



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
NOVEMBER 23, 2020**

A meeting of the Planning Commission was held on NOVEMBER 23, 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: Commissioner Duffy called roll of members present to determine a quorum. Commissioners Bonnie Duffy, Becky Randall, Adam Mohrhauser, Doug Ode, Mike Ralston, Ryan VanDerVliet, and Jeff Barth responded present at the meeting.

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning
Drew DeGroot – States Attorney

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:11 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 – October 26, 2020

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

A motion was made by Commissioner Mohrhauser and seconded by Commissioner Ralston to approve the meeting minutes from October 26, 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 #20-48 to exceed 2,400 square feet of total accessory building area – requesting 3,700 square feet on the property legally described as Tract 7A, Christensen’s 2nd Addition, S1/2 SW1/4, Section 23-T102N-R51W.

Petitioner: Ron Tschetter

Property Owner: Casey Rierson

Location: 46426 Hwy 38

Located Approximately 0.25 mile east of Hartford

Staff Report: David Heinold

General Information:

Legal Description – Tract 7A, Christensen’s 2nd Addition, S1/2 SW1/4, Section 23-T102N-R51W

Present Zoning – A-1 Agricultural District

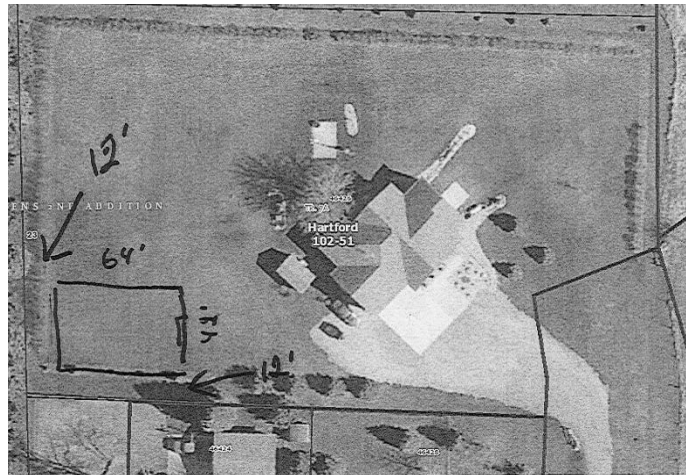
Existing Land Use – Residential

Parcel Size – 1.33 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow 3,700 square feet of total accessory building area. The site plan shows the proposed construction of a 42’x64’ accessory building for personal storage. There is an existing 10’x14’ shed on the property immediately to the south of the house.



The property located at 46434 Hwy. 38 has approximately 4,351 square feet of total accessory building area on 4.30 acres immediately to the east of the subject property. There is one other property at 46420 Hwy. 38 with approximately 1,752 square feet on a one-acre parcel to the west. The remainder of the accessory building sizes within the immediate vicinity consist of two-stall detached garages. On November 9, 2020, staff visited the property and determined that the proposed accessory building size is appropriate for the immediate area.

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 existing subdivision in the immediate area has similar lots with larger accessory building sizes. The use of the proposed accessory building for personal storage should not negatively affect the use and enjoyment of other property nor property values 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 proposed accessory building size request is compatible with the existing sizes for properties in the surrounding area. The future development of the surrounding vacant property is determinant on the availability of building eligibilities as well as municipal annexation and/or development.

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

Access will be provided to the building with an extension off the existing driveway. 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.

There should be no effect on the health, safety, general welfare of the public and the Comprehensive Plan with the proposed accessory building addition. The intent of the Envision 2035 Comprehensive Plan to support orderly growth of non-agricultural land uses will be met. The proposed use of the accessory building is compatible with the existing accessory buildings in the surrounding area.

Recommendation:

Staff finds that the proposed accessory building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of Conditional Use Permit #20-48 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 3,700 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, County Planning Department, presented a brief summary of the staff report and mentioned that no concerns were received from the City of Hartford staff.

The petitioner was not present for the meeting.

Commissioner Duffy called for public testimony but there was no answer.

No hands were raised in the Zoom Meeting Room.

