

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
July 26, 2010

A meeting of the Planning Commission was held on July 26, 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, Don South, Becky Randall, and Mark Rogen.

STAFF PRESENT:

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

The meeting was chaired by Chair Susie O'Hara.

ZONING BOARD OF ADJUSTMENT

The Planning Commission will convene as the Zoning Board of Adjustment to consider Item 1, a request for a variance.

Commissioner Mark Rogen abstained from Variance #10-02 as he is his member of the East River Electric Board.

ITEM 1. VARIANCE #10-02 to exceed the maximum height allowed in the A-1 Agricultural District and to allow a reduced front yard setback.

Petitioner: Kurt Donelan for East River Electric

Location: 1 mile south of Lyons

Action

A motion was made by South and seconded by Randall to **defer** Variance #10-02 until the August 23, 2010 Planning Commission meeting so that a 2/3 vote from the Board can be made. (Rogan abstain)

Variance #10-02 – Deferred

CONSENT AGENDA

A motion was made by South and seconded by Rogen to approve the consent agenda with agenda item 4 being moved to the regular agenda and agenda items 2 and 13 being deferred to the August 23, 2010 Planning Commission meeting. The motion passed unanimously.

ITEM 2. MINTUES – June 28, 2010

A motion was made by South and seconded by Rogen to **defer** the minutes from June 28, 2010. The motion passed unanimously.

Deferred from the June 28, 2010 meeting.

ITEM 3. CONDITIONAL USE PERMIT #10-34 to allow a contractors shop and storage yard.

Petitioner: James Hofer

Location: 26071 Jesse Street South edge of Hartford

General Information

Legal Description - Lot 2 Block 3 Brower 2nd addition SW1/4 in Section 27-T102N-R51W

Present Zoning – I-1 Light Industrial

Existing Land Use - Vacant

Parcel Size – 1.0 Acres

Staff Report: Ryan Streff

Staff Analysis:

The petitioner is requesting approval of conditional use permit #10-34 to allow a contractors storage yard and shop to be located at 26071 Jesse Street. The subject property is located in the Brower's Addition, which is a I-1 Light Industrial district in the southeast quadrant of the I-90 and 463rd Avenue (Hartford exit). I-90 is the northern boundary of the site and 463rd Ave. is the west boundary of the site. There will be light industrial/commercial uses to the north, south, east, and west of the subject property.

The petitioner is proposing one (1) contractors shop that is 60' x 100' in size and a storage yard that is approximately 218' x 70'. The petitioner may also decide to lease parts of the building to other tenets in the future. In the event that part of the building is leased to other individuals a conditional use permit shall be obtained if the type of use changes and or does not comply with the terms of this conditional use permit. The building or each unit would have its own bathroom facilities, inside storage, outside parking areas, and a shared storage yard.

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.

To preserve the view from all roadways proper screening shall be erected around all outside storage. All outside storage is required to be screened from public view. The

screening/fence shall be a minimum of 8 feet in height with a minimum of 90% opacity maintained over the entire height of the fence. The fence shall be maintained in earth-tone colors such as browns or greens.

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

The surrounding properties will all be developed in commercial or light industrial uses. The proposed use should be compatible with those types of uses.

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

Access to the property will be off of Jesse Street, which is a hard surface subdivision road. The proposed building will be served by a holding tank, which will be located in the northeast portion of the site as noted in the site plan. The petitioner should be aware that if it is decided to use a septic system instead of a holding tank the ground must be preserved and cannot be used for driving, parking, or storage.

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

The Zoning Ordinance specifies one (1) parking space for each 300 square feet of floor area, which would result in twenty (20) parking spaces. Staff is requesting that a minimum of five (5) hard surfaced parking spaces be provided for each unit or tenet. In the event that a contractor or tenet has more than five (5) employees additional hard surfacing will be required. An overflow gravel parking area will be allowed adjacent to the contractors shop to make up for the other required parking spaces. All other parking and driving surfaces on the property shall be hard-surfaced with the exception of the overflow parking area.

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.

Nuisances consisting of odor, fumes, dust, noise, and vibration should be expected in an industrial development. All outside lighting shall be fully cut-off and fully-shielded with recessed lights that prohibit the spillage of light beyond the boundaries of the subject property.

