260th Street.
- 23) That an entrance sign(s) of 64 square feet shall be allowed and that all other signage shall comply with the zoning ordinance requirements stated in Article 16.00 On-Premise Signs and Article 17.00 Off-Premise Signs. Signs require a building permit.
- 24) That the Conditional Use Permit #92-029 for this property in regards to the trap shooting range shall be repealed.
- 25) That the use shall be limited to eight (8) camping units placed on the subject property in accordance with the submitted site plan amendment dated 4-28-2020.

Public Testimony

David Heinold, County Planning Department, gave an overview of the deferred conditional use permit request and mentioned that staff contacted Google for resolution of the driving directions to Hunters Pointe Shooting Complex from the east. Mr. Heinold reported that the driving directions now direct traffic to the Humboldt exit off Interstate 90, then south towards 260th Street. Although one of the Google Maps driving directions options still seems to direct traffic from South Dakota State Highway 42 to the private road. Mr. Heinold provided the recommendation for approval of Conditional Use Permit #20-16 major amendment to the shooting complex.



Isaac Chamness, 3908 S. Sertoma Ave., identified himself as the petitioner.

Chair Duffy called for questions to the petitioner and Commissioner Barth mentioned that Charles Leuth has his hand raised to speak on the item. Chair Duffy called on Mr. Leuth to speak on the conditional use permit request.

Charles Leuth, 45833 260th St., asked for clarification that the Google Maps driving directions has been changed. Mr. Heinold explained that he reached out to Google via the Feedback Form and they changed the driving directions. Mr. Leuth continued to mention that another person drove through his yard last Friday. He explained that Google Maps still shows his driveway listed as 260th Street. Mr. Heinold explained that he reached out to Google and told them that 260th Street was a private road as well as everything that was brought up in the last meeting.

Commissioner Ralston mentioned that he looked up the driving directions on his phone and it appeared to be correct. Mr. Leuth explained that there are usually three different options and his driveway is the third option on the list. Commissioner Ralston explained that he has two options for the driving directions right now.

Mr. Leuth mentioned that he does not have an issue with the conditional use permit request, but is frustrated by the lack of cooperation amongst the petitioner to do anything about people driving through his front yard.

Commissioner Mohrhauser questioned if anyone has discussed this concern with the township.

Mr. Leuth explained that 260th Street will never be closed because that is his mail and emergency route. He continued to mention that he would have to change his address from Humboldt to Hartford if the road were to be closed and that is not acceptable to him.

Mr. Chamness mentioned his frustrations with not being able to get the township to close the road due to the ongoing concerns with the adjacent property owner. He explained that the road has been underwater for the past two years and there hasn't been any issues until this meeting. He continued to mention that he has installed no right turn signs at the gate to Hunters Pointe and the township has put up a dead-end sign just east of the entrance to the shooting complex.

Mr. Leuth explained the drainage issues with the road over the past two years related to the drain tile being plugged for an extended period, but the road has not been an issue for as long as he's lived on this road. He continued to mention that he would like the planning commission to realize how much of burden the shooting complex is on the township due to lots of traffic deteriorating the road conditions.

Mr. Chamness explained that his traffic isn't any worse than the agricultural machinery coming from the fields in the fall harvest. Mr. Leuth responded that there 50-60 cars driving on the road during the large shooting events, which is a complete difference between harvest traffic impact. The discussion continued amongst Mr. Leuth and Mr. Chamness about people driving on 260th



Street during the day. Mr. Chamness explained that his request is to put 6 camper sites on the property to allow shooters from other areas to stay overnight during events.

Chair Duffy called for additional public testimony but there was no answer.

Commissioner Randall explained that she looked up the driving directions on Google Maps and it shows the revised correct directions to Hunters Pointe Shooting Complex.

Chair Duffy closed the floor for public testimony.

Discussion

Chair Duffy called for planning commissioner discussion.

Commissioner Barth stated that he understands the viewpoints from both sides and made a motion to approve the conditional use permit request.

Action

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #20-16. The motion was seconded by Commissioner Ralston. A roll call vote was taken, and the motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #20-16 – Approved



ITEM 3. CONDITIONAL USE PERMIT #20-17 to allow a Manufactured Home on the property legally described as Tract 8, Eggers Addition, NW1/4 NE1/4, Section 16-T102N-R49W.

