

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
March 22, 2010

A meeting of the Planning Commission was held on March 22, 2010 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

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

The meeting was chaired by Chair Susie O'Hara.

CONSENT AGENDA

Planning Commissioner Kelly requested that Item #5 be removed from the consent agenda and placed on the regular agenda; a motion was made by Cypher and seconded by Steinhauer to approve the consent agenda. The motion passed unanimously.

ITEM 1. MINTUES – February 22, 2010

A motion was made by Cypher and seconded by Steinhauer to approve the minutes. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #10-09 to exceed 1,200 sq. ft. of accessory building area. 5,334 sq. ft. is requested.

Petitioner: James LeTendre

Location: ¾ mile north of Hwy 148 & SD Hwy 17

General Information

Legal Description -Tract 5 (EX H2) Murschels Addn. NW¼ in Section 30-T101N-R50W

Present Zoning – A-1 Agricultural

Existing Land Use - Pasture

Parcel Size –13.47 Acres

Report by: Scott Anderson

Staff Analysis

The subject property is located in Murshel's Addition, a larger tract subdivision located at the intersection of 266th Street and SD Highway 17, approximately 2 miles west of Sioux Falls. Murshel's Addition consists of five (5) tracts that range in size from 9.05 acres to 20.32 acres. The four parcels to the north are part of the Murshel's Addition. The land to the north, south and east is agricultural land. The petitioner proposes to construct a 5,334 square foot accessory building on his property. The applicant's proposed, new accessory structure is larger than the permissive size of 1,200 square feet, and thus a conditional use permit is required.

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 placement of an accessory structure exceeding 1,200 square feet should not impact

the enjoyment or use of properties in the vicinity. Indeed, some of the properties in the area also have accessory structures exceeding the 1,200 square foot maximum size requirements. There are four (4) residences to the west that have accessory structures exceeding 1,200 square feet. The sizes of accessory structures located on those residences are 1,904, 3,240, 4,770 and 5,334 square feet.

Much of this area is used for agriculture. The applicant has indicated that he requires more accessory building use for storage of his agricultural equipment. The applicant conducts haying activities not only on his property but also on other property in the vicinity. Given the nature of the applicant's agricultural activities and existing sizes of structures in the area, staff can support the applicant's request and believes that the effects on surrounding properties in the area are minimal.

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

The petitioner must be made aware that the building can be used strictly for his personal storage of residential related items and no commercial or business activities or storage is allowed.

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

Access to the property is via 466th Ave, also known as S.D. Highway 17. No additional accesses onto the road should be allowed or is being requested by the applicant. All other utilities and drainage have been provided and no further improvements are needed.

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

There is ample area on the subject property for any parking as a result of residential activities. No on street parking will be allowed. No commercial or business parking is allowed.

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

There should be no offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property. No other types of uses are allowed.

Recommendation

Staff finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #10-09 with the following conditions:

- 1) The existing driveway onto the property shall be used for access to the building. No additional driveway access shall be allowed onto 466th Avenue.
- 2) The building shall be used only for the petitioner's personal residential storage. No commercial or business uses or storage shall be allowed.
- 3) The building shall not exceed one story in height.

- 4) A building inspection is required to determine that the buildings do not exceed 5,334 square feet measured from the outside perimeters.

Action

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #10-09. The motion passed unanimously.

Conditional Use Permit #10-09 – APPROVED.

ITEM 3. CONDITIONAL USE PERMIT #10-11 to transfer one residential building eligibility from the SE ¼ Nw ¼ to the NW ¼ NW ¼; all in Section 5-T103N-R48W.

Petitioner: David Paul Berg

Location: 1.5 miles north of EROS

General Information

Present Zoning – A-1 Agricultural

Existing Land Use - Agriculture

Parcel Size – 40 Acres

Report by: Pat Herman

Staff Analysis

The proposed building site is located in Edison Township approximately 1.5 miles north of EROS Data Center. The surrounding land use is agriculture with farmsteads and scattered acreages. This request to transfer one residential building eligibility would move the eligibility from a land locked quarter-quarter. The building site will be at the intersection of 479 Avenue and 250th Street (Hwy 114).

