



**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION  
MARCH 22, 2021**

A meeting of the Planning Commission was held on March 22, 2021 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, and Jeff Barth responded present at the meeting.

**STAFF PRESENT:**

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning  
Eric Bogue – States Attorney’s Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 8:32 p.m.

**PUBLIC COMMENT.**

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

**ITEM 1. Approval of Minutes – February 22, 2021**

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

A motion was made by Commissioner Barth and seconded by Commissioner Ralston to approve the meeting minutes from February 22, 2021. A roll call vote was taken, and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.



ITEM 2. CONDITIONAL USE PERMIT #21-03 to transfer one (1) building eligibility from the W 580.8' S 300' N 990' W 1/2 NW 1/4 (EX S 200' W 435.6' THEREOF & EX H-1 & RY) to Lot 3, Streich's Addition N990' W1/2 NW1/4; all in Section 34-T101N-R48W.

Petitioner: William Radio

Property Owner: William & Deborah Radio

Location: Located Approximately 3 miles east of Sioux Falls

Staff Report: David Heinold

**General Information:**

Legal Description - Streich's Addition, N990', W1/2 NW1/4, Section 34-T101N-R48W

Present Zoning - A-1 Agricultural District

Existing Land Use - Residential

Parcel Size - 5.14 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

This conditional use permit request was deferred to this meeting from the February 22, 2021 Planning Commission meeting. Since the last meeting, the applicant submitted a request to withdraw the conditional use permit application to transfer one building eligibility. The letter from the applicant is attached to this report for your review.

**Recommendation:**

Staff recommends acknowledging the applicant's request to **withdraw** the conditional use permit to transfer one building eligibility.

**Public Testimony**

David Heinold, County Planning Department, explained that the petitioner seeks to withdraw the conditional use permit application to allow a 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 Barth to **withdraw** Conditional Use Permit #21-03. The motion was seconded by Commissioner Ode. A roll call vote was taken, and the motion passed with 5 votes in favor of the motion and 0 votes against the motion.

**Conditional Use Permit #21-03 – Withdrawn**



**ITEM 3. CONDITIONAL USE PERMIT #21-18 to Expand Existing Dairy CAFO to 8,200 Animal Units on the property legally described as NW1/4, Section 10-T103N-R50W.**

Petitioner: Lynn Boadwine

Property Owner: Boadwine Farms, Inc.

Location: Located Approximately 4 miles west of Baltic

Staff Report: Kevin Hoekman

**General Information:**

Legal Description – NW1/4, Section 10-T103N-R50W

Present Zoning – A1 Agriculture

Existing Land Use – Dairy operation

Parcel Size – 160 acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The petitioner is requesting to expand an existing dairy operation from 5,160 animal units to 8,200 animal units. The additional animal units will be composed of a mix of dairy cows, steers, and heifers. Each steer and heifer is counted as 1 animal unit and each dairy cow is counted as 1.4 animal units. This is the first request of an expansion of the dairy since the ordinance was amended regarding CAFOs in 2017.

A major reason for the expansion request is to take advantage of a pending methane digester which will extract natural gas from the manure. The methane digester will be in the form of a large tank like structure which will process manure and capture much of the gas and odor causing chemicals prior to releasing the manure into the existing storage lagoons on the site.

The current CAFO is operated under Conditional Use Permit #15-19. Several changes to the property were made after that approval including additional barns and additional manure storage. If CUP #21-18 is approved, the CAFO will be required to maintain state permitting and will be required to maintain manure management and other required practices as approved in 2015. The dairy operation has been operating with a conditional use permit since 2000.

The petitioner has submitted a detailed site plan created by Stockwell Engineers. Several new and expanding barns are planned to accommodate additional animals. The methane digestion tanks and equipment are planned to be located to the west of the dairy operation and south of the existing tree belt. 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. Some of the required elements are found on other aspects of the application and narrative.

**The address of the property and the legal description.** The address of the expanding dairy CAFO is 46945 251<sup>st</sup> Street, as it is shown on the application. The legal description



on the site plan provides the general area as the NW ¼ of Section 10-103-50.