Action

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #20-48. The motion was seconded by Commissioner Mohrhauser. 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.

Conditional Use Permit #20-48 – Approved



ITEM 3. CONDITIONAL USE PERMIT #20-49 to transfer one (1) building eligibility from Roeman’s Addition, NE1/4 NW1/4 to Tract 1, Bott’s Addition, NW1/4; all in Section 34-T102N-R49W.

Petitioner: Steven W. Bott

Property Owner: same

Location: 25512 475th Ave.

Located Approximately 5 miles south of Baltic

Staff Report:

General Information:

Legal Description – Tract 1, Bott’s Addition, NW1/4; all in Section 34-T102N-R49W

Present Zoning – A1 Agriculture

Existing Land Use – residential

Parcel Size – 15.64 acres

Staff Report: Scott Anderson

Staff Analysis: The petitioner is requesting the transfer of a building eligibility to allow the eligibility to be used along SD Highway 115, approximately 4 miles north of Renner. The area is a mix of many residential lots and some agricultural land. There is extensive residential development along SD Highway 115 and 255th Street.

Staff conducted a site visit on November 4, 2020. The applicant is moving the eligibility off of the small lot to the north of his existing residence onto his 15-acre parcel. His personal residence is located on the 15-acre parcel. The smaller lot is only .74 acres in size and located in an area that would be very difficult to build on given the curve on SD Highway 115 and minimum requirements for an on-site waste water disposal system.

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 around the proposed building eligibility site is primarily residential in nature. One additional building site will not likely change the character of the area since many eligibilities have already been developed in the few miles around the proposed site. No known CAFOs are located within a mile of the proposed building site.

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

The property is located about 4 miles away from Renner and therefore will not be affected by development pressure. The area is fairly well developed by residential acreages already. Much of the land will now be permanently preserved for agricultural production as the density zoning intended.



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

The property owner will be required to extend any needed utilities to the property. The development of a residential acreage will likely not change overall patterns of drainage. The property owner will be responsible for getting a driveway permit for any new access to the proposed property.

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

Off street parking will be met at the time a dwelling is constructed 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.

A new residential acreage site should not create any offensive odor, fumes, dust, noise, vibration, and lighting. The property will have to be maintained to meet the public nuisance ordinance for Minnehaha County.

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

The health, safety, and general welfare of the public will not be negatively affected by the availability of the building eligibility. The Envision 2035 Comprehensive Plan includes planning to encourage the clustering of building eligibilities in order to preserve large tracts of land for agriculture.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #20-49 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.

Public Testimony

Scott Anderson, County Planning Director, presented a brief summary of the staff report and recommendation for the conditional use permit request.

Commissioner Ralston mentioned that the proposed building eligibility transfer seems pretty straightforward and made a motion to approve the conditional use permit request.

Commissioner Duffy called for public testimony but there was no answer.

No hands were raised in the Zoom Meeting Room.

Action

A motion was made by Commissioner Ode to **approve** Conditional Use Permit #20-49. The motion was seconded by Commissioner Ralston. 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.

Conditional Use Permit #20-49 – Approved



ITEM 4. CONDITIONAL USE PERMIT #20-50 to allow an Agriculturally-Related Operation – Aircraft Tire Sales for Agricultural Use on the property legally described as Tract 2, Willuweit’s Addition, SW1/4 SW1/4, Section 14-T104N-R50W.

Petitioner: Joseph M. Kohnen
 Property Owner: same
 Location: 24690 470th Ave.
 Staff Report: David Heinold

Located Approximately 4 miles west of Dell Rapids

General Information:

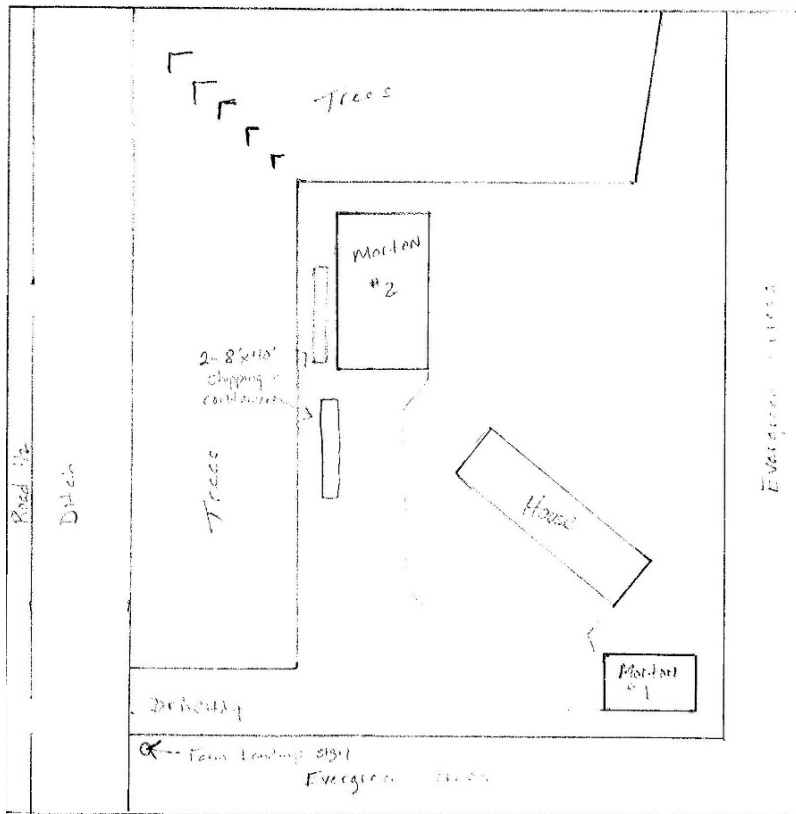
Legal Description – Tract 2, Willuweit’s Addition, SW1/4 SW1/4, Section 14-T104N-R50W
 Present Zoning – A-1 Agricultural District
 Existing Land Use – Residential
 Parcel Size – 2.37 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow an Agriculturally Related Operation, Aircraft Tire Sales for Agricultural Use. The operation involves tire storage for shipping to customers around the country in the agricultural industry. The narrative describes many of such uses including: tillage equipment, grain wagons, manure spreaders, hayracks, etc. The site plan, at right, shows the accessory building that will be used for storing the aircraft tires.

On November 9, 2020, staff visited the property to inspect the requested use. The conditional use permit application was received after staff sent a zoning violation letter regarding the operation of aircraft tire sales for agricultural use. The requested use is appropriate for the surrounding agricultural area. However, staff suggests tire storage should only be allowed within the enclosed accessory buildings. The





applicant is requesting to allow the use of two shipping containers located outside the accessory building for additional tire storage. Staff cannot support the use of the two shipping containers for tire storage related to the agriculturally-related operation on land zoned in the A-1 Agricultural District.

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 homes in the surrounding area. The County Planning Commission recently approved a conditional use permit for an agriculturally related operation dealing with small engine repair about a quarter mile to the west of the subject property. The proposed use for aircraft tire sales for agricultural equipment should not negatively affect the use and enjoyment of surrounding properties.

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

Due to the limited nature of the proposed home occupation involving aircraft tire sales for agricultural equipment, there should be no effect on the normal and orderly development of surrounding agricultural land. The development of the surrounding area is dependent on the availability of building eligibilities.

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

The petitioner already maintains access from the paved highway with the existing driveway for the house and accessory buildings. The subject property is located about two and half miles from the Dell Rapids exit off Interstate 29. All other necessary facilities have been provided as a result of the existing residential acreage.

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

The narrative states that there will be no employees besides the two property owners who reside in the dwelling on the subject property. The driveway contains a wide gravel surface for tire deliveries. The narrative states that the property owners take pallets of tires themselves to Sioux Falls for drop off at various shipping companies. The applicant mentions in the narrative that there may be an occasional farmer picking up tires during either spring or fall harvest. Based upon the description of the proposed use, the amount of parking will be adequate for the size of 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 petitioner plans to store all of the items associated with the operation inside the 40'x60' accessory building. The narrative states that there may be at most two semitruck loads with a dry van trailer of tires. Although, there should be a minimal amount of traffic to their residence dealing with tire sales. A majority of the customer pickups call prior to set up an appointment. All lighting on the property should be fully cutoff and directed downward onto the property to prevent light pollution off site.