Recommendation

Staff finds the proposed contractor's shop and storage yard is appropriate use and is consistent with the types of uses found in this zoning district. Staff recommended approval of Conditional Use Permit #10-34 with the following conditions:

- 1) The lot shall adhere to the submitted site plan and application dated 6-15-10.
- 2) If the petitioner decides to change the layout of the property (buildings, holding tank, storage yard or parking) a new site plan shall be submitted to the Planning Department for approval.
- 3) The fencing shall be a minimum of 8 feet in height with a minimum of 90% opacity maintained over the entire height of the fence. The fence shall be

- maintained in earth-tone colors such as browns or greens.
- 4) A minimum of five (5) hard surfaced parking spaces be provided for each unit or tenet. In the event that a contractor or tenet has more than five (5) employees additional hard surfacing will be required. All other parking and driving surfaces on the property shall be hard-surfaced with the exception of the overflow parking area.
 - 5) All outside lighting shall be fully cut-off and fully-shielded with recessed lights that prohibit the spillage of light beyond the boundaries of the subject property.
 - 6) No unlicensed vehicles, inoperable or partially dismantled vehicles or equipment, or parts shall accumulate on the property.
 - 7) Setbacks for the property shall conform to all requirements stated in *Article 7.00 I-1 Light Industrial District*.
 - 8) All signage shall comply with the zoning ordinance requirements stated in *Article 16.00 On-Premise Signs*.
 - 9) In the event that part of the building is leased to other individuals a conditional use permit shall be obtained if the type of use changes and or does not comply with the terms of this CUP #10-34.
 - 10) A building permit is required for the contractors shop and any signage placed on the property.

Action

A motion was made by South and seconded by Rogen to **approve** Conditional Use Permit #10-34 with the conditions stated. The motion passed unanimously.

Conditional Use Permit #10-34 – APPROVED.

ITEM 5. CONDITIONAL USE PERMIT #10-40 to allow the sale of firearms and ammunition as a major home occupation.

Petitioner: Jon Edmundson

Location: 48206 251st St. 2.5 miles northwest of Garretson

General Information

Legal Description - S585' SW1/4 (EX E1981') in Section 2-T103N-48W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 6.58 Acres

Staff Report: Scott Anderson

Staff Analysis

The applicant is requesting to operate a class 1 major home occupation. The proposed home-based business would be a gun business. The applicant would sell firearms, ammunition and accessories out of the home and will limit hours of operation. Zoning approval by the County is required before the applicant can update his ATF (Alcohol, Tobacco & Firearms) license.

The applicant has provided a narrative explaining how his home occupation will be conducted. A copy of the narrative is attached for your review.

On July 11, 2010 staff conducted a site visit. The property is located in a very rural area. There are two (2) residences nearby, one on the other side of 482nd Avenue and another directly to the east. The subject property consists of a single family residence and several accessory buildings. The applicant has indicated that the proposed home occupation will be conducted completely within the garage. The applicant has not indicated whether any additional employees will be needed.

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

The proposed home occupation of gun sales as a home occupation should have limited effect on the uses already permitted in the area or property values.

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

The proposed Conditional Use Permit should not impact the agricultural nature of the surrounding properties. The applicant may not change the outside appearance of the residence to indicate any business activity. The proposed home occupation will have minimal impact on the development and improvement of any vacant properties in the area.

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

251st Street provides access to the site. This road is graveled and in good condition. The applicant's driveway is located a very short distance from a paved county highway. No new roads will be needed to access the site. All required utilities exist to the single-family residence.

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

The applicant must provide one (1) off-street parking space for the existing single-family residence and should provide two (2) off-street parking spaces in front of the building to be used for the home occupation. Staff's inspection of the site found that 4-6 parking spaces are available.

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 applicant has indicated that the business conducted on the property will be gun sales. If the home occupation is conducted within an enclosed structure located on the property and the traffic to and from the site is limited, the home occupation should create little of the above-listed elements in amounts that would constitute a nuisance.

Recommendation

Staff recommended approval of Conditional Use Permit #10-40 to allow gun sales as a Class 1 home occupation with the following conditions:

- 1) That no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential or agricultural use.
- 2) That the applicant be limited to one (1) non-illuminated wall sign, which shall not exceed two (2) square feet and one (1) non-illuminated free-standing sign, which shall not exceed four (4) square feet each in area for the home occupation. A Sign Permit shall be obtained prior to the installation of any sign.
- 3) That the employees of the home occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
- 4) That no stock or trade shall be displayed or stored outside the enclosed structures located on the property.
- 5) That a minimum of three (3) off-street parking spaces be provided. Each parking space shall measure at least nine (9) feet by eighteen (18) feet and shall be kept in a dust free manner.
- 6) That the home occupation be limited to gun sales, ammunition and gun accessories. Any expansion beyond this will require the Conditional Use Permit to be reviewed.
- 7) That the applicant obtains a state Sales Tax License.

