

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
August 24, 2009

A meeting of the Planning Commission was held on August 24, 2009 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Dick Kelly, Susie O'Hara, Becky Randall, Mark Rogen, and Don South. Wayne Steinhauer was absent.

STAFF PRESENT:

Scott Anderson, Phil Kappen, Pat Herman and Ryan Streff -County Planning
Gordy Swanson - Office of the State's Attorney

The meeting was chaired by Don South.

CONSENT AGENDA

At the request of the Commission and audience, Items 2, 5, and 7 were placed on the regular agenda. Item 4 was deferred until the September 28, 2009 meeting. There being no other objections from the Planning Commission or audience, a motion was made by O'Hara and seconded by Randall to approve the consent agenda (Items 2, 4 (deferred), 5, and 7 removed). The motion passed unanimously.

ITEM 1. MINTUES – July 27, 2009

A motion was made by Commissioner O'Hara and seconded by Commissioner Cypher to **approve** the minutes. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #09-57 to allow an animal livestock shelter.

Legal Description – Tracts 3, 4 & 5 Matthies Estates Addn. SE ¼ in Section 1-T101N-R51W

Location – 46572 263rd Street 2.5 miles southeast of Hartford

Petitioner / Owner- Second Chance Rescue / Mike & Susan Pulizzi

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Residential/Agricultural
Parcel Size - 60.44Acres

Report by: Pat Herman

Staff Analysis:

Earlier this year the Second Chance Rescue Center submitted an application to list an "animal livestock shelter" as a conditional use permit in the A-1 Agricultural District and to add a definition for this term. That request was approved by the County Commission. Second Chance has now submitted an application to have an animal livestock shelter.

The property is located approximately 2.5 miles southeast of Hartford in an area with variety of land uses. There are mining uses to the east and housing to the west and southeast, with the remaining properties in agricultural production. This property has a single family dwelling, 20,000 square feet of pole shed area, and a 24x18 lean to. With a total of 60 acres, there is sufficient space to house livestock.

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 closest house to this sits to the west and shares driveway access with this property. It is owned by the same people who own the subject property. This use should have no effect on property values.

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

This is an area with agricultural uses and a livestock shelter would be an appropriate use in this environment. The previous owner did have horses on the property.

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

The property has an existing access to the county highway. Other utilities are already in place on the site.

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

This use will draw minimum traffic to the site. Use by the caretakers will not exceed normal single family in/out travel. Unlike the number of visitors to a shelter for household pets, a livestock shelter will rarely have customers. There is sufficient parking area on the site to handle any traffic.

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.

None of the uses listed above will be at a level as to constitute a nuisance.

Recommendation

Staff finds that an animal livestock shelter is an appropriate use in an agricultural zoned district and will be congruent with the surrounding land uses. Staff recommended approval of Conditional Use Permit #09-57 with the following conditions:

- 1) Conditional use Permit #09-57 shall be valid only for the petitioner, Second Chance Rescue. The permit will become null and void upon Second Chance Rescue's withdrawal from the operation.
- 2) With 24 hours verbal notification, the Planning Department shall be allowed to access and inspect the facility and to include animal care specialists as part of the inspection.
- 3) Hours in which the livestock shelter shall be open to the public shall be restricted to 8:00 am to 5:00 pm daily.
- 4) The operation shall adhere with the definition of an Animal Livestock Shelter.
- 5) Signage shall not exceed 32 square feet.

Action

Based on the staff report, a motion was made by O'Hara and seconded by Randall to **approve** conditional use permit #09-57. The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT #09-53 to allow a wind energy turbine farm.

Legal Description – Properties owned by Lawrence Allen & Lloyd Richardson in Section 19 of Dell Rapids Township & 24 of Burk Township

Location – 2 miles southwest of Dell Rapids

Petitioner / Owner- Ridge Energy, LLC / Lawrence Allen & Lloyd Richardson

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size - 100+ Acres

Report by: Pat Herman

Recommendation

Due to an incomplete application package, staff recommended that Conditional Use Permit #09-53 be deferred to the September 28, 2009 meeting.

Action

Based on the staff report, a motion was made by O'Hara and seconded by Randall to **defer** conditional use permit #09-53 until the September 28, 2009 meeting. The motion passed unanimously.

ITEM 6. Preliminary Subdivision Plan – #09-01 Lake Shore Luxury Estates
Legal Description – Lots 1-12 Lake Shore Luxury Estates Tract 9 Voight's
Subdivision SW ¼ in Section 21-T101N-R51W
Location – south end of Wall Lake
Petitioner / Owner- CRC Property Group, LLC

General Information

Present Zoning - PD
Existing Land Use - Vacant
Parcel Size - 4.77 + acres

Report by: Scott Anderson

Staff Analysis

The applicant has submitted a preliminary plan proposing the creation of twelve lots. The twelve (12) lots contain a total of approximately 4.77 acres. The subject lots are located along the southwest shore of Wall Lake and are part of an approved Planned Development.

Staff has reviewed Section 4.01 of Minnehaha County's Subdivision Ordinance to determine that all requirements have been met. The engineering company for the applicant failed to place a certificate of approval for endorsement of the Preliminary Plan by the Planning Commission and County Commission. A vicinity map and the name of the owner have also been omitted from the Preliminary Plan. The applicant and engineer shall address these items prior to County Board approval of the Preliminary Plan.