Petitioner: Bill & Sandy Bruns

Property Owner: Timothy Eggers

Location: Located approximately 3 miles north of Sioux Falls

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 8, Eggers Addition, NW1/4 NE1/4, Section 16-T102N-R49W

Present Zoning – RC Recreation Conservation Zoning

Existing Land Use – Vacant lot

Parcel Size – 1 acre

Staff Report: Kevin Hoekman

Staff Analysis:

The subject property is located at the intersection of Church Avenue and Berry Lane in Renner. The lot is about ¼ mile southwest of the Renner Corner gas station. The neighborhood is composed of a mix of single-family dwellings on mostly small lots. The petitioner is requesting to place a manufactured home on the one acre parcel.

The petitioner submitted a sketch of future layout of the property including bushes for screens, and a future attached garage. The petitioner explains in the narrative that the proposed mobile home is 2,700 square feet in size and will be set in a manner to look like a single family home. The zoning ordinance includes requirements for how a manufactured home is to be placed on a property including foundation walls to surround the home, and the requirement for a double wide trailer. These requirements must be met by the petitioner if this application is approved.

Neighborhood Petition:

Planning staff received a couple phone calls with concerns that a manufactured home will negatively affect the property values of the neighboring properties. In addition to phone calls, a petition was submitted for neighborhood residents who are opposed to the proposed manufactured home. The petition includes a list of concerns including the primary concerns of the impact to neighborhood character and property values. The zoning ordinance has requirements to make a manufactured home to look more like a single family home such as foundation walls instead of skirting and roof pitch requirements. The size of the petitioner's home, the plans for decks, and an attached garage will reduce negative appearance that is associated with manufactured homes.

The petition also lists concerns over further residential growth of the area. Lot 9, the subject parcel, has a building eligibility for a single family dwelling. The nearby Lot 8 also has a building eligibility. In addition a 15 acre parcel to the east of the site is zoned R1 Residential



which can allow single family dwellings on parcels as small as 7,500 square feet with a sanitary sewer district availability. The area is ready for further development, and the placement of a manufactured home will not increase the potential density of the area beyond what is allowed by the zoning ordinance.

Attached with this staff report is the submitted petition from the neighbors, a response from the applicant for this CUP, and photos submitted from the applicant of the home that is to be moved.

Conditional Use Permit Criteria:

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

The property is located in a residential subdivision in the unincorporated area of Renner. The subject lot and the rest of this portion of Renner is generally outside of regulatory floodplain. The subject parcel was platted with a building eligibility to be used as a single family acreage. The placement of a manufactured home will not generate any more traffic than any other single family dwelling.

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

The unincorporated town of Renner is labeled as a Rural Service Area in the comprehensive plan. As such, further growth is expected. To the east of the subject parcel is a larger parcel of land already zoned for future residential development. The presence of a manufactured home will not likely affect the future development of homes in the area.

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

The parcel is accessed from Church Avenue. It is also located within the Renner Sanitary Sewer District. The petitioner will be required to obtain any approvals from the Renner Sanitary Sewer District prior to the building permit being issued for the manufactured home. The petitioner will also be required to extend any needed utilities to the property.

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

The parcel is large enough to accommodate off street parking. Off street parking requirements will be met when the dwelling is placed on the property.

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

The placement of a manufactured home should not create any offensive odors, fumes, dust, noise, vibration, or lighting.

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

The health, safety and general welfare should not be negatively affected by the proposed manufactured home. The parcel is within a Rural Service Area or the Comprehensive plan which allows further development. the property will follow requirements of the Zoning Ordinance.



Recommendation:

Minnehaha County staff recommends **approval** of Conditional Use Permit #20-17 with the following conditions:

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

Public Testimony

Kevin Hoekman, county planning, presented the staff report and recommendation. Commissioner Mohrhauser asked how many lots are planned for development. Kevin Hoekman responded that this is the only lot planned for a manufactured home, there are two building eligibility lots platted nearby and a 15 acre parcel zoned for residential to the east.

Commissioner Ode clarified with staff that the property is not located within the regulatory floodplain.

Sandy Bruns, the petitioner, stated that her dwelling is 2,700 square feet with a VIN #, and that it is too big for a mobile home park. She pointed out that many of the houses near the property are ranch style box houses and that there are no covenants in the development preventing a manufactured home. She stated that a mobile home will not devalue the existing neighborhood dwellings.