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

The site is located in an active agriculture production area. The comprehensive plan encourages support of agriculture and businesses that support agriculture. The agriculturally related operation of aircraft tire sales for agricultural use should fit with the intent of the plan. Goal 1 of the Envision 2035 Comprehensive Plan, Future Land Use Plan, states to develop a countywide land use pattern that ensures compatible and functional relationships among jurisdictions and related land use activity. The proposed land use complements the certain strengths of the economy such as agriculture. The result of this goal is to demonstrate that such land use activities are in the long-term best interest of the County.

Recommendation:

Staff finds that the proposed home occupation for agriculture-related aircraft tire sales for agricultural use is compatible with the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #20-50 with the following conditions:

- 1) That the occupation shall comply with **all** regulations of section **12.0302 (A) Class 1:** of the 1990 Revised Ordinance for Minnehaha County.
- 2.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 3.) All new or replacement outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 4.) That shipping containers shall not be used for commercial storage of tires.
- 5.) That the Planning & Zoning Department reserves the right to enter and inspect the home occupation 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.

Public Testimony

David Heinold, County Planning Department, presented a brief summary of the staff report and recommendation for the conditional use permit request.

Commissioner Ode asked the petitioner if there will be any tire repair or used tire drop off. He questioned how far the tires are currently being shipped.

Joe Kohlen, 24690 470th Ave., identified himself as the petitioner and explained that the requested use is a hobby business. Mr. Kohlen explained that the business has grown over the years to include shipping tires to 43 states and 3 countries. He continued to mention that he does not want to the business to get any bigger. The business mainly deals with phone orders for tires.

Commissioner Mohrhauser asked the petitioner about the shipping containers.

Mr. Kohlen explained that the south container has been sold and will be moved off the property. He continued to mention that he would like to keep the container next to the accessory building for tire storage.



Commissioner Ralston asked planning staff about the reason for not allowing use of the shipping container for tire storage.

David Heinold explained that the shipping containers are not allowed for commercial tire storage because they are not permanent structures.

Commissioner Duffy called for public testimony but there was no answer.

No hands were raised in the Zoom Meeting Room.

Action

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #20-50 with staff recommended conditions. The motion was seconded by Commissioner Ode. 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.

Conditional Use Permit #20-50 – Approved



ITEM 5. CONDITIONAL USE PERMIT #20-51 to allow a Private Campground on the property legally described as Gardner’s Lot 1 of Tract 3 (Ex. Tract 4 & Ex. H-1 & Tract 1, Olson Nelson Ree Addition), Section 10-T101N-R48W.

Petitioner: Tod Quiring (Precision Capital SD, LLC)

Property Owner: same

Location: 2012 S. Splitrock Blvd. Located Approximately 0.5 mile south of Brandon

Staff Report: Kevin Hoekman

General Information:

Legal Description – Gardner’s Lot 1 of Tract 3 (Ex. Tract 4 & Ex. H-1 & Tract 1, Olson Nelson Ree Addition), Section 10-T101N-R48W

Present Zoning – A1 Agriculture

Existing Land Use – Parking for the adjacent race track

Parcel Size – Approximately 26.66 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to construct a campground in the A1-Agricultural zoning district. The request requires a conditional use permit for approval.

The property is located adjacent to Huset’s Speedway, and the proposed campground is planned to operate in conjunction with the race track. The area where camping is proposed is located in the lowland along Split Rock Creek which is partially used for race day parking. The parcel is also located entirely within the floodplain of Split Rock Creek.