Action

A motion was made by South and seconded by Rogen to **approve** Conditional Use Permit #10-40 with the conditions stated. The motion passed unanimously.

Conditional Use Permit #10-40 – APPROVED.

ITEM 6. CONDITIONAL USE PERMIT #10-49 to exceed 1200 square feet of accessory building area – 2160 sq. ft. requested.

Petitioner: Myron Hofer

Location: 26767 465th Ave 2 miles southeast of Wall Lake

General Information

Legal Description - Tract 2 Miller's Addition SE1/4 in Section 35-T101N-R51W

Present Zoning – A-1 Agriculture

Existing Land Use - Residential

Parcel Size – 5.8 Acres

Staff Report: Pat Herman

Staff Analysis

The property is located to miles southeast of Wall Lake with access from 465th Avenue, a township road. To the east and west of the site is agricultural land, to the north and south are residential lots. The petitioner wishes to exceed 1200 square feet of accessory building. Section 12.07 of the County Zoning Ordinance states:

- (D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:
 - (1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

In 2008 the Planning Commission approved a total accessory building area of 4,053 square feet on the adjoining lot to the north at 26759 465th Avenue. There is another lot further north at 26749 465th Avenue which has 3,924 sq. ft. of building area.

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.

This request will not impact property values and the requested size is smaller than what exists in the area.

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

There are already a number of residential acreages in the area and many of the available residential building eligibilities have been used.

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

Access to the property is via 465st Street. There is an existing driveway onto the road and no added driveways are proposed.

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

There is adequate space on the property for the approved residential use 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.

There should be little of the above impacts from the allowed residential use.

A building inspection is required. The building inspector will measure the outside perimeter of the building to ensure that the size does not exceed 2,150 square feet.

Recommendation

Staff finds that the request does not exceed the maximum accessory building area which has been approved for this area of the county and recommended approval of Conditional Use Permit #10-49 with the following conditions:

- 1) Accessory building area shall not exceed 2,160 square feet.
- 2) The building shall be limited to one story in height.
- 3) A building inspection is required to measure the outside dimensions of the building.
- 4) A building permit is required.
- 5) The building shall be an accessory use to the continued use of the property as a residential lot.
- 6) No commercial uses or the storage of commercial equipment shall be allowed on the property. The buildings shall be used strictly for the petitioner's personal, non-commercial storage.

Action

A motion was made by South and seconded by Rogen to **approve** Conditional Use Permit #10-49 with the conditions stated. The motion passed unanimously.

Conditional Use Permit #10-49 – APPROVED.

ITEM 7. CONDITIONAL USE PERMIT #10-43 to allow a wind anemometer tower.

Petitioner: Scot Pulse

Location: 5 miles northwest of Humboldt

General Information

Legal Description - NW ¼ in Section 18-T103N-R52W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 160 Acres

Staff Report: Pat Herman

Staff Analysis

The applicant is requesting to construct a temporary meteorological tower near the intersection of 252nd Street and 454th Avenue for gathering wind speed, direction, and velocity data. The meteorological tower is used in determining the feasibility of wind generation and specifically designed for collecting wind energy resource measurements. The proposed tubular steel tower would be approximately 60 meters (183 feet) in height. The tower will utilize guy wires that will be anchored with standard screw-in anchors, arrow-head anchors or rebar anchors, depending on the soil conditions. Wind speed and direction sensors will be placed at several intervals along the tower. A temperature sensor is also often attached to the tower near the logger. The sensors then relay data to a data logger at the base of the tower. A solar panel will provide power to the data collection system, which will then transmit the data via cell phone on a regular basis. The applicant has indicated that this temporary tower may be collecting data for two (2) to five (5) years.

The applicant has indicated that no cranes or concrete foundations area required for the construction of the tower. It was also stated that a pickup truck is used to transport the tower components to the site and a three-man crew can usually install the tower within a couple of days.