Judy Lindberg, 25807 Church Ave, explained that the petitioner visited with her and she was ok to have a neighbor until the home was a trailer. In addition, the petitioner's kids came by and had a "heated" discussion about the house and later sent an apology card, she read the apology card. She added that Church Avenue should be extended past the property. She asked if other lots in the area going to have requests for manufactured homes. She finished that she does not want her house to be devalued because of a trailer home.

Carol Eggers, 25803 Church Ave, began that she has lived in the neighborhood for 50 years. She stated that the house is large but it is still a trailer that devalues other property. Allowing one trailer in the neighborhood will lead to others.

Kayla Decourcey, 25804 Church Ave, stated that she agrees with the others that a trailer home will devalue property. She had a realtor tell her that her property value will decrease. She noted that she could hear the "heated" discussion at her house including the yelling and profanity. She stated that they have a peaceful neighborhood right now. Commissioner Mohrhauser asked if



there is a distinguishable difference between a manufactured home and a house built by Custom Touch in Madison. Kayla responded that this house will be a manufactured house with wheels. Commissioner VanDerVliet stated that a foundation is a requirement of the zoning ordinance.

David Wilson, 47475 Berry Lane, raised the concern about the road that Church Avenue is already platted but not installed. He added that Custom Touch homes are completely different than a trailer home. He stated that the trailer will not fit in with the high value homes to the north and east. He finished that the 15 acres to the east have been on the market for sale but have not been sold yet.

Sandy Sorum, 47510 258th Street, explained that Church Avenue is a legal road. She added that there are already two manufactured homes in the area.

Judy Lindberg spoke again that the land owner previously stated that additional lots would require the roads to be extended. Commissioner Ode asked if a stick frame house that is not maintained devalue other property. Mrs. Lindberg stated that yes that would devalue property but a house would have more likely to take pride in the property.

Tony Hweit, 2309 S 1st Ave. Sioux Falls, pointed out that not many trailer owners can afford a \$65,000 lot. The cost of land will limit the area not to turn into a trailer park. He stated that his parents take much pride in maintaining their home which is the manufactured home.

Sandy Bruns spoke again to state that she did not know that her son was going to talk to the neighbors. She stated that she included her phone number in the letter to the neighbors to discuss the request.

Carol Eggers added that Sandy Sorum lives ½ mile away on the other side of the highway, and the rest of the people live near this property.

David Wilson added that Sandy Sorum doesn't own any own any land nearby. Sandy Sorum responded that she does own land and her brothers own land in the area. She added that she had a trailer in her back yard for years.

Scott Anderson clarified for everyone that anyone can participate in a public hearing. He added that the lot does have legal access.

Chair Duffy Closed the floor for commissioner comments.

Discussion

Commissioner VanDerVliet commented that he lives down the road from a trailer on a foundation and that it looks nice.

Commissioner Mohrhauser stated that the petitioner did pay \$65,000 for the lot and should be able to put what they want on it.



Commissioner Ode added that a stick frame house does not guarantee a house that raises value of the neighborhood.

Commissioner Ralston stated that buying the lot doesn't necessarily allow whatever the buyer wants. But also recognizes that a stick frame house is not a guarantee for a well built house.

Commissioner Randall added that a 1 acre lot can allow for setback and screening.

Commissioner Barth added that the proposed house will look better than some of the existing houses in the neighborhood.

Action

A motion was made by Commissioner VanDerVliet to **approve** Conditional Use Permit #20-17. The motion was seconded by Commissioner Ode. A roll call vote was taken, and the votes were cast in the following manner:

Jeff Barth - Yes
Adam Mohrhauser - Yes
Doug Ode - Yes
Mike Ralston - No
Becky Randall - Yes
Ryan VanDerVliet - Yes
Bonnie Duffy, Chair - Yes

The motion passed with 6 votes in favor of the motion and 1 votes against the motion.

Conditional Use Permit #20-17 – Approved



ITEM 4. MAJOR AMENDMENT #20-02 to amend the Subarea Map for the Cedar Ridge PD Planned Development District to add 6 single family lots to Subarea A from the existing Subarea C on the property legally described as Tract 1 & 2, Anson Addition (Including Cedar Ridge Addition, N1/2 SW1/4, Section 3-T103N-R49W).

Petitioner: Eric Willadsen

Property Owner: Brad Wagner

Location: Located approximately ¼ mile northeast of the intersection at 257th St. & 475th Ave.