The petitioner has submitted a narrative and site plans to support the application. the proposed layout will include two rows of campers which roughly follow the creek. The narrative describes that the camping sites will have electricity available for recreational vehicles, and the electrical outlets will be raised above the floodplain to prevent damage during flooding. The narrative further describes that there will be trash receptacles but no available water and sewer. Having no water and sewer available will effectively limit the number of days any one camper can stay on the site without resupplying water and dumping sewer.

Staff has several specific concerns regarding the request. Some of the concerns can be addressed through conditions and additional planning, others are more difficult to plan for. Jason Gearman of Minnehaha County Office of Emergency Management reviewed this staff report and agrees with the listed concerns. Below is a list of concerns regarding the request.

- No available sewer does create a concern for illegal dumping of wastewater on nearby township roads and other non-legal dumping locations.
- The campground doesn’t appear to have any full time staff, campground host, or security on site. A staff member or host would be able to keep track of fire hazards at the site and be the first to respond to disruptive behavior by other campers.



- There is no plan presented for severe weather. Typical campgrounds this large will have a storm shelter available for tornados and high winds. There is no mention of how individual campers will be notified of severe weather either. These severe weather concerns are magnified by the fact that there will be 90 potential camping sites with multiple people at each site.
- The entire proposed campground is located within the floodplain. This area of Split Rock Creek has been known to flood quickly and unexpectedly. Fast moving flood waters could cause dangerous situation for campers and first responders who may need to rescue those who were not able to leave quickly. It may also cause problems if campers and equipment get washed downstream to clog bridges and culverts.

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 proposed use is located next to the Huset's Speedway race track and near the southern edge of the City of Brandon. Across Split Rock Creek is largely agricultural land, and a few residential uses are located nearby along South Dakota Highway 11.

The proposed use will likely be used in conjunction with racing activities and events at the race track. A campground is a less intensive use than the existing race track, and the use would likely fit well as an accessory use to the racetrack. The relative seclusion of the area will protect many of the residential properties in the area from direct influence from the campground. The site is already positioned to hold additional traffic; although vehicles towing campers will likely turn into and out of the property at a slower rate than a single vehicle. The slower turning rate may cause issues with traffic along Highway 11.

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

The future development of the area will likely be led by the growth of the City of Brandon. The future land use plan for the City of Brandon includes much of the area around Split Rock Creek (including the subject parcel) as "Park/Openpace". Huset's Speedway and the land across SD Highway 11 is indicated to become commercial land use. The proposed use would have little effect on the commercial use or neighboring open spaces planned by the City of Brandon. As noted earlier in this report, the use of the property for even temporary camping spaces may lead to dangers from flash flooding for the campers and for neighboring uses.

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

The property owner will be responsible for extending any needed utilities to the proposed campground. New access roads for the proposed campground will be accessed from existing driveways onto SD Highway 11. Drainage on the site will largely remain the same with the exception of gravel that is proposed to be used to level driveway access and camper pads. The utilities are noted in the site plan to be raised above the flood level, and a floodplain development permit must be obtained prior to any such work on utilities or driveways. Additional fill brought



into the area for driveways may be required to be offset by removal of material in the floodplain to ensure the flood displacement remains the same after construction.

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

The property is large and much of the flat area is used for parking in relation to race track. Parking for each campsite will be incorporated within the campsite, and the property is large enough to accommodate overflow parking.

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 campground will work in conjunction with the existing race track. The use will not likely increase potential nuisances above the race track for race night activities. However, racing and other activities generally take place one or two nights a week, where camping may increase the use of the property on off-race nights. Camping facilities generally don't create significant odor, fumes, dust, noise, vibration, or lighting. Having a staff member on site or a campground host would assist in reducing nuisance campers and be able to be first response for dangerous weather or unruly patrons.

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

The proposed campground poses potential issues with the health and safety of the area due to flood potential and lack of severe weather planning. Conditions on the permit could offset some of the concerns but not eliminate them. The Planning Commission will have to consider conditions to offset some of these concerns if the commissioners consider approval.

Recommendation:

Staff recommends **denial** of CUP #20-51.

Public Testimony

Kevin Hoekman, planning staff, presented the staff report and several late submitted items. Staff recommended denial based on prior concerns from the original application.