Prior to a final plat being approved, the applicant shall either construct all of Lake Shore Place, a private road, to the County's road standards or post surety in an amount to cover the construction cost. Engineered road plans shall also be provided for review by the County Highway Engineer. Section 8.01(C) requires the owner or developer to pay the County for materials and installation costs for erecting the street sign for Lake Shore Place. The applicant has proposed a name of Lake Shore Lane, this does not meet the street naming requirements and the road must be indicated as Lake Shore Place on the final plat.

The applicant provided a drainage and grading plan, but did not provide an erosion control plan. An erosion control plan shall be submitted to the Planning Department for review and approval prior to County Commission approval of the Preliminary Plan.

This property will be serviced by the Wall Lake Sanitary Sewer District. The applicant provided staff with a copy of an agreement with the district from 2007 on the future sewer service for this development. Each lot will be serviced by the sewer district.

Recommendation

Staff recommended approval of Preliminary Plan #06-03 with the following conditions:

- 1) That prior to County Commission approval of the preliminary plan, an erosion control plan shall be submitted to the Planning Department for review and approval.
- 2) That prior to County Commission approval of the preliminary plan, a vicinity map shall be provided and the preliminary plan shall be corrected to include a certificate of approval for the Planning and County Commissions and name and address of the owner(s).

Action

Based on the staff report, a motion was made by O'Hara and seconded by Randall to recommend **approval of** Preliminary Plan #09-01. The motion passed unanimously.

REGULAR AGENDA

A motion was made by Cypher and seconded by Randall to approve the regular agenda, Items 2, 5, and 7 added. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #09-56 to exceed 1200 sq. ft. of accessory building area – 1668 sq. ft. requested.

Legal Description – Tracts 7, 8, 9, N1/2 Tr. 10, 30, 31, & 32 Lot 7 & Vac
Access Road lying between Tract 33 Lot 7 and E ½ Vac
Access Road lying adjacent, Bowman’s Subdivision in
Section 21-T101N-R51W.

Location – 26567 East Shore Place, Wall Lake
Petitioner / Owner- L. F. Lanpher

General Information

Present Zoning - RR Rural Residential
Existing Land Use - Residential
Parcel Size - 1.30 Acres

Report by: Phil Kappen

Staff Analysis:

The subject property is located along the east edge of Wall Lake. Surrounding properties are all in residential uses. The petitioner has an existing 768 sq. ft. accessory building and wishes to construct an additional 900 sq.ft. building for a total of 1668 sq. ft.

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 requested building size is well within the range of sizes that are found on neighboring properties. Properties in the immediate vicinity have accessory buildings ranging in size from 1280 to 2560 square feet. The added building should pose no great impacts on the surrounding properties provided that only residential uses are made of the structure.

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

An additional 900 sq. ft. building should have little impact on any additional development in the area. The petitioner will be required to obtain a building permit and the required setbacks from property lines will be addressed at that time.

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

The area is within the Wall Lake Sanitary District and any further development would be required to connect to the sewer system. Access to the building will be via existing roads and driveways.

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

There is ample space on the property for any parking typically associated with a single-family residential use.

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.

Any outdoor lighting should be of a full cutoff and fully-shielded design to reduce any potential for impact on neighboring properties.

Recommendation

Staff finds that the proposed building conforms with the sizes of existing accessory buildings in the area and recommended approval of conditional use permit #09-56 with the following stipulations:

- 1) The total area of all accessory buildings on the property shall not exceed 1700 square feet when measured from the exterior walls.
- 2) The building shall be used strictly for accessory uses to the residential use on the site and no commercial use or commercial storage shall be allowed.
- 3) All exterior lighting shall be of a full cutoff and fully-shielded design to prevent light spillage beyond the boundaries of the property.

Public Testimony

Assistant Planning Director Phil Kappen stated that he received a complaint about a building pad being poured before the building had been approved. Mr. Kappen stated that he was unsure what the pad was for, and could not be certain of the complaints allegation. Mr. Kappen expressed concerns about the Conditional Use Permit and the use of the new building because it looked as though another accessory building on the property was being used for something other than personal storage.

Mr. Kappen informed the Commissioners that the petitioner was in attendance at the meeting but must have left without knowing that the item had been pulled from the consent agenda and placed on the regular agenda. Mr. Kappen stated that it might in the best interest of the Planning Commission and the petitioner to defer Conditional Use Permit #09-56 until staff can get more information regarding storage at the property.

No one else wished to speak to the item and the floor was closed to public testimony.

Action

Based on the staff report and additional staff information, a motion was made by South and seconded by Randall to **defer** Conditional Use Permit #09-56 until the September 28, 2009 meeting.

ITEM 5. CONDITIONAL USE PERMIT #09-55 to allow an agriculturally related operation – livestock collection facility.

Legal Description – N298' W351.2' (ex H-1 & H-2) NW ¼ NW ¼ in Section 16-T102N-R47W

Location – 25802 486th Ave. 4 miles north of Valley Springs

Petitioner / Owner- Paul VanderVliet / David & Kaye Coburn

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size - 2.40 Acres

Report by: Phil Kappen

Staff Analysis:

The subject property is located at the southeast corner of the intersection of 258th Street (Co. Hwy 130) and 486th Avenue (Co. Hwy 105). There is an existing swine building on this site which has existed for many years. The petitioner wishes to begin an ag-related use at this site which would serve as a collection point for swine which will then be sorted and transported to various meat packing enterprises.