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 building site will use existing crop ground. A dwelling added in this area will have an impact on farming operations and the petitioner has notified the farmer who rents this land. The acreage which exists in this receiving quarter-quarter is owned by a family member and they are aware of the requested transfer.

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

This request does not exceed the number of building eligibilities allowed for on a quarter of land. There are no CAFO's in the vicinity.

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

The property will abut to roads, a township road and County Highway 114. The petitioner prefers to take access from the highway and is working the Highway Department on this issue. The property is not in the floodplain.

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

The building site will be two acres or larger in size, sufficient room to meet the parking needs of a single family dwelling.

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 the above should be at a level as to constitute a nuisance.

Recommendation:

Staff finds that the request to transfer one building eligibility is in conformance with the County Zoning Ordinance and recommended approval of Conditional Use Permit #10-11 with the following conditions:

- 1) The property shall be platted and a right-to-farm notice filed on the deed of the lot prior to issuance of building permit.
- 2) Access to Highway 114 shall require the approval of the County Highway Department and written proof shall be submitted to the Planning Department at the time of issuance of the building permit.

Action

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #10-11. The motion passed unanimously.

Conditional Use Permit #10-11 – APPROVED.

ITEM 4. CONDITIONAL USE PERMIT #10-12 to allow a group day care.

Petitioner: Robynn Roy

Location: 26019 482nd Ave. Corson

General Information

Legal Description - Lot 3 & N ½ Lot Block 3 Corson Fauskes Addn. in Section 27-
T102N-R48W

Present Zoning – R1 Residential

Existing Land Use - Residential

Parcel Size – 0.25 Acre 75 x 150

Report by: Phil Kappen

Staff Analysis:

The subject property is located along South Dakota Highway 11 in the Village of Corson. The property is surrounded by single family residences to the south, west, north and across the highway to the east. The applicant has submitted a conditional use permit application for the operation of a group day care on the site. A group day care is defined by the county zoning ordinance as an in home day care with a maximum of 12 children under the age of fourteen, including the operator's own children aged six and under. The applicant plans on a total of ten children at this time and will have hours of operation from 6 am to 6 pm. An outdoor play area will be located behind the house to the west and a fence will be erected around this area in the spring.

Staff spoke with Dave Swier of the Brandon Planning and Building Inspection Office on March 8, 2010. He indicated that the city has no concerns with the proposed day care. They would require that the outdoor play area be fenced, particularly since the use is along a major roadway.

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 concerns that have attended group day care operations in other areas have been related to either traffic or to children running through a neighborhood. The scale of the proposed use should not result in excessive traffic problems provided that adequate off-street parking space is provided and safe access can be made from the highway. A fenced outdoor play area should be required, both to prevent children from accessing neighboring properties and to provide separation between children and the traffic on Highway 11.

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

A group day care should have minimal impacts on any potential development in the area.

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

The property is served by the Corson sanitary district. Access to the property is via South Dakota Highway 11. The highway through Corson is constructed as an urban road segment with both curb and gutter, and there is a speed limit of 35 miles per hour. The petitioner should be required to have a driveway of at least twenty feet in width which

will allow two vehicles to pass and will prevent stacking of vehicles on the highway.

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

In a March 9th conversation with Craig Smith of the South Dakota Department of Transportation, he indicated that they do allow parking along the highway through Corson. They do prohibit parking when there are 2 inches or more of snow. The petitioner, however, should be required to provide off-street parking as a safety measure so that children are not dropped off or picked up on the highway. The petitioner has indicated that they currently have off-street space to park 2-3 customer vehicles.

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

A day care use should not result in any offensive odor, fumes, dust, noise, or vibration. Any additional outdoor lighting should be of full cutoff and fully shielded design to prevent potential impacts on adjoining properties.