**The name of the project and/or business.** The dairy is called Boadwine Farms on the site plan.

**The scale and north arrow.** The site plan includes a north arrow and a graphic scale.

**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. The site plan includes several proposed barns and methane digesters located in the northwest 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 portions of 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 animal feeding barns and other equipment 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 160 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 246<sup>th</sup> 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 north of the farm and west of the lagoons. Another existing shelter belt is south of the lagoons. No new trees are planned at this time.

**Name and location of all adjacent streets, alleys, waterways and other public places.** The nearest street is 251<sup>st</sup> Street, which serves as the primary entrance for the operation. There are no known public places around this facility. There are no waterways or streams on the property either.



**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 west and south 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 8,200 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. County planning staff prepared a map to indicate where nearby dwellings are located and the approximate distance between the dairy and the dwellings. Below is further description of the setbacks.

Several dwellings to the northwest are located within the 3,960 foot buffer, but are owned by the petitioner. A couple dwellings to the south/southwest are located within the required buffer, but established tree belts are located between these dwellings and the dairy. Dwellings located to the northeast also meet ordinance requirements for setbacks.

Three dwellings almost directly east of the property are located within the required setbacks. At this time no trees are located on the east side of the CAFO which would allow a reduction of setbacks. At the time of writing this report no waivers have been submitted to reduce the required setbacks. Staff finds that waivers must be required or trees be planted in order to meet required setbacks.

The County Zoning Ordinance requires setbacks from a CAFO to municipalities. The nearest municipality to the Boadwine Farms Dairy is Baltic. Baltic 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 Baltic is approximately 3.5 miles east of the dairy, and the setback requirement is met.

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

#### **1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.**

The property is in an active agricultural area. There are several residential dwellings located around the dairy as described in the setbacks portion of this report. The dairy is already a large operation. The proposed expansion expands the footprint of the dairy by a small amount. In addition, the proposal is accompanied by new manure management with methane digestion. The



methane digestion should aid in removing smells from the facility. The expansion should have minimal affect on the use and enjoyment on the surrounding area.

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

The property is within an active agricultural area and far away from any municipality. It is likely that agriculture will remain the predominant use into the future.

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

The petitioner will have to extend any necessary utilities for new structures. Drainage will not significantly be affected by the additional structures. The property is accessed through 251<sup>st</sup> Street which is a township gravel road. The dairy operation has helped with maintenance in the past and should continue to do so going forward.

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

The property is large enough to accommodate off street parking. No loading and unloading shall be allowed from the right-of-way.

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

A Class A CAFO has the possibility of creating nuisances. The primary concerns are odor, fumes, and dust. The petitioner has maintained a large dairy operation on the property since 2000. Many tree belts have been planted to reduce wind for odor and dust. The petitioner is planning a methane digester which should reduce fumes from manure prior to lagoon storage. Animal operations are a normal part of agricultural land uses. A right to farm notice covenant should notice new dwellings that normal smells and dust is a common part of rural life.

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

The property is located within an Agricultural Production Area of the comprehensive plan. Typical uses listed within the comprehensive plan include larger-scale farms and related agricultural uses including feedlots, and livestock raising. The proposed use is also an expansion of an existing dairy where impacts will be minimal on neighboring properties.

**Recommendation:**

Staff recommends **approval** of Conditional Use Permit #21-18 with the following conditions:

- 1.) The facility shall be limited to 8,200 animal units in size.
- 2.) The entire facility, including existing and future expansion shall be fully permitted by the state of South Dakota, and it shall remain in good standing.
- 3.) Copies of the state-approved nutrient management plans shall be available upon request by the Minnehaha County Planning Department.
- 4.) The facility shall comply with all of the best management practices that were listed within the submitted narrative that was received with the application and listed in the staff report.
- 5.) Shelter belt trees shall be planted east of the proposed barns on the southeast portion of the site plan.



- 6.) The Planning & Zoning Department reserves the right to enter and inspect the CAFO 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 Minnehaha County Zoning Ordinance.

### **Public Testimony**

Commissioner Randall recused herself from the item

Kevin Hoekman, planning staff, presented a brief summary of the staff report and recommendation. Commissioner Ode asked if there was a requirement for the number of rows of trees to allow a reduction in setback. Kevin Hoekman responded that there will need to be 5 rows of trees and designed by either a landscape architect or the soil conservation district.