Based on the data, the applicant has indicated that subsequent wind generation towers could be installed in the area. Staff has indicated to the applicant that any future wind generation towers require a conditional use permit for each tower and a building permit prior to construction.

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

The proposed tower should have very limited effect on the surrounding properties. The area is primarily agricultural in nature. Furthermore, this tower is a temporary use and would be removed in approximately two to five years after construction. Property values should not be impacted.

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

The temporary tower should not impede orderly development or hinder improvements of the vacant properties in the area. As the primary use is agricultural, there is very little vacant property with the majority of land being utilized for crops or livestock production.

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

A field approach will provide access to the temporary tower. No other facilities or improvements are needed.

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

The proposed use should not require much parking. The site will not be visited for periods of time. When an operator is on site, only one or two parking spaces would be needed. Staff will recommend that two (2) off-street parking spaces 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 tower should not produce odor, fumes, noise or vibration. The applicant has indicated that safety lights are not required at this height, so there should be no nuisance lighting.

Recommendation

Staff found that the proposed temporary tower is acceptable to the area. Staff recommended approval of conditional use permit #10-43 with the following conditions:

- 1) That the tower shall not exceed 60.50 meters in height.
- 2) That the applicant shall obtain a building permit prior to the erection of the temporary tower. Standard A-1 setbacks shall apply.
- 3) That any FAA lighting requirements are met and any permits are obtained if necessary, and that if lighting is required, red lighting shall be used at night.
- 4) That the tower be removed within six (6) years after the building permit is issued. Any future wind generation devices would require a new conditional use permit approval.
- 5) That fencing and bright tape and/or paint is placed around each of the guy anchors for safety purposes.
- 6) That when the tower is removed it shall leave little indication of its presence.
- 7) That two off-street parking spaces be provided.

Action

A motion was made by South and seconded by Rogen to **approve** Conditional Use Permit #10-43 with the conditions stated. The motion passed unanimously.

Conditional Use Permit #10-43 – APPROVED.

ITEM 8. CONDITIONAL USE PERMIT #10-44 to allow a wind anemometer tower.

Petitioner: Scot Pulse

Location: 7 miles west of Colton

General Information

Legal Description - E ½ SW ¼ in Section 33-T104N-R52W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 80 Acres

Staff Report: Pat Herman

Staff Analysis

The applicant is requesting to construct a temporary meteorological tower near the intersection of 250th Street and 456th Avenue for gathering wind speed, direction, and velocity data. The meteorological tower is used in determining the feasibility of wind generation and specifically designed for collecting wind energy resource measurements. The proposed tubular steel tower would be approximately 60 meters (183 feet) in height. The tower will utilize guy wires that will be anchored with standard screw-in anchors, arrow-head anchors or rebar anchors, depending on the soil conditions. Wind speed and direction sensors will be placed at several intervals along the tower. A temperature sensor is also often attached to the tower near the logger. The sensors then relay data to a data logger at the base of the tower. A solar panel will provide power to the data collection system, which will then transmit the data via cell phone on a regular basis. The applicant has indicated that this temporary tower may be collecting data for two (2) to five (5) years.

The applicant has indicated that no cranes or concrete foundations area required for the construction of the tower. It was also stated that a pickup truck is used to transport the tower components to the site and a three-man crew can usually install the tower within a couple of days.

Based on the data, the applicant has indicated that subsequent wind generation towers could be installed in the area. Staff has indicated to the applicant that any future wind generation towers require a conditional use permit for each tower and a building permit prior to construction.

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

The proposed tower should have very limited effect on the surrounding properties. The area is primarily agricultural in nature. Furthermore, this tower is a temporary use and would be removed in approximately two to five years after construction. Property values should not be impacted.

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

The temporary tower should not impede orderly development or hinder improvements of the vacant properties in the area. As the primary use is agricultural, there is very little vacant property with the majority of land being utilized for crops or livestock production.

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

A field approach will provide access to the temporary tower. No other facilities or improvements are needed.

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

The proposed use should not require much parking. The site will not be visited for periods of time. When an operator is on site, only one or two parking spaces would be needed. Staff will recommend that two (2) off-street parking spaces 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 tower should not produce odor, fumes, noise or vibration. The applicant has indicated that safety lights are not required at this height, so there should be no nuisance lighting.