The petitioners operated a similar business for many years at the Sioux Falls Stockyards. With the closing of the stockyards, they are looking for a site to relocate. This site is desirable for them as it has an existing building already set up for livestock and an existing animal waste collection system.

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 present facility has capacity for 1100 swine on the site. This would equate to approximately 450 animal units. It is anticipated that the proposed use would have less animals than that on site at any particular time. The greatest potential for impact might be traffic as this would change the traffic patterns relating to the use on the site.

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

There is no other development planned in this area. There are three building eligibilities on the property surrounding the subject property, 4 on the property to the northwest of the highway intersection and 2 on the 80 acres to the north. There is, however, as has been already noted, an existing livestock facility at this location and the numbers of animal units would likely be reduced. All of those other properties also have adequate area that the eligibilities could be relocated if the property owners had concerns over the proposed facility.

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

The property is currently served by two driveways off of 258th Street (Hwy 130), one in the northeast corner and one in the northwest near the highway intersection, and a driveway located in the northwest corner of the property off of 486th Avenue (Hwy 105). The traffic on Hwy 105 is through traffic while that on Hwy 130 must stop at the intersection. Due to the close proximity of the two driveways in the northwest corner of

the property to the intersection there is a potential for impacts to traffic flow along the highways. This is particularly true of the northwest driveway along Hwy 105 because of the through traffic on this roadway. The petitioner's site plan indicates that the driveway onto Hwy 130 is their primary driveway and indicates that the one accessing 105 is questionable. The existing driveway along County Highway 105 should be removed and all access to the site be made from the Hwy 130 side of the property.

There is an existing covered manure pit to the east of the building and a circular liquid manure tank in the southeast corner of the property. These facilities are relatively new and should be adequate to handle the waste produced by the livestock as the total animal unit numbers will likely be reduced.

There is an existing septic system to serve the bathrooms in the building. The system is located off the southwest portion of the building. The petitioner should ensure that no traffic is allowed over the drain field area to prevent damage to the system.

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

The parking area and the livestock load in and out area are proposed to be south of the building. This is a more desirable location for parking or loading than on the north or west sides of the building due to those areas close proximity to the highways.

The county zoning ordinance requires that all parking and driving surfaces be hard surfaced on commercially or industrially zoned properties if the property accesses a hard-surfaced roadway. This property is zoned A-1 Agricultural, however, there is the potential for an increase in the volume of traffic, particularly of large trucks. Due to this and since the property accesses a hard-surfaced roadway, some provision should be made for hard-surfacing on the site. It may not be necessary to require that the parking area south of the building be hard-surfaced, however, the driveways off of Hwy 130 should be hard-surfaced.

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.

Staff is not aware of any complaints regarding odor from the existing facility. Any outdoor lighting should be of a full cutoff and fully-shielded design to prevent potential light pollution impacts to neighboring properties and to any traffic on the county highways.

Recommendation

Staff finds that this is an ag-related use as allowed in the zoning ordinance and that the use can be accomplished in a manner which is consistent with surrounding land uses. Staff, therefore, recommended approval of conditional use permit #09-55 with the following stipulations:

- 1) The property shall be approved for a livestock collection facility.
- 2) The operation shall be limited to no more than 450 animal units on site at any particular time.
- 3) The operation shall conform to the site plan submitted as a part of the conditional use permit application unless specifically amended by this permit. All parking of trucks and equipment shall be located to the south of the building.
- 4) All traffic shall be excluded from over the septic drain field. A fence or other form of traffic barricade shall be placed around the drain field area in order to ensure that traffic is excluded.
- 5) A 15-foot landscaped buffer shall be maintained between any driveway on the property and the county highway rights-of-way.

- 6) Landscape trees shall be planted at a minimum spacing of 30 feet on center along both highway frontages. Deciduous trees shall be a minimum caliper of 1-1/2 inches and coniferous trees shall be a minimum of 5 feet in height.
- 7) The driveway in the northwest corner of the property accessing County Highway 105 shall be removed and all access shall be from County Highway 130. The removal of the driveway and any reseeding of the area shall be done in conformance with Minnehaha County Highway Department standards.
- 8) The driveways shall be hard surfaced with a minimum driving width of 24 feet and shall extend from County Highway 130 to a minimum distance of 100 feet south of the north property line.
- 9) Any outdoor lighting shall be of a full cutoff and fully-shielded design to prevent the spillage of light beyond the boundaries of the property.

Public Testimony

Commissioner O'Hara questioned why the item was removed from the consent agenda. Mr. Kappen stated that he had received a letter from Chad & Leah Jones, 25845 486th Avenue. Mr. Kappen read the letter outlining the traffic concerns around this particular intersection.

Commissioner Randall asked if they were proposing to close the driveway on the west side of the property. Mr. Kappen stated that he is unsure of the petitioners' plans for this driveway. Commissioner Kelly added that the driveway approach can not be much more than 50' from the intersection and questioned if the Highway Department would even approve of this. Commissioner Kelly asked if the driveway to the east would become the main access which would then allow for the other access points to be closed. Mr. Kappen stated that the existing driveways have been there for quite some time and that today the Highway Department would not approve a driveway this close to the intersection and or stop sign.

Commissioner O'Hara question the distance of the nearest dwelling to the subject property. Mr. Kappen stated that the nearest dwelling was over 1/2 mile from the property.