Lynn Boadwine, 46945 251<sup>st</sup> Street, described that most the expansion will be adding calves to the site, but the milking parlor and waste lagoons will remain the same size as before. He asked for clarification of where trees are supposed to be planted. Kevin Hoekman explained that trees are only required on the east side of the barns as the south side meets setback requirements without trees.

Commissioner Barth asked if the methane digesters will change the appearance of the farm to look like a Moonbase. Lynn Boadwine described the methane digesters to be constructed primarily below ground with about 8 feet of dome portion above ground. He explained that the trees that were removed for construction will be replanted by the company building the digesters.

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

No other hands were raised in the Zoom Meeting Room.

### **Action**

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #21-18 with recommended conditions. The motion was seconded by Commissioner Ralston. A roll call vote was taken, and the motion passed with 4 votes in favor of the motion and 0 vote against the motion (Commissioner Randall recused).

**Conditional Use Permit #21-18 – Approved**



**ITEM 4. CONDITIONAL USE PERMIT #21-20 to exceed 3,600 square feet of total accessory building area – requesting 6,560 sq. ft. on the property legally described as Tract 1, Matthies’ 4<sup>th</sup> Addn., SW1/4 SW1/4, Section 28-T102N-R51W.**

Petitioner: Ron Tschetter, Morton Buildings

Property Owner: Beth Stallman

Location: 46204 261<sup>st</sup> St. Located Approximately 0.5 mile southwest of Hartford

Staff Report: David Heinold

**General Information:**

Legal Description – Tract 1, Matthies’ 4<sup>th</sup> Addition, SW1/4 SW1/4,  
Section 28-T101NR51W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 5 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 6,560 square feet of total accessory building area. The property owner would like to construct 30’x48’ and 40’x48’ accessory building for personal use and a pool house. The subject property has an existing 40’x80’ accessory building located east of the house. The proposed building would be located to the north of the existing house.

The proposed total accessory building area exceeds the amount on properties in the surrounding area. The size of existing accessory buildings ranges from 1,100 square feet to 2,560 square feet on similarly sized properties. The largest existing accessory building size is 2,560 square feet that is located kitty corner to the southwest of the subject property on a 10-acre parcel. There are no properties less than 40 acres in the surrounding area with total accessory building sizes exceeding 3,600 square feet. The farm property, 46241 261st St., has approximately 6,048 square feet on 41.06 acres. The Planning Commission previously approved a conditional use permit request in 2018 to allow 7,746 square feet on an approximately 9-acre parcel located a little over one mile to the south of the subject property.

On March 8, 2021, staff visited the subject property and determined that the proposed accessory building size is appropriate for the surrounding area. It appeared that there is a building already under construction on the subject property in the location of the proposed accessory structure. The petitioner will be required to pay double for starting construction on the accessory building prior to obtaining conditional use permit approval and a building permit.

On March 11, 2021, staff received no concerns regarding the conditional use permit request from the City of Hartford Planning Commission.

**Conditional Use Permit Criteria:**



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

The size of the requested accessory building addition area exceeds the sizes of existing buildings on properties in the surrounding area. The personal use of the proposed building for storage will likely not significantly affect the use and enjoyment of properties 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 area primarily consists of agricultural farmland with several residential acreages and existing farmsteads. The requested accessory building area would set a precedent for future undeveloped properties in the surrounding area and would further increase the size of personal accessory buildings in the rural area; however, accessory building sizes over 5,000 sq. ft. have been approved in other parts of the county on similar lot arrangements. The future development of agricultural land is entirely dependent on the availability of building eligibilities for residential homes in the area.

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

The petitioner has not indicated a need to increase utilities. The site plan shows that the accessory building will be accessible via an extension of the existing driveway.

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

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

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

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

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

The health, safety, general welfare of the public will not be negatively affected by the construction of the proposed accessory building addition for personal use and storage. 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 requested total accessory building area is relatively comparable to the existing accessory building sizes on similar properties in the surrounding area. Staff recommends **approval** of Conditional Use Permit #21-20 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 6,560 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 overview of the staff report and recommendation for Conditional Use Permit #21-20.