Staff Report: Scott Anderson

General Information:

Legal Description – N1/2 SW1/4, Section 3-T103N-R49W

Present Zoning – Cedar Ridge Planned Development

Existing Land Use – Agriculture/Residential

Parcel Size – 81.02 acres

Staff Report: Scott Anderson

Staff Analysis: On April 26, 2016, the County Commission approved the Cedar Ridge Planned Development District. The planned development consists of three (3) subareas. Subarea A is the residential component and allows for up to sixteen (16) residences. Subarea B is the stable and pasture area and allows for the existing single family residence. Subarea C allows for two (2) additional single family residences, ag uses and a recreation facility.

The applicant is now requesting to add an additional six (6) single family dwellings in Subarea C and to amend the Cedar Ridge Planned Development regulations to allow the single family residences to have accessory structures that exceed 1,200 square feet, and to follow the size restrictions allowed in Article 12.07 of the Minnehaha County Zoning Ordinance, which would be up to 2,400 square feet. The applicant has provided a narrative explaining the reasons for the additional lots and request for larger accessory structure, which is included for the Planning Commission's review.

On June 8, 2020, staff conducted a site visit. There are six (6) residences already constructed and it appears a couple lots preparing to be built upon. A portion of both Cedar Ridge Place and Pony Meadow Court have been constructed and hard surfaced. The stable continues to operate in Subarea B. The area remains largely the same as when the Planned Development was approved four years ago, which is mixture of agricultural and residential uses.

The applicant's request to amend the planned development regulations to allow accessory structures to exceed 1,200 square feet and be constructed in accordance with the size restrictions in Article 12.07 is reasonable. The size regulations were amended in 2018 to allow larger accessory structures. For lots 1.1 acre or larger, accessory structures up to 2,400 square feet would be allowed. The residents of Cedar Ridge Planned Development should have the same rights to have same size accessory structures as other residents of the county and staff will support this portion of the proposed Planned Development Amendment.



In regard to the request for six (6) additional residential lots, the applicant has not provided a compelling reason for increasing the density by 37.5%. The applicant is proposing a significant increase in density. The number of residences in this planned development would be approximately the same density of Rowena, Sherman, Ellis and Lyons. The Planned Development could have initially requested the increased number of dwelling units four years ago. The current request erodes away the agricultural use and nature of the planned development. Increasing the density could set a precedent to allow for future residential development. The stable and pasture area could accommodate another 14-16 residential lots. Furthermore, approximately 8 lots have been sold within the planned development and six (6) houses constructed. These property owners purchased their lots with the understanding that the Cedar Ridge would be of a certain size and have a certain character. The additional six (6) lots will result in additional traffic going by those existing residents and will change the concept of the plan that they bought into. Staff will not support this portion of the proposed Planned Development Amendment, as the applicant has not provided a compelling reason for the additional residences and it will set a precedent for future, additional residential development.

Recommendation: Staff recommends **approval** to amend the Cedar Ridge Development Regulations to allow accessory structures to be the same size as regulated in Article 12.07 – Table 4, and that Subarea A (2) be amend to read:

(2) ACCESSORY USES. Accessory uses and buildings permitted are those accessory buildings and uses customarily incidental to any permitted use allowed in the district. All accessory building shall not exceed the total permissible Area of Accessory Buildings as identified in Table 4 of Article 12.07 of the Minnehaha County Zoning Ordinance.

Staff recommends **denial** to amend the Cedar Ridge Planned Development to allow six (6) additional single family residences in Subarea C.

Public Testimony

Scott Anderson, planning department, presented the staff report and recommendation. Commissioner Barth asked if there was concern because of the number of dwellings and having only one access, and if there is consideration for sanitary sewer district. Scott Anderson responded that there is no requirement for the number of houses per access and that the road was planned for a loop to allow easy access. In addition a septic system requires a minimum 1 acre lot.

Dave Edwards, from Hagen, Wilka & Archer LLP, spoke on behalf of the petitioner's request. He began by explaining that he helped with the covenants, and more recently the HOA for the development. Mr. Edwards further explained the petitioner's experience operating the equestrian center and developing the community around the idea. The petitioners have been part of the area since 2003 and remain active in the community. Mr. Edwards discussed the future plans for the development including planning for future operators of the equestrian portion of the development. He completed his statement by listing how the current development has been taking place in small expansions over time without delay in constructing roads. The proposed



amendment will finish off the gap south of the road and loop the road around. He stated that the original intent of the development remains intact as an equestrian development.

