



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
August 23rd, 2021**

A meeting of the Planning Commission was held on August 23rd, 2021 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

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

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:36 p.m.

PUBLIC COMMENT.

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

Consent Agenda

Commissioner Duffy read each item of the consent agenda, and Item 2 was requested to be moved to the regular agenda.

ITEM 1. Approval of Minutes – July 26th, 2021

A motion was made by Commissioner Barth to approve the minutes for the July 26th, 2021 meeting, and the motion was seconded by Commissioner Ode. The motion passed unanimously with 6 votes in favor and 0 votes against the motion.



ITEM 2. CONDITIONAL USE PERMIT #21-57 to transfer four (4) building eligibilities from the SW $\frac{1}{4}$ (Ex. Sundahls Tract) and the N $\frac{1}{2}$ SE $\frac{1}{4}$ (Ex. Lot H1) to the N $\frac{1}{2}$ SE $\frac{1}{4}$ (Ex. Lot H1) all in Section 10 of Lyons Township.

Petitioner: Michael Langenfeld

Property Owner: Same

Location: Approximately 3 miles northeast of Lyons

Staff Report: Mason Steffen

General Information:

Legal Description – N $\frac{1}{2}$ SE $\frac{1}{4}$ (Ex. Lot H1) all in Section 10 of Lyons Township

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 79.48 acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting to transfer three building eligibilities from the SW $\frac{1}{4}$ of Section 10 Lyons Township, and one building eligibility from the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10 Lyons Township. All four of these building eligibilities will be placed in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, along County Highway 137 approximately $\frac{1}{2}$ mile north of 252nd Street. This means that five building eligibilities will be within this quarter-quarter section of land. The petitioner has stated that two of the eligibilities will utilize the current access onto the property, and the other three building eligibilities will utilize a new shared driveway approach. Also, the petitioner explained that the County Highway Department has been notified about this additional access, and that they approve of another access on the property. In addition, the final location of the new access will need to be approved by the County Highway Department before single-family dwellings are to be constructed on the property. Furthermore, Boadwine Farms is located approximately $\frac{3}{4}$ mile to the northwest of the proposed receiving location for the building eligibilities. However, the proposed location is further away from the farm than any of the current locations for the building eligibilities. Still, having a cluster of residential properties this close to Boadwine Farms may cause issues with future agricultural development in the area, so a right-to-farm notice covenant will be necessary in order to notify potential buyers of this reality. Finally, moving these building eligibilities to a concentrated location near the county highway will preserve more of the farmland in this section, which will remain predominantly agriculture for the foreseeable future.

Conditional Use Permit Criteria:

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

A right-to-farm notice covenant should be required in order to notify any future owners of the realities of being located in an agricultural area, especially since they are located within a mile of Boadwine Farms.



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

The transfer of these building eligibilities increases the number of building eligibilities in the quarter section, but the proposed location will preserve farmland and move future dwellings farther from a CAFO. The siting of the building eligibilities in this location would have little effect on the orderly development of the surrounding vacant properties.

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

The petitioner will be required to obtain all necessary utilities for the property. A new shared driveway approach onto the county highway will need to be constructed. This approach will need to be approved by the County Highway Department before the building eligibilities can be utilized. Single-family dwellings will have minimal effect on drainage in the area.

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

Two off-street parking spaces are required for each single-family dwelling. The off-street parking requirements will be provided for once the single-family dwellings are constructed on the subject property.

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

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance. The property will have to comply with the public nuisance ordinance.

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

The proposed conditional use will have a no effect on the health, safety and general welfare of the public. Placing these building eligibilities in this location will move the building eligibilities farther away from a CAFO, closer to a County Highway, and preserve more of the farmland in the area.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #21-57 with the following conditions:

- 1) A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for a single-family dwelling.
- 2) Approval from the County Highway Department must be obtained for the location of the shared driveway access before single-family dwellings are to be constructed.

Public Testimony

Terrance Klinnert of, 25146 470th Avenue, wished for this item to be moved to the regular agenda in order to be heard on the request.

Mr. Klinnert explained that he lives just north of the subject property and that he believes a cluster of residential properties will devalue the surrounding properties. He also explained that Kim Niemann of, 25137 470th Avenue, has the same concerns as him but was unable to attend the



meeting. Mr. Klinnert further explained that both he and the Niemann's live on acreages that have existed for over 100 years, and he has been there for thirty-four years. Also, Mr. Klinnert stated that he understands a property owner rights to do what they want on their property as long as they are following the proper zoning ordinances, which he believes they are not doing because the property is zoned for agriculture.

Discussion

Commissioner Ode stated that he agreed with the neighbor and that having a cluster of building eligibilities that close to Boadwine Farms will cause more people to complain.

Commissioner Barth explained that he understood the neighbor and Commissioner Ode, but that it is fairly routine for the commission to allow building eligibility transfers, as long as it meets the contiguous property requirement.

Commissioner VanDerVliet asked how close Boadwine Farms is to the subject property. He then stated that he agreed with Commissioner Barth, but that clustering them this close to Boadwine Farms could cause issues.