Kelsey Mousel with Morton Buildings identified herself as the representative for the property owners who are requesting approval to construct a personal storage building and pool house. She explained that they are looking for conditional use permit approval to move forward with construction of the proposed accessory building size and the property owner plans to obtain a building permit for the structure.

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 #21-20 with recommended conditions. The motion was seconded by Commissioner Randall. A roll call vote was taken, and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

**Conditional Use Permit #21-20 – Approved**



**ITEM 5. CONDITIONAL USE PERMIT #21-21 to exceed 3,600 square feet of total accessory building area – requesting 4,992 sq. ft. on the property legally described as Tract 1, Starnes Addition, NW1/4, Section 8-T102N-R52W.**

Petitioner: Clayton Haug

Property Owner: Kevin Schwartz

Location: 25734 455<sup>th</sup> Ave. Located Approximately 1 mile northwest of Humboldt

Staff Report: David Heinold

**General Information:**

Legal Description – Tract 1, Starnes’ Addition, NW1/4, Section 8-T102N-R52W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 25.57 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 4,992 square feet of total accessory building area. The proposed 36’x56’ accessory building with 6-foot porches on both sides would be used for personal storage. The subject property already has a few accessory buildings on the approximately 25.57 acres.

There are a few properties with total accessory building sizes ranging from 1,643 square feet to 2,000 square feet on similar parcels.

On March 8, 2021, staff visited the subject property and determined that the proposed accessory building size is appropriate for the surrounding area. The property owner has a relatively large land area at the farmstead site for the requested accessory building size.

**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 subject property is located within the agricultural production area with a few farmsteads located nearby. Large accessory buildings are common for neighboring farmsteads and the use of the building for personal storage is generally compatible to the area. There should be no negative effect upon the use and enjoyment of residential properties in the immediate vicinity. Property values in the immediate vicinity should also not be negatively impacted due to the personal use of the proposed accessory building.

The application describes a potential use for a future house. Staff would like to note that the subject property currently only has one building eligibility for the existing house. The proposed accessory building will not be able to used as living quarters without a building eligibility.



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

The subject property is located in an area with large lots near the western edge of Minnehaha County. There should be no impacts to the normal and orderly development and improvement of surrounding vacant farmland. The proposed accessory building size is generally compatible with other residential properties in the immediate vicinity.

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

The petitioner already has all of the necessary facilities provided as a result of the existing single family home site and accessory buildings. The existing driveway provides access to the existing accessory building on site.

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

The petitioner has adequate parking areas for the personal use and storage due to the existing residential nature of the subject property. No parking will be allowed in the township road right-of-way 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 commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

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

The health, safety, general welfare of the public will not be negatively affected by the construction of the proposed accessory building addition for personal use and storage. 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 requested total accessory building area is relatively comparable to the existing accessory building sizes on similar properties in the surrounding area. Staff recommends **approval** of Conditional Use Permit #21-21 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 4,992 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 overview of the staff report and recommendation for Conditional Use Permit #21-21.

Clayton Haug, 47177 258<sup>th</sup> St., of Haug Steel Construction identified himself as the representative for the property owner. Mr. Haug explained that the existing house will be torn down and the proposed accessory building will have a new living quarters for the property owner.

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 #21-21 with recommended conditions. The motion was seconded by Commissioner Ode. A roll call vote was taken, and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

**Conditional Use Permit #21-21 – Approved**



**ITEM 6. CONDITIONAL USE PERMIT #21-22 to exceed 3,600 square feet of total accessory building area – requesting 5,050 sq. ft. on the property legally described as N350’ E871.2’, E1/2 NE1/4, Section 8-T103N-R48W.**

Petitioner: Jeremy & Kristy Roemen

Property Owner: same

Location: 47995 251<sup>st</sup> St.                      Located Approximately 5 miles northwest of Garretson

Staff Report: David Heinold

**General Information:**

Legal Description – N350’ E871.2’, E1/2 NE1/4, Section 8-T103N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 7 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 5,050 square feet of total accessory building area. The proposed 60’x80’ accessory building would be used for personal storage of vehicles and equipment.