Commissioner Mohrhauser asked which driveway will be used. Kevin responded that the south driveway will likely work best for flow of traffic, but the question should probably be asked of the petitioner.

Lanny Auringer, of Innovative Design at 2700 W. 3rd Street, Suite 3, was present on behalf of the petitioner. He said that the plan was put into place knowing that the site was in the floodplain. He noted that many other campgrounds are located in a floodplain and that this campground will be operated on a limited timeframe during race season. Flooding typically happens prior to race season and typically has plenty of notice to remove campers. He explained that there will be a staff member on site and that there is a septic system. In addition, a sewer disposal company will be contracted to pickup septage from campers who stay and need to pump the tank.

Commissioner Ode raised concern about garbage disposal and trash being blown into the river and fields nearby. Lanny responded that dumpster will be available on the site. Commissioner



Ode asked if a fence may be considered to block garbage. Lanny responded that a fence was not planned but may be part of approval if needed as it may help keep people out of the river too.

Commissioner Barth raised concern about gridlock, after hours problems such as parties, and possible waste disposal into the creek. Lanny stated that he has been working with the state for septic approval and an onsite person who stays while the campground is operational to patrol the campground. And he noted that sewage disposal is easy to detect and can be addressed on an individual basis. Lanny added that history has not shown flash flooding as a problem and that electricity will be raised about 8 to 9 feet above grade to raise it above the flood level.

Commissioner Randall asked what will help prevent drainage and items from going into the river. Lanny responded that the natural slope is going towards the river and that monitoring will take care of debris and garbage in a similar way a state park takes care of it.

Steve Thompson, 26351 S McHardy Road, explained that he owns land up against the property. He raised concerns about trash, runoff, and floodwater that may go up if extra materials are brought into the area. He noted that the property did flash flood when the dam broke. Corey Thompson added that the dam broke in about 1993. She stated that that area is flooded almost every spring. She said that her main concern was if camping took place there year around could be a problem.

Jeff Peterson raised similar concerns about the time of camping and waste removal as there have been normal race days which take time to remove trash from the site. He added that trespassing is a concern as people may begin to walk around onto neighboring properties, and some of the land was purchased for the purpose of hunting. Jeff Peterson also noted that there has not been any mention of fire control on the property. Commissioner Ode clarified with Jeff Peterson that he was speaking about the property to the south of the site.

Commissioner Duffy called for public testimony but there was no answer.

No hands were raised in the Zoom Meeting Room.

Lanny Auringer responded to some of the concerns noting that they have been working on an emergency preparedness plan and that trash has been placed temporarily in bags in common areas for easy pickup. He noted that he is confident that flooding can be addressed as a seasonal camping during race season. Commissioner Ode asked if camping will take place for other activities such as concerts. Lanny Responded that there are no other events scheduled at this time but he expects a similar camping arrangement of a couple day before and after racing and other events.

Kevin Hoekman of planning staff added that if the Planning Commission was to consider approval, several conditions have been written for consideration.

Commissioner Ralston noted that it seems that some information seems to be missing, but a campground at the site may be a good compliment for the use of the racetrack.



Commissioner Barth noted that he will be voting against the motion as the item can be appealed and he also won't be voting for the item because of the floodplain.

Action

A motion was made by Commissioner Ralston to **defer** Conditional Use Permit #20-51 until January 25, 2021 planning commission meeting. The motion was seconded by Commissioner Mohrhauser. A roll call vote was taken, and the motion passed with 4 votes in favor of the motion and 3 votes against the motion. Commissioners Ralston, Mohrhauser, and VanDerVliet voted in favor of the motion. Commissioners Barth, Ode, and Randall voted against the motion. Commissioner Duffy voted in favor of the motion to break the tie vote.

Conditional Use Permit #20-51 – Deferred until January 25, 2021 Planning Commission



ITEM 6. CONDITIONAL USE PERMIT #20-52 to exceed 3,600 square feet of total accessory building area – requesting 8,310 square feet on the property legally described as N564.25’ W800’, NE1/4 NW1/4, Section 22-T101N-R48W.