Petitioner Paul VanderVliet was present at the meeting to answer questions for the Commissioners. Mr. VanderVliet stated that he would like to propose the closure of both driveways near the intersection and create a new driveway in the southwest corner of the property along 486th Avenue. Commissioner Kelly question if Bob Meister or the County Highway Department had been contacted about this proposed driveway in the southwest corner of the property. Mr. VanderVliet stated that he had not been in contact with the County Highway Department. Commissioner Rogen asked if a driveway in this location would meet site distance requirements. Mr. Kappen stated that the site distance and stopping distance would need to be looked at before a new driveway could be constructed.

Commissioner Kelly stated that Planning Commission might wish to defer this item until the information needed from the County Highway Department was received. Commissioner O'Hara stated that it might be possible to approve the conditional use permit by adding a condition that the driveway needs to be approved by the County Highway Department.

Planning Commissioners agreed that the conditional use permit could be approved if the new driveway was approved by the County Highway Department.

No one else wished to speak to the item and the floor was closed to public testimony.

Action

Based on the staff report and public testimony, a motion was made by O'Hara and seconded by Randall to **approve** Conditional Use Permit #09-55 with the following conditions. The motion passed unanimously.

- 1) The property shall be approved for a livestock collection facility.
- 2) The operation shall be limited to no more than 450 animal units on site at any particular time.
- 3) The operation shall conform to the site plan submitted as a part of the conditional use permit application unless specifically amended by this permit. All parking of trucks and equipment shall be located to the south of the building.
- 4) All traffic shall be excluded from over the septic drain field. A fence or other form of traffic barricade shall be placed around the drain field area in order to ensure that traffic is excluded.
- 5) A 15-foot landscaped buffer shall be maintained between any driveway on the property and the county highway rights-of-way.
- 6) Landscape trees shall be planted at a minimum spacing of 30 feet on center along both highway frontages. Deciduous trees shall be a minimum caliper of 1-1/2 inches and coniferous trees shall be a minimum of 5 feet in height.
- 7) The driveway in the northwest corner of the property accessing County Highway 130 shall be removed.
- 8) The petitioner shall meet with the County Highway Department to add access to County Highway 105 in the southwest corner of the property. If this new access is approved by the Highway Department, the driveway access onto Highway 105 in the northwest part of the property shall be removed.
- 9) The driveways shall be hard surfaced with a minimum driving width of 24 feet and shall extend from County Highway 130 to a minimum distance of 100 feet south of the north property line.
- 10) Any outdoor lighting shall be of a full cutoff and fully-shielded design to prevent the spillage of light beyond the boundaries of the property.

ITEM 7. CONDITIONAL USE PERMIT #09-54 to allow a recreation facility.

Legal Description – Tract 1A Siders Addition NE ¼ NE ¼ in Section 7-
T101N-R51W

Location – 46089 263rd St. 2 miles northwest of Wall Lake

Petitioner / Owner- Larry Fossum

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size - 10.32 acres

Report by: Ryan Streff

Staff Analysis:

The Minnehaha County Planning and Zoning Department became aware of this use and “Horse Haven Arena” in July of 2009. When the owners were first contacted about this zoning violation they stated that they were unaware that a conditional use permit was needed. They stated that “Horse Haven Arena” was built in 2001 and events have been held for approximately 3-4 years. The petitioner thought that this type of a facility being used for events was a permissive use in their zoning district. After staffs explanation the petitioner understood the need for the conditional use permit and applied for the permit.

The subject property is located 5 miles south west of Hartford in Wall Lake Township. The property is two (2) miles north of Hwy 42 and two (2) west of Hwy 151. The surrounding properties are all zoned A-1 Agricultural and land uses in the area are agricultural in nature with the exception of a few non-ag acreages. The petitioner wishes to operate a recreation facility that involves barrel racing, horse play days, arena riding and other rodeo and cowboy activities. The petitioner would also like to be able to board horses at their facility during these events.

The petitioner would hold events approximately two (2) times per week during the spring and summer months. Each event would bring between 10-20 participants. The property has adequate parking for each event which is regulated due to the limited amount of riders allowed per event. The petitioner supplies two (2) port-a-potties for regular events and will rent additional facilities if they are needed for larger events. Rural water hydrants are also provided on the property for the use of participants, family and friends. The petitioner supplies occasional overnight camping (the night before events) for no more than 5 RV's, campers, and/or tents. Camping on the property would not take place more than 3 times per year. The petitioner would be able to board houses if participants came to the property early. The boarding of horses would be limited to 10 or less. The petitioner's property has an ample amount of space with a large barn and several outdoor pens for the boarding of horses. The pasture, barn, and outdoor pens are maintained and or cleaned so that the horses are safe from dangers.

The recreation facility has adequate room for all events and consists of an outdoor arena (120' x 240'), announcer's tower (2-story 10' x 12'), barn (48' x 63), and fenced livestock pens adjacent to the arena. The facility has two (2) sets of bleachers for spectators which will seat up to 100 people. The owners provide trash receptacles during all events and dispose of this trash after each event. Trash receptacles are stored after every event.

All activities are family oriented and Christian based. There is no alcohol allowed at

these events. The property is always kept in a neat, clean, and in well groomed condition.

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 not visible from any highway and is not readily visible from neighboring homes. There would be little impact on surrounding properties as long as parking is prohibited along the township road (263rd Street). Outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property. All of the neighboring farms have some type livestock (cattle, horses and buffalo). The property owners have had horses and or cattle for the past 16 years at this location.