There are a few properties that exceed 3,600 square feet of total accessory building area. The property located at 48024 251<sup>st</sup> Street has approximately 4,482 square feet on 10 acres. The property 47945 251<sup>st</sup> Street has approximately 4,400 square feet on a 6-acre parcel located about quarter mile to the west of the subject property.

On March, 8, 2021, staff visited the subject property and determined that the proposed accessory building size is appropriate for the surrounding 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.**

There should be no negative effect upon the use and enjoyment of residential properties in the immediate vicinity. Property values in the immediate vicinity should also not be negatively impacted due to the personal use of the proposed accessory building.

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

The subject property is located in an area with large lots near the western edge of Minnehaha County. There should be no impacts to the normal and orderly development and improvement of surrounding vacant farmland. The proposed accessory building size is generally compatible with



other residential properties in the immediate vicinity.

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

The petitioner already has all of the necessary facilities provided as a result of the existing single family dwelling site. The existing driveway provides access to the existing house on site.

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

The petitioner has adequate parking areas for the personal use and storage due to the existing residential nature of the subject property. No parking will be allowed in the township road right-of-way 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 commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

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

The health, safety, general welfare of the public will not be negatively affected by the construction of the proposed accessory building addition for personal use and storage. 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 requested total accessory building area is relatively comparable to the existing accessory building sizes on similar properties in the surrounding area. Staff recommends **approval** of Conditional Use Permit #21-22 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 5,050 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 overview of the staff report and recommendation for Conditional Use Permit #21-22.

Jeremy and Kristy Roemen, 47995 251<sup>st</sup> St., identified themselves as the property owners and asked for any questions from the Planning Commissioners.

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

No hands were raised in the Zoom Meeting Room.

Commissioner Duffy closed the floor to public testimony.

**Action**

A motion was made by Commissioner Mohrhauser to **approve** Conditional Use Permit #21-22 with recommended conditions. The motion was seconded by Commissioner Barth. A roll call vote was taken, and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

**Conditional Use Permit #21-22 – Approved**



**ITEM 7. CONDITIONAL USE PERMIT #21-23 to allow Temporary Fireworks Sales on the property legally described as S567.87', NE1/4 (Ex. H-1) and N305.57' S873.44' W1,058.22', NE1/4, Section 29-T102N-R47W.**

Petitioner: Patrick Masur

Property Owner: John W. Vis

Location: 47995 251<sup>st</sup> St. Located Approximately 1.5 miles northwest of Valley Springs

Staff Report: Kevin Hoekman

**General Information:**

Legal Description – S567.87', NE1/4 (Ex. H-1) and N305.57' S873.44' W1,058.22', NE1/4, Section 29-T102N-R47W

Present Zoning – C-Commercial and A-1 Agricultural

Existing Land Use – Agricultural Cropland

Parcel Size – 40 acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The petitioner is requesting to operate a temporary fireworks sales tent on the above described property. The portion of the property where the fireworks sales is proposed is zoned C-Commercial. The location is near a former permanent fireworks sales building which has been torn down.

The petitioner has submitted a sketch site plan. The plan is to sell fireworks out of a tent while allowing parking along the existing farmstead driveway. The tent should meet standard 50 feet structure setback from the right-of-way. An RV camper will be placed on the property for staff and security. In addition, a portable toilet will be available on the site. The petitioner does not include specifics regarding signage other than a reference of an attention grabbing inflatable. Signs and attention grabbing devices should be limited in duration allowed and in size of signage. All signs and attention grabbing devices must be set back enough to allow clear site lines for traffic entering in and leaving the property.

**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 an area of mostly agricultural uses. Few residential uses exist in the area. The property is also located adjacent to an Interstate exit and County highway which together provide easy access to the property. The area on either side of the county highway is already zoned for commercial use as well. The location is well suited for commercial type use, and temporary sale of fireworks will have minimal impact on the surrounding area.