Petitioner: Larry Kuhnert

Property Owner: same

Location: 48135 265th St., Located Approximately 3 miles south of Brandon

Staff Report: Kevin Hoekman

General Information:

Legal Description – N564.25’ W800’, NE1/4 NW1/4, Section 22-T101N-R48W

Present Zoning – A1-Agriculture

Existing Land Use – Residential acreage

Parcel Size – 10.38

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to build a 2,552 square feet accessory for purposes of storage and family gatherings. The proposed building is in addition to several existing buildings totaling 4,710 square feet which appear to be part of a former farmstead. The property is located in a subdivision of large acreage lots and is limited to 3,600 square feet unless a conditional use permit is approved, and the property already exceeds 3,600 square feet of accessory building prior to this request.

The petitioner has submitted a site plan for the proposed new structure as well as a sketch of the floor plan and a narrative for the structure. The petitioner plans to use the building as a “man-cave” for use as a gathering space for family events and holidays. It is difficult to determine by the sketch building plan what rooms are proposed within the building. Bathrooms and kitchenets are common on a gathering building, but bedrooms should not be allowed to discourage using the building as a second residence. The area around the subject property is composed of large residential acreages. Some of the area acreages have large buildings too.

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 around the property is largely agricultural with large residential acreages throughout. The proposed accessory building will be part of a former farmstead and has large exiting trees to separate visibility from neighboring properties.

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

The area is largely agricultural with a mix of residential acreages. The subject property is over 10 acres in size and nearby properties are also larger than typical acreages. The large size of properties will make a large building less noticeable than if it were on a small lot. Many of the



potential lots have already been developed, and developable lots are limited in number. A larger building will not likely affect the agricultural use or the development of future residential acreages.

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

The Applicant will be responsible to extend any necessary utilities to the site including septic system. The petitioner is requesting an additional driveway. Staff finds a second driveway to be concerning as a second driveway may lead to desire to convert the structure into a dwelling. A driveway permit is required by Split Rock Township for new driveways if a new driveway is allowed. The petitioner is encouraged to incorporate the building into the yard where the existing buildings and house exist. Incorporation of the driveway will also assist emergency responders to the building if the incorrect driveway is taken. Conditions may be placed on the permit to limit the driveway location.

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

The propose use will not create a demand for significant parking. And the lot is large enough to accommodate many vehicles.

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 use will be for residential uses. No commercial uses will be allowed in the accessory building. Lighting should be limited to fully cutoff design to prevent spillage of light off the property. The property will be subject to the public nuisance ordinance to limit potential nuisances.

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

The use of accessory buildings as gathering spaces is becoming a trend. The accessory building is shown to have a shop area, bathrooms, a kitchen, and a great room for gathering. It is important that the structure is not allowed to be used as a single family dwelling in order to maintain density zoning. Staff has concerns regarding the extra driveway that is shown on the site plan. By sharing a driveway, the building will be recognizable as secondary to the farmstead rather than a stand along building that could be converted into an accessory dwelling. At a minimum, the proposed building should be connected to the primary yard. This will be important in the event of an emergency at the accessory building to assist emergency responders who will likely take the primary driveway where the address sign is located. In addition, bedrooms should not be allowed to be constructed in the building to limit the use of the building as a dwelling.

Recommendation:

Staff recommends approval of CUP #20-52 with the following conditions:

- 1.) The proposed accessory building must be accessible by a gravel driveway to the primary driveway used by the residence.
- 2.) The total area of all accessory buildings may not exceed 8,310 square feet.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.



- 4.) The building is not to be used for commercial uses or as a dwelling at any time.
- 5.) No bedrooms shall be allowed as part of the construction of the accessory building.
- 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 accessory building.
- 8.) If a new driveway will be used, a driveway permit must be obtained prior to the issuance of building permit.
- 9.) 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.

Public Testimony

Kevin Hoekman, County Planning Department, presented a brief summary of the staff report and recommendation for the conditional use permit request.