Recommendation

Staff found that the proposed temporary tower is acceptable to the area. Staff recommended approval of conditional use permit #10-44 with the following conditions:

- 1) That the tower shall not exceed 60.50 meters in height.
- 2) That the applicant shall obtain a building permit prior to the erection of the temporary tower. Standard A-1 setbacks shall apply.
- 3) That any FAA lighting requirements are met and any permits are obtained if necessary, and that if lighting is required, red lighting shall be used at night.
- 4) That the tower be removed within six (6) years after the building permit is issued. Any future wind generation devices would require a new conditional use permit approval.
- 5) That fencing and bright tape and/or paint is placed around each of the guy anchors for safety purposes.
- 6) That when the tower is removed it shall leave little indication of its presence.
- 7) That two off-street parking spaces be provided.

Action

A motion was made by South and seconded by Rogen to **approve** Conditional Use Permit #10-44 with the conditions stated. The motion passed unanimously.

Conditional Use Permit #10-44 – APPROVED.

ITEM 9. CONDITIONAL USE PERMIT #10-45 to allow a wind anemometer tower.

Petitioner: Scot Pulse

Location: 6 miles north of Humboldt

General Information

Legal Description - SW ¼ in Section 9-T103N-R52W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 160 Acres

Staff Report: Pat Herman

Staff Analysis

The applicant is requesting to construct a temporary meteorological tower near the intersection of 252nd Street and 456th Avenue for gathering wind speed, direction, and velocity data. The meteorological tower is used in determining the feasibility of wind generation and specifically designed for collecting wind energy resource measurements. The proposed tubular steel tower would be approximately 60 meters (183 feet) in height. The tower will utilize guy wires that will be anchored with standard screw-in anchors, arrow-head anchors or rebar anchors, depending on the soil conditions. Wind speed and direction sensors will be placed at several intervals along the tower. A temperature sensor is also often attached to the tower near the logger. The sensors then relay data to a data logger at the base of the tower. A solar panel will provide power to the data collection system, which will then transmit the data via cell phone on a regular basis. The applicant has indicated that this temporary tower may be collecting data for two (2) to five (5) years.

The applicant has indicated that no cranes or concrete foundations area required for the construction of the tower. It was also stated that a pickup truck is used to transport the tower components to the site and a three-man crew can usually install the tower within a couple of days.

Based on the data, the applicant has indicated that subsequent wind generation towers could be installed in the area. Staff has indicated to the applicant that any future wind generation towers require a conditional use permit for each tower and a building permit prior to construction.

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

The proposed tower should have very limited effect on the surrounding properties. The area is primarily agricultural in nature. Furthermore, this tower is a temporary use and would be removed in approximately two to five years after construction. Property values should not be impacted.

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

The temporary tower should not impede orderly development or hinder improvements of the vacant properties in the area. As the primary use is agricultural, there is very little

vacant property with the majority of land being utilized for crops or livestock production.

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

A field approach will provide access to the temporary tower. No other facilities or improvements are needed.

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

The proposed use should not require much parking. The site will not be visited for periods of time. When an operator is on site, only one or two parking spaces would be needed. Staff will recommend that two (2) off-street parking spaces 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 tower should not produce odor, fumes, noise or vibration. The applicant has indicated that safety lights are not required at this height, so there should be no nuisance lighting.

Recommendation

Staff found that the proposed temporary tower is acceptable to the area. Staff recommended approval of conditional use permit #10-45 with the following conditions:

- 1) That the tower shall not exceed 60.50 meters in height.
- 2) That the applicant shall obtain a building permit prior to the erection of the temporary tower. Standard A-1 setbacks shall apply.
- 3) That any FAA lighting requirements are met and any permits are obtained if necessary, and that if lighting is required, red lighting shall be used at night.
- 4) That the tower be removed within six (6) years after the building permit is issued. Any future wind generation devices would require a new conditional use permit approval.
- 5) That fencing and bright tape and/or paint is placed around each of the guy anchors for safety purposes.
- 6) That when the tower is removed it shall leave little indication of its presence.
- 7) That two off-street parking spaces be provided.

Action

A motion was made by South and seconded by Rogen to **approve** Conditional Use Permit #10-45 with the conditions stated. The motion passed unanimously.

Conditional Use Permit #10-45 – APPROVED.

ITEM 10. CONDITIONAL USE PERMIT #10-46 to allow a wind anemometer tower.