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

The general area is planned for continued agricultural uses. This is a semi-agricultural use which is appropriate in the A-1 Agricultural District.

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

Access to the property is off of 263rd Street. There are two (2) access points (field approach) to the property other than the main driveway. These two other access points lead into the designated parking areas (see property site plan). The parking area on the west side of the property is approximately five (5) acres in size. Additional parking is located on the east side of the property north of the barn and measures 70' x 220'.

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

There is ample space on the property for any parking needs. No on-street parking should be allowed along 463rd Street.

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.

There should be little odor and no fumes or vibration from the proposed use. Any dust will be minimal due to the limited number of participants allowed at each event. Noise should not be a problem as the site is located back from the road and there are established shelter belts to the north and west sides of the property. The lighting will not affect adjacent property owners because of the distance between homes. Existing trees will further prevent any potential light spillage toward any other home.

Recommendation: Staff finds that any potential impact of this use to neighboring properties will be minimal and that this use is appropriate in the A-1 Agricultural District. Staff, therefore, recommended approval of the conditional use permit with the following conditions:

1. The recreation facility operation shall be limited to events from April 1st to October 31st, with no more than two (2) events per week.
2. Maximum of 20 participants shall be allowed for an event.
3. Trash receptacles and all other items used during the events shall be stored after each event.
4. No parking will be allowed along 263rd Street.

5. No more than 5 camping spaces would be allowed at a single time at the site.
6. Camping shall only be allowed for one (1) night before an event and no more than three (3) times per year.
7. No more than 10 horses shall be boarded at the property.
8. A minimum of two (2) clean and maintained port-a-potties shall be made available for the people attending the event.
9. Any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
10. Temporary signage shall be allowed for a total of 60 days per year and the Planning Director shall be notified (Article 16.00 On-Premise Signs).
11. The building official shall inspect the bleachers located on the property.
12. If applicable the petitioner shall obtain a sales tax number from the South Dakota Department of Revenue.

Public Testimony

Mr. Streff explained that the petitioners had contacted him regarding the conditions for this permit. The Fossum's hold one large event during the year which exceeds the maximum number of participants allowed by the recommended conditions. Mr. Streff stated that he was recommending a 13th condition be added, allowing this large event one time a year with a maximum of 200 participants.

Petitioners Larry and Freida Fossum were in attendance to answer any questions for the Planning Commissioners. Mr. Fossum informed the Planning Commissioners that the added condition for a larger event would be strictly a once a year event which is done as a fund raiser for their church. Mr. Fossum stated that he was unaware he need to have a conditional use permit for these activities and was not trying to avoid getting the permit.

Commissioner Kelly stated that he drove out to the property and noted that it was very well kept and ideal for this type of use.

Planning Commissioner agreed that adding the one lager event per year as condition #13 would be appropriate for this conditional use permit.

No one else wished to speak to the item and the floor was closed to public testimony.

Action

Based on the staff report and public testimony, a motion was made by O'Hara and seconded by Randall to **approve** Conditional Use Permit #09-54 with the following conditions. The motion passed unanimously.

1. The recreation facility operation shall be limited to events from April 1st to October 31st, with no more than two (2) events per week.
2. Maximum of 20 participants shall be allowed for an event.
3. Trash receptacles and all other items used during the events shall be stored after each event.
4. No parking will be allowed along 263rd Street.
5. No more than 5 camping spaces would be allowed at a single time at the site.
6. Camping shall only be allowed for one (1) night before an event and no more than three (3) times per year.
7. No more than 10 horses shall be boarded at the property.

8. A minimum of two (2) clean and maintained port-a-potties shall be made available for the people attending the event.
9. Any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
10. Temporary signage shall be allowed for a total of 60 days per year and the Planning Director shall be notified (Article 16.00 On-Premise Signs).
11. The building official shall inspect the bleachers located on the property.
12. If applicable the petitioner shall obtain a sales tax number from the South Dakota Department of Revenue.
13. One (1) larger event shall be allowed per year/season not to exceed 200 participants.

Item 8 was referred back from County Commission.

ITEM 8. CONDITIONAL USE PERMIT #09-18 to allow a private campground.

Legal Description - S1/2 NE1/4 (ex. RY); & N1/2 SE1/4 (ex. ROW); & Tract
2 (ex. Lot1) & Lot 1 Tract1 in SE1/4; all in Section 2-
T102N-R48W
Location – 3 miles north of Brandon
Petitioner / Owner- Marvin Manifold

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Agriculture
Parcel Size - 20 acres

Report by: Phil Kappen

Staff Analysis:

The petitioner proposes a small campground for the use of his family and their friends. The Planning Commission had acted to deny this request at the May meeting. That decision was appealed to the County Commission. At their June 23, 2009 meeting the County Commission referred this back to the Planning Commission as some additional details had come out which the Planning Commission did not have the opportunity to review. Specifically, the applicant has prepared a revised site plan which addressed some of the concerns previously expressed by the Planning Commission. The latest version of the plan was submitted to the Planning Office on July 30, 2009.

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.

As the commission is aware, neighboring property owners had expressed concerns about the access to the campground going on two sides of an existing residential acreage. Concerns were also expressed about the potential size of the campground. The revised plan moves the access road away from the acreage and lines it up with a driveway across 257th Street. The size of the campground has also been changed from the previously proposed 12 camp sites to only 8 sites, four of which would be camping cabins. A building permit would be required prior to the placement of the cabins.