Commission Ode asked if there was planned to be an additional driveway off the township road.

Mr. Hoekman explained that the staff is requesting the petitioner utilize the existing driveway for access to proposed accessory building, and if a new driveway is still desired, a driveway permit is required by the township.

Larry Kuhnert, 48135 265th St., identified himself as the petitioner and asked the planning commission for any questions.

Commissioner Duffy called for public testimony but there was no answer.

No hands were raised in the Zoom Meeting Room.

Discussion

Commissioner Randall questioned what the two rooms will be used for that shown on the building plan.

Mr. Kuhnert explained that he plans to use the small rooms for tire storage because he has a lot of ATVs/UTVs and other lawn maintenance equipment.

Action

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #20-52. The motion was seconded by Commissioner Ralston. 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.

Conditional Use Permit #20-52 – Approved



ITEM 7. CONDITIONAL USE PERMIT #20-53 to transfer one (1) building eligibility from the SE1/4 SW1/4 to the SW1/4 SW1/4; all in Section 20-T102N-R47W.

Petitioner: Denis E. Andersen

Property Owner: same

Location: 48512 260th Street Located Approximately 2 miles northeast of Brandon

Staff Report: Scott Anderson

General Information:

Legal Description – SW1/4 SW1/4; all in Section 20-T102N-R47W

Present Zoning – A1 Agriculture

Existing Land Use – Agriculture

Parcel Size – 80 acres

Staff Report: Scott Anderson

Staff Analysis: The petitioner is requesting the transfer of a building eligibility to allow the eligibility to be used along 260th Street, approximately 3 miles northeast of Brandon or 3 miles northwest of Valley Springs. The area is a mix of agricultural land and a few residential lots.

Staff conducted a site visit on November 5, 2020. The applicant is moving the eligibility from one quarter to the quarter in which their residence is located. The applicant has provided a narrative indicating that a lot will be platted on the west side of the existing grove. A residence will be constructed for Christopher and Anna Andersen, son and daughter-in-law of the applicant. They will assist with the farming and help care for the parents.

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 around the proposed building eligibility site is primarily residential in nature. One additional building site will not likely change the character of the area. There is an existing CAFO located within a mile of the proposed building site. The applicant has contacted the owner of the CAFO and provided a consent form from the CAFO operator. The statement is included for your review.

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

The property is located about 3 miles away from both Brandon and Valley Springs and therefore will not be affected by development pressure. Much of the land will now be permanently preserved for agricultural production as the density zoning intended.

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

The property owner will be required to extend any needed utilities to the property. The development of a residential acreage will likely not change overall patterns of drainage. The



property owner will be responsible for getting a driveway permit for any new access to the proposed property.

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

Off street parking will be met at the time a dwelling is constructed 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.

A new residential acreage site should not create any offensive odor, fumes, dust, noise, vibration, and lighting. The property will have to be maintained to meet the public nuisance ordinance for Minnehaha County.

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

The health, safety, and general welfare of the public will not be negatively affected by the availability of the building eligibility. The Envision 2035 Comprehensive Plan includes planning to encourage the clustering of building eligibilities in order to preserve large tracts of land for agriculture.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #20-53 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.

Public Testimony

Scott Anderson, County Planning Director, presented a brief summary of the staff report and recommendation for the conditional use permit request.

Denis Andersen, 48512 260th St., identified himself as the petitioner and asked the planning commission for any questions about the transfer of building eligibility.

Commissioner Duffy called for public testimony but there was no answer.

No hands were raised in the Zoom Meeting Room.

Action

A motion was made by Commissioner Mohrhauser to **approve** Conditional Use Permit #20-53. The motion was seconded by Commissioner Ode. 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.

Conditional Use Permit #20-53 – Approved



Old Business

Scott Anderson, County Planning Director, mentioned that the Planning Commissioner vacancies have been advertised and the County Commission will select appointments before the January Planning Commission meeting.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Ode and seconded by Commissioner Barth. A roll call vote was taken and the motion was approved unanimously. The meeting was **adjourned** at 8:25 p.m.