Eric Willadsen, Willadsen Lund Engineering, spoke on the development. He noted that there are no current cul-de-sacs on the roads and this plan will loop the road for better emergency access. He also explained that there are many houses in South Dakota which use septic systems for wastewater treatment and that a septic system is ecological. Commissioner Ode noted that the looped road looks like it could turn into a race track for young people. Mr. Willadsen responded that the residents will put an end to any racing if it was to occur.

Laura Wagner, the petitioner, stated that the proposal will not significantly change the feel of the area as there is already a driveway on the south side of the lot which will turn into a road. She stated that the road will allow better access for the residents to Subarea C. Commissioner Ode asked what is the maximum number of horses that can the facility hold. Mrs. Wagner replied that there are 30 stalled horses.

Eric Willadsen added that the pasture area is located where the proposed residential lots are going.

Chair Duffy called for anyone on zoom wished to comment on the item, and nobody had their hand raised for comment.

Commissioner Duffy asked staff to clarify the recommendation. Scott Anderson responded that he is recommending approval for the text changes to the development but not the additional residential lots. He added that the looped road is in the original development plan presented several years ago.

Brad Jurgensen, 47705 255th Street, asked if the property was zoned residential or if they were using building eligibilities. Scott Anderson explained that the property was zoned as a planned development and did not have building eligibilities needed any longer.

Action

A motion was made by Commissioner Ralston to **approve** the text amendment to Cedar Ridge Development Regulations to allow accessory structures to be the same size as regulated in Article 12.07 – Table 4, and that Subarea A (2) be amend to read:

(2) ACCESSORY USES. Accessory uses and buildings permitted are those accessory buildings and uses customarily incidental to any permitted use allowed in the district. All accessory building shall not exceed the total permissible Area of Accessory Buildings as identified in Table 4 of Article 12.07 of the Minnehaha County Zoning Ordinance.

The motion was seconded by Commissioner Randall. A roll call vote was taken, and the motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.



A separate motion was made by Commissioner Ralston to **deny** the subarea amendment to the Cedar Ridge Planned Development to allow and expansion of Subarea A for (6) additional residential lots. The motion was seconded by Commissioner Ode. A roll call vote was taken, and the votes were cast in the following manner:

Jeff Barth - Yes
Adam Mohrhauser - No
Doug Ode - Yes
Mike Ralston - Yes
Becky Randall - Yes
Ryan VanDerVliet - No
Bonnie Duffy, Chair - Yes

The motion passed with 5 votes in favor of the motion and 2 votes against the motion.

Major Amendment #20-02 – Split Approval Recommended



ITEM 5. CONDITIONAL USE PERMIT #20-18 to expand the Class A, Dairy CAFO to 12,000 Animal Units on the property legally described as Lot 1, Moody County Dairy Subdivision, Gov't Lots 1 & 2, SE1/4, Section 10-T104N-R47W.

Petitioner: Moody County Dairy, L.P. (Lynn Boadwine)

Property Owner: same

Location: 48790 246th St.

Located approximately 4 miles north of Sherman

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 1, Moody County Dairy Subdivision, Gov't Lots 1 & 2, SE1/4, Section 10-T104N-R47W

Present Zoning – A1 Agriculture

Existing Land Use – Dairy Operation

Parcel Size – approximately 136 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 4 miles north of Sherman along township road 246th Street. The petitioner would like to expand an existing Class A dairy CAFO which is permitted for 8,000 animal units to a requested 12,000 animal units. This proposal does not change the classification of the CAFO size, and the facility will be required to maintain its State General Permit from the SD Department of Environment and Natural Resources.

This property recently received a conditional use permit to expand in 2019. Since the permit approval, the petitioner has been working on setting the property up to have methane digesting takes to process the manure on the site. The written narrative describes that the proposed expansion is to make better use of the methane digestors. Animals currently kept on other properties are planned to be house on this property instead. This will cause a need for more barns and another lagoon on the site. The expansion and methane digesting tanks will largely fill the remaining ¼ section of land available on the parcel.

The site plan is an important aspect of any conditional use permit. Below is a list of required elements for general CUPs as well as the last two elements that specifically address requirements for CAFOs. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. The petitioner has provided a site plan that shows many details with existing infrastructure. In addition, a one page narrative was submitted to accompany the application and site plan. Some of the required site plan elements are described within the narrative.