A concern was also voiced about the length of time that campers would stay at the site. A proposed condition would limit the length of time of any stay to ensure that a semi-permanent use of the property does not occur.

The petitioner does not propose that a commercial food service be operated at the site and does not propose any swimming pool in connection with the campground use. Conditions should be applied to prohibit these uses as they require consideration of a separate set of issues and standards.

One neighbor had expressed some concern about the use of four wheelers at the site and

some past discussion has indicated the possibility of prohibiting the use of four wheelers at the site. Staff has concerns about such an outright prohibition as such vehicles may be used for uses such as fence repair on the property. It would be better to prevent such vehicles from entering neighboring properties through the use of boundary fences and to prohibit the use of the property for off-road racing or the creation of a recreational track.

Concern was also expressed about the use of the site as a commercial campground. The petitioner has no plans for a commercial enterprise at this site. A condition could be added to prohibit such as use.

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

The predominant use in the area is agriculture. One property owner has expressed concerns about pets from the campers causing problems with his livestock and with the potential for trespassing. The county animal control ordinance already prohibits allowing pets to run free in the rural areas of the county. A condition prohibiting pets running at large would emphasize the county ordinance and provide added safety for the neighbor's livestock. Requiring fencing around the site will help reduce any potential for trespass and will also provide a greater level of safety for the campers given the location of this site along the railroad. In similar instances, the railroad has indicated that they wished to have fences to keep people out of the RR right-of-way and off the tracks.

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

As noted previously, the access road has been moved away from the acreage which would have the greatest potential to be impacted. The current location is lined up with the driveway across the township road and is at a location with a good sight distance in both directions along the road. It is also desirable to line driveways across from each other as it limits the access points onto the road.

The petitioner proposes to construct a 24x28' service building on the property. Over half of the building would be used for storage of maintenance equipment and materials and could also serve as an emergency shelter in case of severe weather. The county emergency management office has requested that the petitioner prepare an emergency preparedness plan for approval by their office. This plan would indicate that the petitioner takes full responsibility for any emergencies at the site and will not rely on specific contact from the emergency management office in the event of severe weather. A fire extinguisher and a first aid kit should also be provided on the site for the use of any campers.

One end of the building would have bathroom facilities. The bathrooms would empty into either a septic system or a holding tank. The petitioner's certified septic installer would need to obtain a wastewater permit prior to obtaining the required building permit constructing the structure. Any wastewater system would be inspected by our office to ensure that it meets all county and state standards.

Other potential conditions have involved the limitation of the use only to Marvin Manifold. Staff questions the limitation of this use to a specific person for two reasons. First, it is typical that a conditional use permit carries with the property rather than be limited to one person. This is particularly true if the use is being operated in

conformance with applicable conditions or stipulations and is not posing a problem for neighboring properties. Second, by limiting this to one person it could pose future problems should that person pass away or transfer the property to another family member.

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

There is ample space on the property for the temporary parking of the proposed vehicles. A condition should be applied to the permit to ensure that no long-term storage of recreational vehicles or other vehicles occurs on the site.

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

As with other uses, outdoor lighting should be designed to minimize any potential impact on neighboring properties or roads. Any barbeque pits or fire pits should be located and constructed to control the fire and prevent fire hazard. The petitioner does not propose any sign for the site. However, in order to allow a sign in the event that they need to identify the site for a camper, an allowance should be made for a sign.

Recommendation

Staff finds that the proposed use, due to the location and the limited size of the campground, can be made compatible with surrounding land uses through the application of limiting conditions. In the past the petitioner was instructed by the Planning Commission to prepare a revised plan which showed a separation between the proposed driveway and the existing acreage located at the southeast corner of the property. The petitioner has met that request. Staff, therefore, recommended approval of conditional use permit #09-18 with the following conditions.

1. The use shall be limited to an 8-unit campground including 4 camping cabins.
2. The use shall conform to the revised site plan received by the Planning Office on July 30, 2009.
3. The length of stay shall not exceed a maximum of 14 consecutive days.
4. The petitioner shall obtain a state campground license prior to commencing the land use if the state requires such license. When required, the petitioner shall maintain the license and shall follow all provisions of the license.
5. There shall be no commercial use of the campground or property.
6. No commercial food service shall be allowed at the site.
7. No swimming pool shall be allowed at the site.
8. All onsite wastewater systems shall be constructed and operated in conformance with state regulations and with the Minnehaha County On-Site Wastewater Treatment Ordinance. No dumping of any wastewater shall be allowed at the site unless disposed into a properly sized and maintained wastewater system. Septic approval from the state and a county septic permit are required.
9. All outdoor lighting shall be of a full cutoff and fully-shielded design preventing direct spillage of light off the premises from any light source (bulb or reflector).
10. The petitioner shall develop an emergency preparedness plan for approval by the county Emergency Management Department which includes details on how shelter would be provided to campers or how evacuations would be accomplished during severe weather events. The plan shall also include a list of contacts in the

- event of a complaint or an emergency. A copy of the plan must be filed with the County Planning Office and the plan shall be kept current.
11. All barbecue locations or fire pits shall be constructed and sited to minimize the danger of fire.
 12. A first aid kit and a fire extinguisher shall be available at all times that the site is in use.
 13. The petitioner shall maintain a boundary fence between the campground and the railroad right-of-way to prevent access from the campground into the ROW or onto the tracks. A fence shall also be maintained to prevent access from this site to the neighboring property on the east.
 14. No permanent or ongoing storage of recreational vehicles or other vehicles shall be allowed on the site.
 15. At such time as the campground use ceases, all cabins shall be removed from the site.
 16. One sign of a maximum size of 32 square feet in size may be used to identify the land use.
 17. No pets shall be allowed to run at large on the site.
 18. A management list with contact phone numbers shall be provided to the Planning Department and the abutting landowners.