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

The petitioner is asking to allow a temporary use in a largely agricultural area. The surrounding area will likely remain agricultural, unless some commercial type development begins due to proximity to the interstate access. The temporary use will have little impact on either future agricultural or commercial use of the area. The county highway and interstate have plenty of ability to handle additional traffic. The property already has a driveway which to access the temporary use.

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

The proposed use will not affect drainage or access roads for the area. The existing driveway will be utilized for access. The existing driveway is narrow with a steep drop-off on the south side. The petitioner will have to work with the property owner to find a method of moving traffic through the driveway. Driveway access to the parking area should be placed further away from the highway in order to allow for traffic coming on and off the highway more space for maneuvering. Utilities will have to be obtained by the petitioner as needed. Bathrooms will be provided as a portable toilet will be on site.

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

The property is large and can accommodate many vehicles along the driveway.

**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 temporary use should not create odor, fumes, dust, or vibration. Lighting should be directed away from highways to prevent glare. Several rural fireworks stands have conducted demonstration displays of fireworks. This may cause a temporary noise issue, but the displays typically take place during normal season of fireworks when others can do the same. Any display must follow state setback rules for the fireworks stand.

Some concern has been raised with other fireworks stands regarding trash associated with fireworks stands and patrons. Trash receptacles should be available on site, and the petitioner should be responsible of cleaning any trash left on the site or along the county highway ditch that is adjacent to the cite.

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

The proposal is for a temporary use along a county highway. The land is already zoned commercial in an identified rural service area of the comprehensive plan.

**Recommendation:**

Staff recommends **approval** of Conditional Use Permit #21-23 with the following conditions:

- 1.) The property shall adhere to the submitted site plan.
- 2.) No outside storage shall be allowed at any time.
- 3.) The retail sales of fireworks must abide by all applicable SD laws and regulations.



- 4.) The retail sales of fireworks may only be marketable for nine (9) days per calendar year.
- 5.) All outdoor lights in use for the building or to illuminate the parking area shall be directed away from any road right-of-way.
- 6.) Temporary signs for the business are allowed to be placed no earlier than June 13<sup>th</sup> and must be taken down by July 10<sup>th</sup>. One temporary freestanding sign is allowed for each street frontage not to exceed 64 square feet and shall be placed on the subject property.
- 7.) Any flags, pennants, and similar attention grabbing devices shall not be located in the right-of-way, shall not block the view of traffic entering or exiting the property, and shall only be placed during the regular nine (9) day selling period of June 27<sup>th</sup> through July 5<sup>th</sup>.
- 8.) No parking or stacking of vehicles shall be allowed in the right-of-way at any time.
- 9.) The hours of operation for the public must not exceed 8:00 am to 12:00 am (midnight). Set up and tear down activities outside of the nine day sales period must take place between 8:00 am and 8:00 pm.
- 10.) No fireworks shall be stored on the site before June 10<sup>th</sup> or after July 31<sup>st</sup>.
- 11.) At least one trash receptacle must be available to the staff and patrons of the fireworks stand. The operator of the fireworks stand will be responsible to remove any litter from the site and from the county highway ditch adjacent to the property.
- 12.) That the Planning & Zoning Department reserves the right to enter and inspect the fireworks stand 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, planning staff, presented a brief summary of the staff report and recommendation. Commissioner Barth asked if a permit will be required every year for the use. Kevin Hoekman explained that the fireworks sales can happen annually as long as this permit is followed.

Patrick Masur, 25968 476<sup>th</sup> Avenue, was available for questions. Commissioner Mohrhauser asked how vehicles will get in and out of property with the bare dirt on the site. Patrick Masuer replied that there is a plan to place gravel on the site and fix the slope.

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

No hands were raised in the Zoom Meeting Room.

Commissioner Duffy closed the floor to public testimony.



**Action**

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #21-23 with recommended conditions. The motion was seconded by Commissioner Randall. A roll call vote was taken, and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

**Conditional Use Permit #21-23 – Approved**



ITEM 8. MAJOR AMENDMENT #20-01 to amend the Cedar Ridge PD Planned Development District to add 2 single family lots to Subarea A on the property legally described as Tract 1 Anson Addition (Excluding 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 257<sup>th</sup> St. & 475<sup>th</sup> 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.