Petitioner: Scot Pulse

Location: 2 miles north of Humboldt

General Information

Legal Description - N ½ SW ¼ in Section 33-T103N-R52W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 80 Acres

Staff Report: Pat Herman

Staff Analysis

The applicant is requesting to construct a temporary meteorological tower near the intersection of 256th Street and 456th Avenue for gathering wind speed, direction, and velocity data. The meteorological tower is used in determining the feasibility of wind generation and specifically designed for collecting wind energy resource measurements. The proposed tubular steel tower would be approximately 60 meters (183 feet) in height. The tower will utilize guy wires that will be anchored with standard screw-in anchors, arrow-head anchors or rebar anchors, depending on the soil conditions. Wind speed and direction sensors will be placed at several intervals along the tower. A temperature sensor is also often attached to the tower near the logger. The sensors then relay data to a data logger at the base of the tower. A solar panel will provide power to the data collection system, which will then transmit the data via cell phone on a regular basis. The applicant has indicated that this temporary tower may be collecting data for two (2) to five (5) years.

The applicant has indicated that no cranes or concrete foundations area required for the construction of the tower. It was also stated that a pickup truck is used to transport the tower components to the site and a three-man crew can usually install the tower within a couple of days.

Based on the data, the applicant has indicated that subsequent wind generation towers could be installed in the area. Staff has indicated to the applicant that any future wind generation towers require a conditional use permit for each tower and a building permit prior to construction.

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

The proposed tower should have very limited effect on the surrounding properties. The area is primarily agricultural in nature. Furthermore, this tower is a temporary use and would be removed in approximately two to five years after construction. Property values should not be impacted.

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

The temporary tower should not impede orderly development or hinder improvements of the vacant properties in the area. As the primary use is agricultural, there is very little vacant property with the majority of land being utilized for crops or livestock production.

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

A field approach will provide access to the temporary tower. No other facilities or improvements are needed.

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

The proposed use should not require much parking. The site will not be visited for periods of time. When an operator is on site, only one or two parking spaces would be needed. Staff will recommend that two (2) off-street parking spaces 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 tower should not produce odor, fumes, noise or vibration. The applicant has indicated that safety lights are not required at this height, so there should be no nuisance lighting.

Recommendation

Staff found that the proposed temporary tower is acceptable to the area. Staff recommended approval of conditional use permit #10-46 with the following conditions:

- 1) That the tower shall not exceed 60.50 meters in height.
- 2) That the applicant shall obtain a building permit prior to the erection of the temporary tower. Standard A-1 setbacks shall apply.
- 3) That any FAA lighting requirements are met and any permits are obtained if necessary, and that if lighting is required, red lighting shall be used at night.
- 4) That the tower be removed within six (6) years after the building permit is issued. Any future wind generation devices would require a new conditional use permit approval.
- 5) That fencing and bright tape and/or paint is placed around each of the guy anchors for safety purposes.
- 6) That when the tower is removed it shall leave little indication of its presence.
- 7) That two off-street parking spaces be provided.

Action

A motion was made by South and seconded by Rogen to **approve** Conditional Use Permit #10-46 with the conditions stated. The motion passed unanimously.

Conditional Use Permit #10-46 – APPROVED.

ITEM 11. CONDITIONAL USE PERMIT #10-48 to transfer 1 residential building eligibility from Tract 1 Elber's Addition to the SW1/4 NW1/4; all in Section 36-T102N-R48W.

Petitioner: John Burkman

Location: east edge of Brandon

Staff Report: Scott Anderson

General Information

Present Zoning – A-1 Agriculture
Existing Land Use - A-1 Agricultural
Parcel Size – 40 Acres

Staff Report: Scott Anderson

Staff Analysis

The applicant is requesting to return a residential building eligibility to its original location. The eligibility was transferred in July of 2008 with Conditional Use Permit #08-54. The applicant subsequently platted Tract 1 of Elber's Addition and the eligibility was moved to Tract 1. Tract 1, or the SW1/4NW 1/4 has not been developed.

The subject property is located on the east edge of Brandon. The subject property is zoned A-1Agricultural. The area is in an agricultural area to the north and east of the subject property, and urban development of the City of Brandon to the south and west.

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

A right-to-farm covenant should be required to notify potential buyers of the realities of location in an agricultural area.

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

The transfer of the building eligibility meets the requirements of density zoning.