The address of the property and the legal description. The address of the expanding dairy CAFO is 48790 246th Street, as it is shown on the application. The application also includes the legal description of the property. The legal description on the site plan



provides the general area as the SE ¼ of Section 10-104-47.

The name of the project and/or business. The dairy is called Moody County Dairy, and the name is on the site plan.

The scale and north arrow. The site plan includes a north arrow and a graphic scale. The north arrow on the site plan is incorrectly pointing east.

All existing and proposed buildings or additions. The site plan includes an aerial photo as the background of the map. The aerial photo shows the locations of existing buildings, lagoons, and other parts of the CAFO operation, with the exception of the newest barn. The site plan includes several proposed barns on the north side of the facility, and a new lagoon in the northeast corner of the property.

The dimensions of all buildings. The dimensions of the proposed and existing buildings are not listed on the site plan. But the buildings are set on the plan according to the scale provided.

The distance from all buildings to the property lines at the closest points. The distances to property lines are included on the site plan. All proposed new structures will meet the required 50 feet setback from the property lines.

Building height and number of stories. The heights of the buildings are not included in the narrative or site plan. It is likely that an animal feeding barn will have only one story to keep the animals. Agricultural structures do not have a height limitation.

Dimensions of all property lines. The dimensions of the property lines are not included on the site plan. The property is approximately 136 acres in size. The combined platted lots are entirely within the SE ¼ of the section.

Parking lots or spaces; designate each space; give dimensions of the lot, stalls, and aisles. The proposed land use is for agricultural purposes on a large lot. Parking lots and space requirements are typically calculated for commercial and industrial uses. The proposed site will use the existing access off of 246th Street. The site will be large enough to allow for parking and maneuvering. No parking or loading will be allowed within the right-of-way.

Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping. An existing and mature grove of trees are located south of the lagoons and separate the lagoons from a couple on site dwellings. Another existing shelter belt is located along the entire west side of the dairy and approximately the west half of the north side of the site. New trees will be placed along the remaining north property line. As these trees grow the benefits of wind, odor, and visual barriers should increase.



Name and location of all adjacent streets, alleys, waterways and other public places.

The nearest street is 246th Street where the dairy is addressed from. There are also no known public places around this facility either.

During the hearing for the expansion request in 2019, the planning commission discussed the required setback for the water way that runs through the north east corner of the property. The planned new lagoon will meet the required 100 feet setback from the intermittent stream.

A grading Plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens. The animals will be housed within the barns. Manure containment will be located within the lagoons located directly east of the barns. The rim of the lagoon is higher in elevation than the surrounding land and the animals are kept under a roof at all times.

The location of all existing and proposed structures, including manure containment facilities and confinement buildings and corrals. All new structures and corrals shall be located a minimum of 50 feet from any property line. The proposed new structures will meet the required 50 feet setbacks from property lines.

Setbacks and other requirements.

In relation to the site plan, the 12,000 animal unit operation will require a 3,960 foot buffer from a dwelling, church, or business. The property owner of a dwelling, church, or business may sign a waiver to reduce the required setback. The setback can also be reduced by half to 1,980 feet if trees are planted as designed by the Minnehaha Conservation District or a Professional Landscape Architect as required by the Zoning Ordinance. Three dwellings are located within the 3,960 foot buffer. Waivers were submitted for properties for the previous application, but no waivers were provided for this request. The situation for these three properties are described below:

A dwelling to the northeast is located approximately 1,200 feet from the northwest corner of the property line of the CAFO, but this dwelling is owned by Moody County Dairy and no waiver will be needed for this dwelling.

A dwelling to the southwest is located approximately 2,785 feet (a little farther than ½ mile) from the southwest corner of the property line of the CAFO. A significant line of trees exists along the southwest property line of the operation.

A dwelling to the northeast is located approximately 3,050 feet (approximately 2/3 mile) from the northwest corner of the property line of the CAFO. A shelter belt is proposed for that corner of the site.

The county Zoning Ordinance requires setbacks from a CAFO to municipalities. The nearest municipality to Moody County Dairy is Jasper Minnesota. Jasper MN is a Second Class city



with a population between 500 and 5,000. As a Second Class city, the dairy must meet 1.5 mile setback from the city limits. Staff finds that Jasper MN is approximately 2.3 miles northeast of the dairy, and the setback requirement is met.