Commissioner Randall asked what the setbacks are for residential dwellings from a dairy of that size. Commissioner Ralston explained that those setbacks would apply to the dairy and not to the residential dwellings, and that they would not be retroactively adding new restrictions to the already existing dairy.

Commissioner Barth then stated that the building eligibilities could be used where they are now, which is also close to the dairy. Then he asked if Boadwine Farms was on the list of neighbors to be notified for the meeting, and county staff stated that they were on the mailing list.

At this time, Mr. Klinnert addressed the commission and explained that Lynn Boadwine wanted to attend the meeting, but was also unable to attend. Commissioner Barth then asked him if Lynn Boadwine had expressed an opinion on the request. Mr. Klinnert explained that Lynn Boadwine did not want to get involved, and as of now he does not use that land for manure disposal but he might in the future.

Commissioner Barth then asked county planning staff if the petitioner was present, and staff replied that he was not.

Action

Commissioner Barth made a motion to **deny** Conditional Use Permit #21-57, and the motion was seconded by Commissioner Ode. Commissioners Barth, Ode, Ralston, VanDerVliet, and Randall voted for the motion, and Commissioner Mohrhauser voted against the motion. The motion to **deny** Conditional Use Permit #21-57 was approved with 5 votes in favor and 1 against.

Conditional Use Permit #21-57 – Denied



ITEM 3. ZONING TEXT AMENDMEN #21-05 to amend the 1990 Revised Zoning Ordinance for Minnehaha County to add Medical Cannabis Dispensary Regulations.

Petitioner: County Planning Staff

Staff Report: Scott Anderson

Staff Report: Scott Anderson

Staff Analysis: IM-26, the ballot measure approved in November 2020, took effect on July 1, 2021. The South Dakota Department of Health is working through the administrative process and procedures and anticipates the rules will become effective by October 29, 2021. While the State of South Dakota is working on the administrative process, local zoning must be adopted to address the land use issues associated with medical cannabis.

A task force made up of local elected and administrative officials met 3 times in July to discuss how introduction of medical cannabis into our community would be addressed. Based on the general direction from the task force, staff has prepared an ordinance amendment that would allow medical cannabis in the C Commercial and I1 Light Industrial Districts as a Special Permitted Use. This means that if the proposed use meets the criteria set forth in the Zoning Ordinance it would be permitted in those two zoning districts. Those requests not meeting the criteria could seek a Conditional Use Permit. The ordinance amendment also creates a definition for a Medical Cannabis Dispensary or Dispensary.

The proposed zoning ordinance amendment should be effective close to the October 29, 2021 date that the State's rules will go into effect. The County will be adopting a separate ordinance that will address the licensing of a Medical Cannabis Dispensary. The separate ordinance will address the number of licenses issued, the cost, renewal information and transferability among other things.

Recommendation: Staff recommends **approval** of Zoning Text Amendment #21-05 adding Articles 6.03(H), 7.03(G), and 26.02(437) to the Minnehaha County Zoning Ordinance.

Public Testimony

Scott Anderson, of county planning staff, began a brief summary of the staff report. Commissioner Barth asked if the presentation is the same as the Joint Minnehaha County & City of Sioux Falls meeting presentation, and if they could go right to discussion or a vote. Eric Bogue of the state's attorney office stated that that decision is up to the chair and the commissioners. Scott Anderson also explained that the number for the definition in the ordinance needed to be 437 instead of 473.

Commissioner Duffy asked for any public comments and no one moved to speak on the item.

Action

Commissioner Barth made a motion to approve Zoning Text Amendment #21-05, and the motion was seconded by Commissioner Ralston. A roll call vote was taken and the motion was **approved** with 4 votes in favor and 2 votes against. Commissioners Randall, Mohrhauser, Ralston, and Barth



voted in favor of the motion, and Commissioners Ode and VanDerVliet voted against the motion. **Approval** of Zoning Text Amendment #21-05 was recommended by the planning commission.

Zoning Text Amendment #21-05 – Approval Recommended

Old Business

Kevin Hoekman of, county planning staff, updated the commissioners on Conditional Use Permit #21-56, which was approved by the planning commission and appealed to the county commission. He explained that the petitioner submitted a withdrawal letter and the county commission subsequently denied the Conditional Use Permit.

Commissioner Mohrhauser asked if the petitioner is going to remove the lime from the property. Kevin stated that they will be required to remove the lime and county staff will be checking the site over the next couple weeks.

Commissioner Ode asked Kevin if planning staff had set a deadline for the removal of the lime. Kevin explained that he has not set a deadline and that it took approximately three weeks for the lime to be moved on the property, so the petitioner would have three weeks after the final letter to remove the lime.

New Business

None.

Adjourn

Commissioner Barth made a motion to adjourn the Minnehaha County Planning Commission meeting, and the motion was seconded by Commissioner Ode. The motion passed unanimously. The meeting was **adjourned** at 7:56 p.m.