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

As the applicant does not have any immediate plans for this eligibility and is simply returning it to its original location, no plans for utilities, drainage or access are needed.

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

Off street parking requirements will be provided once when/if a single family residence is constructed.

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 return of the eligibility to its original quarter section will not increase dust, noise, fumes or other elements that might be considered a nuisance.

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and recommended approval of Conditional Use Permit #10-48 with the following conditions:

- 1) A right-to-farm notice covenant shall be placed on the deed of any platted lot used in conjunction with this transfer prior to the issuance of a building permit.
- 2) That any new driveway approach not constructed from an existing access shall be approved by the Brandon Township.

Action

A motion was made by South and seconded by Rogen to **approve** Conditional Use Permit #10-48 with the conditions stated. The motion passed unanimously.

Conditional Use Permit #10-48 – APPROVED.

ITEM 12. Zoning Text Amendment #10-12 to require a CUP for adaptive reuse of a existing single family dwelling.

Petitioner: Planning Department

Staff Report: Scott Anderson

Staff Analysis:

This zoning text amendment would create a definition for adaptive reuse and allow adaptive reuse as a condition use in the zoning district that allow single family residence use. Adaptive reuse would be defined as, “the modification of an existing single family dwelling, upon the issuance of a building permit, into an accessory building or use”. The intent is to allow property owners to re-use a former existing residence as an accessory structure when a new residence is constructed. The text amendment would allow review of any proposed adaptive reuse as a conditional use. The conditional use permit process would allow input from surrounding property owners. The Planning Commission could then place appropriate conditions on such requests.

Recommendation

Staff recommended approval of the Zoning Text Amendment #10-12 amending Article 26 to create a definition for adaptive reuse and amending Articles 3, 4, 5, and 9 to make adaptive reuse a conditional use within the A-1 Agricultural District, RR Rural Residential District, R-1 Residential District and RC Recreation/Conservation District.

ORDINANCE MC16-

AN ORDINANCE AMENDING THE 1990 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY BY REVISING THE A1 AGRICULTURE DISTRICT, RR RURAL RESIDENTIAL DISTRICT, R-1 RESIDENTIAL DISTRICT AND DEFINITIONS.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC16-90, the 1990 Revised Zoning Ordinance for Minnehaha County is hereby amended as follows:

Section 1: That Article 3.00 is hereby amended adding the following conditions use and shall read:

3.04 CONDITIONAL USES. (EE) Adaptive reuse.

Section 2: That Article 4.00 is hereby amended adding the following conditions use and shall read:

4.04 CONDITIONAL USES. (P) Adaptive reuse.

Section 3: That Article 5.00 is hereby amended adding the following conditions use and shall read:

5.04 CONDITIONAL USES. (K) Adaptive reuse.

Section 4: That Article 9.00 is hereby amended adding the following conditions use and shall read:

9.04 CONDITIONAL USES. (V) Adaptive reuse.

Section 5: That Article 26.00 is hereby amended adding the following definition and shall read:

26.02 DEFINITIONS. 5.A. ADAPTIVE RESUSE. The modification of an existing single family dwelling, upon the issuance of a building permit, into an accessory building or use.

Adopted this _____, 2010.

MINNEHAHA COUNTY

Chair, Board of County Commissioners

ATTEST:

County Auditor

Action

A motion was made by South and seconded by Rogen to **approve** the Zoning Text Amendment #10-12 as stated. The motion passed unanimously.

Zoning Text Amendment #10-12 – APPROVED.

ITEM 13. CONDITIONAL USE PERMIT #10-41 to allow a equine activity center.

Petitioner: Jayne Solberg

Location: 25467 473rd Ave. 2.5 miles northeast of Crooks

General Information

Legal Description - N 990' E 660' (EX S 160.5' N 726' E 271.4') NE 1/4 SE 1/4 in
Section 30-T103N-R49W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 14 Acres

Recommendation

Staff recommended that the Planning Commission defer conditional use permit #10-41 to the August 23, 2010 Planning Commission meeting due to the request by the applicant and staff.

Action

A motion was made by South and seconded by Rogen to **defer** Conditional Use Permit #10-41 to the August 23, 2010 Planning Commission meeting. The motion passed unanimously.

Conditional Use Permit #10-41 – DEFERRED.

REGULAR AGENDA

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

Deferred from the June 28, 2010 meeting.