In addition to site plan elements and setbacks, an application for a CAFO is required to submit other plans and meet requirements. The request is to enlarge an existing CAFO where manure is maintained in lagoons on the site until applied to field for fertilizer. The petitioner's narrative explains the manure management will be updated to move manure through methane digester tanks to separate useable gasses from the manure for use in natural gas applications. These takes should have an added benefit of removing some of the noxious fumes from the manure prior to placing the manure into the lagoons. Manure in the original permit is noted to be placed in the fall and according to DENR requirements. According to the narrative the operation has a contract with a rendering service to remove dead animals. And the facility has a program in place to reduce insects and flies including insecticides and habitat limitations.

This dairy operation was approved in 2006 (CUP 06-20) and amended in 2019 (CUP 19-15). This request will make another amendment to the conditions. Staff is recommending that conditions which were previously approved remain the same with the exception of Condition #1 as listed below. The effective first condition is located below in italics. The suggested rewritten condition is written below that.

Change from:

- 1.) The maximum size of the facility shall be limited to 8,000 animal units.*

Change to:

- 1.) The maximum size of the facility shall be limited to 12,000 animal units.

Conditional Use Permit Criteria:

As part of any conditional use permit request, the Planning Commission is required to consider several 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 CAFO expansion is located within predominantly agricultural area and this proposal is expanding an existing site that was originally permitted in 2006. A few of the nearby dwellings are owned by the farm operation or built for employees of the farm. Other dwellings are on farmsteads and acreages. A tree grove has already been planted on the west side of the property. An established grove of trees is also located south of the lagoons. The groves should aid in the reduction of wind, smell, and visibility of the farm. Additional trees are planned on the north side of the property for the same reason. Staff has received complaints of smell during the application of manure. The complaint was followed with site visits which found manure to be applied by injection as required by the ordinance. The most likely time of year to have nuisance smells is likely during application of manure.

The proposed use is an expansion of an existing use. The expansion will increase the number of



allowable animal units on the property by 4,000 animal units (50%). All the animals will still be located within barns. The tree belt should reduce smells and site lines of the facility. And the methane digestion facilities should further reduce gasses that produce odors prior to storage in the lagoons.

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

The surrounding land uses of the proposed CAFO are predominantly agricultural with several single family dwellings and farmsteads. Agricultural uses such as crops and livestock will likely continue into the future of the area. The expansion of a CAFO will unlikely affect further agricultural development in the area, and it may increase value with easy access to manure for fertilization of the soils. In general, when intense land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Expanding an existing facility should help reduce the negative aspects that would affect future development. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling.

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

The proposed facility will use the existing driveways. The petitioner will have to extend any utilities to the proposed new barn. Grading and drainage are shown on the site plan.

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

The operation is located on a large site that will have enough space to meet off street parking and loading requirements. Parking and loading in the right-of-way will not be allowed.

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 petitioner is requesting an expansion of an existing CAFO facility. The inherent nature of a CAFO like this has the potential to create nuisances if not managed properly. This is especially true for odor, fumes, and dust. The petitioner states management plans and are in place for reducing nuisance flies. Any management practices included in the narrative will be expected to be carried out. In addition, the Planning Commission has the ability to add conditions if they feel the petitioner's plans and staff recommendations are inadequate to mitigate nuisances. As previously notes, the petitioner is working of constructing a methane digesting facility to capture natural gas from the manure. The process of removing methane from the manure should aid in reducing smells from the facility.

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

The proposed CAFO expansion will have to comply with the conditions of this permit and the regulations for CAFOs in the 1990 Revised Zoning Ordinance for Minnehaha County. These rules and regulations are designed to allow for development while preventing much of the potential harms that a CAFO facility may create. The facility is also required to obtain a State permit because of its size.

The proposed CAFO is located firmly within the Agricultural Production Area of the Envision



2035 Comprehensive Development Plan. In the description of this designated area, a goal of the Envision 2035 Comprehensive Development Plan is to “protect, preserve, and promote agricultural uses and the economic viability of farming operations.”

Recommendation:

Staff recommends **Approval** of CUP #20-18 to amend CUP #06-20 to have the following revised conditions.