Public Testimony

Mr. Kappen stated that he had been contacted by Dan Irvine, 48343 256th St., who has the farmstead to the north and his land, pasture & crop, abuts this site. He still is concerned about his livestock, trespassing, and fire danger.

Steven Farley (48292 257th Street) questioned if the road for the campground was going to be gravel or rock. Petitioner Marvin Manifold (2600 Six Mile Rd) stated that the road would be constructed of Rail Road Ballast which is approximately 1½" rock. Mr. Farley said that with the road being moved, all of his concerns with the campground have been resolved.

Commissioner Kelly explained that he had been out to the site and believes it will only be used for family functions.

No one else wished to speak to the item and the floor was closed to public testimony.

Action

Based on the staff report and public testimony, a motion was made by Rogen and seconded by Randall to **approve** Conditional Use Permit #09-18 with the following conditions. The motion passed unanimously.

1. The use shall be limited to an 8-unit campground including 4 camping cabins.
2. The use shall conform to the revised site plan received by the Planning Office on July 30, 2009.
3. The length of stay shall not exceed a maximum of 14 consecutive days.
4. The petitioner shall obtain a state campground license prior to commencing the land use if the state requires such license. When required, the petitioner shall maintain the license and shall follow all provisions of the license.
5. There shall be no commercial use of the campground or property.

6. No commercial food service shall be allowed at the site.
7. No swimming pool shall be allowed at the site.
8. All onsite wastewater systems shall be constructed and operated in conformance with state regulations and with the Minnehaha County On-Site Wastewater Treatment Ordinance. No dumping of any wastewater shall be allowed at the site unless disposed into a properly sized and maintained wastewater system. Septic approval from the state and a county septic permit are required.
9. All outdoor lighting shall be of a full cutoff and fully-shielded design preventing direct spillage of light off the premises from any light source (bulb or reflector).
10. The petitioner shall develop an emergency preparedness plan for approval by the county Emergency Management Department which includes details on how shelter would be provided to campers or how evacuations would be accomplished during severe weather events. The plan shall also include a list of contacts in the event of a complaint or an emergency. A copy of the plan must be filed with the County Planning Office and the plan shall be kept current.
11. All barbeque locations or fire pits shall be constructed and sited to minimize the danger of fire.
12. A first aid kit and a fire extinguisher shall be available at all times that the site is in use.
13. The petitioner shall maintain a boundary fence between the campground and the railroad right-of-way to prevent access from the campground into the ROW or onto the tracks. A fence shall also be maintained to prevent access from this site to the neighboring property on the east.
14. No permanent or ongoing storage of recreational vehicles or other vehicles shall be allowed on the site.
15. At such time as the campground use ceases, all cabins shall be removed from the site.
16. One sign of a maximum size of 32 square feet in size may be used to identify the land use.
17. No pets shall be allowed to run at large on the site.
18. A management list with contact phone numbers shall be provided to the Planning Department and the abutting landowners.

ITEM 9. CONDITIONAL USE PERMIT #09-51 to exceed 1200 sq. ft. of accessory building area.

Legal Description - Tract 7 Valley View Acres in Section 36-T102N-R48W

Location – 48378 Valley View Circle East edge of Brandon

Petitioner / Owner- Richard Gulseth

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Residential

Parcel Size - 5.85 acres

Report by: Phil Kappen

Staff Analysis:

The subject property is located along the eastern boundary of Brandon. The petitioner has two existing buildings of 2160 and 120 square feet and wishes to add an additional 1080 sq. ft. building for a total of 3360 sq.ft. of accessory buildings on the lot. To the east and south of the subject property are residential lots, to the west is the city of Brandon and to the north is agricultural land. The city's comprehensive plan designates this area for future single-family residential uses.

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 petitioner currently has the largest total of accessory buildings in the subdivision. The adjoining lots to the east and south have 17716 and 1846 sq. ft. respectively. The next lot to the east has a total of 1752 sq. ft. Placing an additional building on the property would not conform with the existing character of the area.

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

As this area is planned for single-family residences by the city, and since the lot is immediately adjacent to city limits, the placement of another large building on this site would not conform with the city's future plans for the area.

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

Access to the property is via Valley View Circle. The existing driveway would be used to access the lot.

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

There is ample space on the property for the parking that is typically associated with a single-family residence.

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 continued use of the property for a single-family residence, the only approved use, should not constitute inordinate impacts on the surrounding properties.

Recommendation

Staff finds that the proposed building would not be in character with the other properties in the development and would not be in conformance with the future development plans for the area as approved by the city of Brandon. Staff, therefore, recommended denial of conditional use permit #09-51.

Public Testimony

Commissioner Kelly asked what such a large building in this area would be used for. Petitioner Richard Gulseth stated that the building was going to be constructed for two horses. Mr. Gulseth continued, telling the Planning Commissioners that the square footage map provided by Staff was incorrect and that the neighbor to the south of his property has approximately 3,748 sq. ft. of accessory buildings and not the indicated 1,846 sq. ft. as shown on the map. Mr. Gulseth stated that the neighbor to the south has had this building for 5-6 years and when he talked with the neighbor he stated that he had come to the county to get the building permit.