Recommendation:

Staff finds that the proposed use is consistent with the Minnehaha County Comprehensive plan and conforms to the Minnehaha County Zoning ordinance. Staff, therefore, recommended approval of conditional use permit #10-12 with the following conditions:

- 1) An outdoor children's play area shall be provided to the west of the house. This play area shall be completely enclosed with a secure fence by June 1, 2010.
- 2) At least one smoke detector shall be installed and properly maintained on each level of the house and a charged fire extinguisher shall be available on each level of the house.
- 3) The use shall be limited to a group daycare with no more than twelve (12) children under the age of 14, including the provider's children aged six or younger.
- 4) The applicant shall be registered as a day care provider by the state of South Dakota and shall maintain a state sales tax license.
- 5) A driveway of at least twenty feet in width shall be maintained onto Highway 11.
- 6) A minimum of three off-street parking spaces shall be provided on the site.
- 7) Any signage for the daycare shall meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance and a building permit shall be obtained prior to any signage being erected.

Action

A motion was made by Cypher and seconded by Steinhauer to **approve** Conditional Use Permit #10-12. The motion passed unanimously.

Conditional Use Permit #10-12 – APPROVED.

REGULAR AGENDA

A motion was made by South and seconded by Cypher to approve the regular agenda. The motion passed unanimously.

Item 5. **Conditional Use Permit # 10-13 to allow a dog boarding kennel.**

Petitioner: Steve Elson & Connie Pruner

Location: 48666 262nd St. North edge of Valley Springs

General Information

Legal Description - Tract 3 Johnson's Addn. S ½ in Section 33-T102N-R47W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential/pasture

Parcel Size – 15.76 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting a Conditional Use Permit to allow a dog boarding facility. The narrative provided by the petitioner indicates that an existing 30 foot by 36 foot building will be remodeled to accommodate 22 dogs. The applicant has also indicated that a second building of the same size will be constructed at a later date and will also be able to house another 22 dogs. The proposed kennel would then accommodate a total of 44 dogs. The hours of operation will be from 7 am to 7 pm every day of the week.

On March 8, 2010, staff conducted a site visit. The subject property is fairly well isolated from surrounding residences. The primary land use surrounding the subject property is agriculture. The closest residence is located approximately 600 feet to the southwest. A portion of the subject property appears to be located within the 100 year flood plain. The applicant will need to demonstrate that the future building is either located out of the 100 year floodplain or obtain a Flood Plain Development Permit prior to any building permit being issued.

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.

Dog kennels do have an impact on surrounding properties. The primary use in this area is agriculture, however single family residences are allowed within the A-1 Agriculture District. The establishment of a dog boarding kennel could impact this use. The subject property consists of over 15 acres and the size of this lot will aid in buffering noise.

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

The predominant use of the vacant property in this area is for agriculture. The proposed use should not greatly impact that land use, other than restricting the potential for residential development.

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

The majority of utilities are in place. The existing residence has water and sewer and there is an existing driveway off a paved county highway. The applicant has indicated

that they will be using a “Big Dog Septic System”. The applicant has provided staff with the specifications of this system. Staff will simply require that all animal waste is removed so as not to constitute a nuisance.

Staff attempted to determine the width of the driveway, but was unable due to snow. For the safety of the public and customers, staff typically requires a driveway that is a minimum of twenty (20) feet wide. This driveway width allows for 2 vehicles to meet and pass each other and will not result in vehicle stacking on the county highway.

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

There appeared to be plenty of parking on the subject property. Article 15 of the County Zoning Ordinance regulates parking. This proposed use is not specifically identified and thus staff will classify it as a non-residential use (15.02U) and will require 1 space for each 300 feet of floor area. Using this requirement, the applicant would be required to provide 4 spaces for each building. Staff recommends that 4 off-street parking spaces shall be provided.

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

The proposed use can, without some control, become a nuisance. There is the possibility of noise, additional traffic, flies, and odors. Given the location and a recommended set of conditions, the proposed use may be suitable.

Staff finds that given the scope of the proposed use, the location and a set of conditions, the proposed use is suitable for the subject property.

Recommendation

Staff recommended approval of Conditional Use Permit #10-13 to allow a dog boarding kennel.