On July 21, 2020 the County Commission approved amendment #20-02 adding an additional six (6) single family dwellings in Subarea C and amending the Cedar Ridge Planned Development regulations to allow the single-family residences to have accessory structures that exceed 1,200 square feet, which follows the size restrictions allowed in Article 12.07 of the Minnehaha County Zoning Ordinance, allowing up to 2,400 square feet.

On March 4, 2021 staff conducted a site visit. There are thirteen (13) 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 petitioner has not paved portions of the subdivision roads and this should occur now. The stable continues to operate in Subarea B. The surrounding area remains largely the same as when the Planned Development was approved four years ago, which is mixture of agricultural and residential uses.

Last July the applicant amended the Planned Development adding six (6) additional residential lots, which increased the overall residential density by 37.5%. Now the applicant is requesting to add two (2) more residential lots for another 9% increase in density. The Planned Development could have initially requested the increased number of dwelling units four years ago or last year. The past and current request erodes away the agricultural use and nature of the planned development. As staff warned last year, a precedent to allow for future residential development



has been set. No clear plan is being followed and residential expansion continues. The stable and pasture area could accommodate another 14-16 residential lots. Furthermore, significant residential development has now occurred. 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 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 denial to amend the Cedar Ridge Planned Development to allow two (2) additional single-family residences in Subarea A.

### **Public Testimony**

Scott Anderson, County Planning Director, presented a brief overview of the staff report and recommendation for the major amendment.

Eric Willadsen, 902 S. Cleveland Ave., identified himself as a representative for the property owner. Mr. Willadsen explained that the original plan was to have a six-acre lot but the buyer changed their mind. He continued to mention that all the other available lots in the planned development are either under purchase agreement or sold. He added that there has been no one in opposition that live in the subdivision. Mr. Willadsen stated that they will continue to pave the roads as required by the Subdivision Ordinance.

Commissioner Barth questioned if there would be more lots sold in the inner loop area as well as the pasture area in the northeast corner of the planned development.

Mr. Willadsen explained that the Wagners will build their house in the northeast part of the planned development and the existing stable would remain in the interior area. He continued to mention that the stable business is their life's work and the owners would continue to manage as they have in the past.

Commissioner Barth questioned that with demand for more housing the property owner may consider adding additional residential lots to the planned development.

Brad Wagner, 47534 Cedar Ridge Pl., explained that they don't have any plans for additional residential lots beyond the requested amount listed in the major amendment application. Mr. Wagner added that they enjoy working with the stable business and living in the area. He continued to mention that they will be building a new house in the northeast corner of the planned development.

Commissioner Barth asked Mr. Wagner if there will be any additional lots in this planned development.

Mr. Wagner stated that there will be no new housing beyond what is currently allowed. He continued to explain that they enjoy the stable and it provides a good income.



Scott Anderson explained that the proposed Major Amendment request to allow an additional two residential lots would set a precedent for future subdividing of similar properties. He continued to mention that this request will be referred to the County Commission for a public hearing.

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

No hands were raised in the Zoom Meeting Room.

Commissioner Duffy closed the floor to public testimony.

### **Discussion**

Commissioner Barth questioned what the next step in the process would be for this request.

Mr. Anderson explained that the Planning Commission would make a recommendation on the Major Amendment request to the County Commission for a public hearing. There was additional discussion about the procedures for the Major Amendment request.

A motion was made by Commissioner Barth to recommend approval of Major Amendment #21-01. The motion failed for lack of a second.

### **Action**

A motion was made by Commissioner Barth to **recommend denial** of Major Amendment #21-01. The motion was seconded by Commissioner Ralston. A roll call vote was taken, and the motion passed unanimously with 4 votes in favor of the motion and 1 vote against the motion.

### **Major Amendment #21-01 – Denial Recommended**



**MINNEHAHA COUNTY  
PLANNING COMMISSION  
MEETING MINUTES**

**March 22, 2021**

**Old Business**

None.

**New Business**

None.

**Adjourn**

A motion was made to **adjourn** by Commissioner Randall and seconded by Commissioner Mohrhauser. A roll call vote was taken and the motion was approved unanimously. The meeting was **adjourned** at 9:29 p.m.