Petitioner Kathy Gulseth informed the commissioners that most of the residents in the area have some type of livestock on their property.

Commissioner Cypher questioned what the size of the lot was. Mr. Gulseth stated that his lot was approximately 5.85 acres. Commissioner Cypher mentioned that this type of use on a six acre lot would seem appropriate. Commissioner South stated that it might be necessary to defer action until the square footage for the surround accessory buildings could be verified. Commissioner O'Hara questioned Mr. Kappen on how he missed seeing such a large building. Mr. Kappen stated it must have been hidden by trees.

No one else wished to speak to the item and the floor was closed to public testimony.

Action

Based on the staff report and public testimony, a motion was made by Rogen and seconded by O'Hara to **defer** Conditional Use Permit #09-51 until the next Planning Commission meeting on September 28, 2009. The motion passed unanimously.

ITEM 10. CONDITIONAL USE PERMIT #09-52 to exceed 1200 sq. ft. of accessory building area.

Legal Description – All of Lot 4, E 50' Lot 5 & Lot 6 Prairie View Estates
W1/2 NW1/4 in Section 36-T101N-R51W

Location – 46511 Lorraine Circle 2 miles southeast of Wall Lake
Petitioner / Owner- Brian Boyden

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Residential
Parcel Size - 11.44 acres

Report by: Phil Kappen

Staff Analysis:

The subject property is located along Lorraine Circle, a cul-de-sac off of 465th Avenue, just south of 265th St, (Co. Hwy 148). The properties to the north and west are used for single-family residential uses. Those to the east and south are in agricultural uses. The petitioner proposes to construct a 3200 square-foot building in the southwest portion of his lot. He has a number of items which now set outside that he would like to move indoors. These include items such as a large RV and a boat. He also has a large collection of mounted big game animals that he would like to place in the building.

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.

Prairie View Estates is a relatively new subdivision which was created after a number of residential building eligibilities were transferred to the site. The lots are larger with sizes ranging from 3.74 to 11.44 acres. The subject property is the largest lot in the development. Being a relatively new area, only one other lot in the subdivision now has an accessory building, a 484 sq. ft. building on the lot to the northwest of the subject property. The lot that is immediately southwest of the subject property, however, has a total of 2594 square feet of accessory buildings. The proximity of this lot should be taken into account when determining the size of the allowed building on the subject property. Whatever size of accessory structure(s) allowed on this lot will likely set a precedent for the sizes of buildings allowed on other properties in the subdivision.

A property across the road to the west has a total of 15,840 square feet of accessory buildings. There are a few head of livestock on that property. Given the size of the lots in Prairie View Estates there is a possibility that some of these lots may also have livestock such as horses and may require a larger structure.

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

The clustering of the eligibilities allows a larger area of land to be kept for agricultural use. Since the eligibilities in this area have now been used, there is little likelihood of additional development in the immediate vicinity. Given the size of the other lots in the

development and the continued ag uses which surround the subject property, the placement of a larger building should not significantly impact any future development.

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

Access is off the end of Lorraine Circle via an existing driveway.

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

There is ample space on the property for the parking that is typically associated with a single-family residence.

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.

Any outdoor lighting should be of a full cutoff and fully-shielded design to prevent potential impacts on neighboring properties.

Recommendation

Staff finds that the proposed size of 3200 square feet would represent a 23% increase over the total accessory building sizes existing on the adjoining lot. This would make the proposed building the largest building in the subdivision and in the immediate vicinity and staff cannot support that request. As the location of the proposed building, however, is immediately adjacent to a lot with approximately 2600 square feet of accessory buildings, staff recommended approval of conditional use permit # 09-52 with the following conditions:

1. The total area of all accessory buildings on the property shall not exceed 2600 square feet when measured from the exterior walls.
2. The building shall be used strictly for accessory uses to the residential use on the site and no commercial use or commercial storage shall be allowed.
3. All exterior lighting shall be of a full cutoff and fully-shielded design to prevent light spillage beyond the boundaries of the property.

Public Testimony

Petitioner Brian Boyden informed the Planning Commissioners that he is requesting 3,200 square feet of accessory building area so that he can protect his personal belongings. Mr. Boyden stated that he moved to the country and thought that constructing a large building like this would be allowed. Mr. Boyden explained that he has the largest lot in the development and that a building of this size would not be overwhelming or an eye sore to neighboring properties. Mr. Boyden stated that he only built a two stall garage because he planned on building a larger accessory building.

In response to the Commission, Mr. Kappen stated that the larger buildings to the west were constructed prior to the regulations being enacted which limited accessory building size. Commissioner Cypher stated that he was willing to support the 2,600 square feet accessory building area as staff recommended because of larger size lot and the existence of other larger accessory buildings in the area.

No one else wished to speak to the item and the floor was closed to public testimony.

Action

Based on the staff report and public testimony, a motion was made by Cypher and seconded by O'Hara to **approve** Conditional Use Permit #09-52 with the following conditions. The motion passed unanimously.

1. The total area of all accessory buildings on the property shall not exceed 2600 square feet when measured from the exterior walls.
2. The building shall be used strictly for accessory uses to the residential use on the site and no commercial use or commercial storage shall be allowed.
3. All exterior lighting shall be of a full cutoff and fully-shielded design to prevent light spillage beyond the boundaries of the property.