- 1.) The maximum size of the facility shall be limited to 12,000 animal units.
- 2.) Before the facility can be expanded to either Phase 2 or 3 the entire facility shall be permitted by the state of South Dakota.
- 3.) Copies of the full nutrient management plan shall be provided to the county upon request.
- 4.) All application of liquid animal waste on cropland shall be either injected into the ground or immediately incorporated upon application. Surface application shall be allowed on hayland only after the petitioner has informed the Minnehaha County Planning Department in writing of the location on which the waste will be applied, the date(s) of the proposed application and the amounts of waste to be applied. Solid and semi-solid waste should be incorporated within 24-hours of application. Only solid or semi-solid waste can be applied to frozen ground, and then, only in accordance with the rules and regulations of the South Dakota Department of Environment and Natural Resources. The petitioner shall meet all setback requirements for waste application as specified in the county zoning ordinance.
- 5.) Before the facility expands to Phase 2, an odor control plan shall be implemented which includes the implementation of full bio-covers, a minimum of 8 inches in thickness, over all solids basins. Microbial additives, such as Pit Remedy or equivalent product, shall be used throughout the entire animal waste system.
- 6.) Prior to expansion to Phase 3, the petitioner shall have a full landscaping plan prepared for planning staff approval. The plan shall include the planting of a minimum of 5 rows of trees around all holding ponds. Each belt shall have a minimum of 1 row of extremely fast-growing tree species such as Austrees and a minimum of 4 rows of longer-lived tree species to provide for an effective, long-lived shelterbelt. The landscaping plan shall also include either the establishment of trees around the barn area or around the perimeter of the property. All trees shall be planted and maintained according to Minnehaha Conservation District standards. When trees are planted a minimum 6-foot width strip of planting fabric shall also be employed along each row to aid in increased survival of the trees and improved growth. Any trees that die at any time shall be replaced within one growing season.
- 7.) Any complaints submitted to the Minnehaha County Planning Director must include dates and times relative to the complaint. Complaints shall be forwarded to the facility operator and the operator shall report to the Planning Department the possible cause of problems that resulted in the complaint and the actions that will be taken to address the problems.



- 8.) Prior to any expansion to Phase 3, Monitoring of the odor, hydrogen sulfide and ammonia emissions at and around the site shall be conducted by a qualified expert, approved by the Minnehaha County Planning Department in order to establish background levels for those parameters. During the first year of phase 3 operations similar monitoring shall be performed a minimum of three times. During the second year of Phase 3 operations similar monitoring shall be performed a minimum of two times and during year three of Stage 3 operations the monitoring shall be conducted a minimum of 1 time. All monitoring shall be for odor, hydrogen sulfide and ammonia emissions from the facility and shall be performed by a qualified expert, approved by the Minnehaha County Planning Department. At any time the County Planning Commission may review the odor control practices at a public hearing in order to determine whether the odor control program needs to be revised with additional or revised conditions.
- 9.) If a monitoring well system is required by the state for the permit required by the state for the permit required for either Phases 2 or 3, the petitioner shall provide copies of all test reports to the Minnehaha County Planning Department.

Public Testimony

Kevin Hoekman, planning staff, briefed the commission of the request and that no concerns have been raised by neighboring property owners. Commissioner Mohrhauser requested to review the site plan a bit because it was difficult to see in the planning commission packet.

Lynn Boadwine, the petitioner at 46945 251st Street, was available for questions.

Commissioner Ode asked if the methane digester process will require more water usage. Lynn Boadwine responded that there will be no additional water usage. He also explained that these expansions were meant to be incremental through the years except for the methane digestion will require the additional manure. Commissioner Ode asked if the methane digestion tanks will be running at capacity. Lynn responded that the tanks will be sized to accommodate the number of animals of the facility. He also explained several circles on the site plan represent gas flairs on the property.

Commissioner Barth asked about the condition of the roads to the facility. Lynn Boadwine explained that his dairy largely maintains the road to the west from the highway to the dairy. Commissioner Barth followed with the question of how fast would new number of animals will be on brought to the property. Lynn stated that he will begin building barns next year and moving animals as construction allows.

Action

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #20-18 with recommended conditions. The motion was seconded by Commissioner Ode. A roll call vote was taken, and the motion passed unanimously with 7 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #20-18 – Approved



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

June 22, 2020

Old Business

None.

New Business

Scott Anderson explained that the planning commission has previously done a recognition dinner during the summer, and asked if the planning commissioners wanted to meet or scratch the yearly dinner. The discussion lead to the decision to scratch the recognition dinner because of COVID 19 concerns.

Adjourn

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

The meeting was **adjourned** at 9:18 pm.