Public Testimony

Commissioner South questioned if the petitioner would have to hard surface the driving and parking areas. Scott Anderson stated that this would not be required as the property is not zoned commercial or industrial.

Commissioner Cypher suggested that the operation hours be changed from 7a.m – 7p.m to 8a.m. – 6p.m.

Commissioner Kelly noted that the property to the east at sometime in the future might be developed or annexed into the city limits of Valley Springs.

The petitioners, Steve Eleson & Connie Pruner, were present at the meeting. Mr. Eleson stated that the driveway is thirty (30) plus feet wide which meets the minimum requirement of twenty-four (24) feet. Ms. Pruner made it clear that the dogs would not be left outside without supervision. She stated that it would be their job to care for the dogs and make sure they are safe at all times. Ms. Pruner noted that the dogs would not be running wild on the property and would be placed in their kennels when they were not outside exercising. Commissioner South asked the petitioners if the property was up for sale. Mr. Eleson stated that the property is currently up for sale and that they are looking at purchasing the property.

Mark Moore (26191 487th Ave. Valley Springs) stated that his property is directly to the east of the subject property. He informed the commission that he started a petition that stated the following “ we, the residents & neighbors of 48666 262nd St. Valley Springs, South Dakota, petition the county to deny the conditional use permit of said property, allowing a dog boarding kennel of 22 to 44 dogs. We do not want this type of commercial property in our neighborhood, on the grounds that it will be a noise nuisance (boarded dogs bark because they want to go home), decrease the adjoining property values, it is a commercial property in a area not zoned for commercial properties, water draining from it flows into a creek that is in a floodplain, concerns on how dog feces is disposed, and the fact it has one (1) neighbor within 350 ft., one (1) within 770ft., two (2) within 1600ft., and the city limits of Valley Springs within 2300ft.”

Jim Griebel (48642 262nd St.) stated that he owns the property to the west of 48666 262nd Street. He informed the commission that he bought this property so he could enjoy his retirement in a quiet location outside of the city limits. He shared his concerns about barking dogs, hours of operation, decreased property values and residents living close to the proposed facility.

Kevin Sirovy (26187 487th Ave.) stated that he has lived in the area for 24 years and has enjoyed his property’s peace and quiet. He informed the commission that a 44 dog boarding kennel should not be allowed in this location. He noted that 262nd Ave. is a very busy highway and that this business would only add to its congestion.

Susan Sirovy (26187 487th Ave.) also stated that property values in the area would be affected by the boarding kennel. She addressed her concerns about her home’s proximity to the site and her clear view of the subject property. Ms. Sirovy made it clear that barking dogs were a major concern of hers.

Jim Shafer (48626 262nd St.) stated that he owns property just west of 48666 262nd Street. He informed the commissioners that his bedroom window faces the east and that the barking dogs could affect his sleeping schedule. He asked that the commission vote as if they themselves were the neighbors of this property.

Bob Arp (26159 487th Ave.), Jane Moore (26191 487th Ave.), and Cheryl Kruse (48655 262nd St.) all addressed concerns with traffic, quality of life, hours of operation, property values, and barking dogs.

Commissioner Kelly stated that because of the noise generated by a dog kennels it makes it really hard to approve this conditional use permit. Commissioner Cypher reminded the commissioners that they approved a dog kennel with no outside runs last month.

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

Action

A motion was made by South and seconded by Steinhauer to **deny** Conditional Use Permit #10-13 due to the concerns of neighbors about a boarding kennel. The motion passed unanimously

Conditional Use Permit #10-13 – DENIED

Old Business

- A. Report on wind energy turbines

- Pat Herman gave an informational presentation on wind energy turbines to prepare commissioners of possible changes to the county. She informed them of shadow flicker, size, staging areas, tornado construction, sound, setbacks, and other zoning issues.
- B. Grand briefing on Minnehaha County Clean-up Project
- Ryan Streff informed the commissioners of a grant application that is being sent to the DENR for fund to create a rural clean-up project for Minnehaha County residents.