ITEM 4. CONDITIONAL USE PERMIT #10-35 to allow the transfer of one building eligibility from the NE ¼ SW ¼ to the SW ¼ SW 1/4 in Section 22-T103N-R50W and transfer one building eligibility from the NW ¼ NW ¼ of Section 27 to the the NW ¼ NE ¼ of Section 28; both in T103N-R50W.

Petitioner: Joan Eitrheim & Gary Brendtro

Location: 2 miles southeast of Lyons

General Information

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 40 Acres

Staff Report: Pat Herman

Staff Analysis

The petitioners would like to transfer two residential building eligibilities. The property is held in an estate and this request will allow an equitable division of the farm property. The transfer of building eligibilities requires action by the County Planning Commission as required in Section 3.04(Y) of the Minnehaha County Zoning Ordinance:

- (Y). The transfer of a building eligibility from one parcel to another parcel when all the following conditions are met: *(amended by MC16-69-04 3/16/04)*
 - 1).The transfer of building eligibility shall occur only between contiguous parcels under the same ownership. For purposes of this section, same ownership means: Two or more parcels of land owned or controlled by an individual or combination of individuals, corporations, partnerships, or other legal entities; with said owners described uniformly on the deed or other legally binding conveyance of each parcel. *(amended 16-87-06 8/19/06)*
 - 2).Suitability as a building site based on the following factors:
 - a). Agricultural productivity of the soil.
 - b). Soil limitations.
 - c). Orientation of the building site(s) with respect to road circulation and access to public rights-of-way.
 - 3).The minimum lot size shall be one acre but a larger area may be required when soil conditions warrant.
 - 4).The parcel from which the eligibility is transferred shall continue as agricultural land or remain in its present use.
 - 5). Approval has been granted by the appropriate governing entity for access onto a public road.

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 northern most building eligibility is being transferred from a land locked parcel to a site in which there is an existing tree grove. The parcel from which the eligibility is being transferred will remain in agricultural production. This transfer would move the eligibility closer to a proposed CAFO but the petitioners are aware of this proposed use. The second transfer, moving the eligibility further to the west, will move away from the CAFO.

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

The proposed transfers would not move a house closer to an existing CAFO. There is an application pending for a 400 head heifer CAFO a ½ mile south of this site. A residence will have some impact on agricultural uses in the area but moving the building eligibility will not increase the effects. There are existing residences which are closer to the proposed CAFO site. The northern transfer will preserve the portion of the land that is usable farm ground. It appears that the transfer to the west is an equal exchange for usable farm ground.

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

Access to the building sites will be from either County Highway 122 or 469th Ave, a Lyons Township Road. Prior to obtaining a building permit, driveway access will need to be obtained from the County Highway Department. Lyons Township does not require driveway permits.

Wastewater systems will be used and there is rural water in the area.

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

A minimum lot size of one acre allows sufficient space to meet the parking needs of 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.

A residential use should not create a nuisance of any of the items listed above.

Recommendation

Staff finds that the request is in conformance with Section 3.04 (Y) of the Minnehaha County Zoning Ordinance and recommended approval of Conditional Use Permit #10-35 with the following conditions:

- 1) The lots shall be platted and a right to farm notice covenant filed on the deed of the lots prior to the issuance of a building permit.
- 2) Written approval for driveway access shall be obtained from the County Highway Department if access is to be taken from Highway 122.

Public Testimony

Commissioner Cypher stated that the northern most eligibility is currently ½ mile away from the proposed CAFO.

Commissioner Randall stated that the proposed CAFO near these transfer sites was appealed to the County Commission. She made it clear that she had concerns about acting on this building eligibility transfer because of its location in relation to that CAFO. Commissioner Randall asked what the period of time was to file suit on an item that had been appealed to the County Commission. Commissioner O'Hara asked if they needed to wait in order to act on this item. Dustin DeBoer stated that from the date the County Commission made their decision on the CAFO there is a 20 day period in which a lawsuit can be filed in opposition to the County Commission's decision. He stated that happens the CAFO item will then go on to circuit court and there is no telling when this court date would be scheduled.

Joan Eitrheim (46904 254th ST) stated that her family needs to move the eligibilities in order to sell the land and divide up the estate. She informed the commissioners that the estate is being divided up between four sisters. Commissioner South asked Ms. Eitrheim what a Right-to-Farm notice means to her. She stated that it means that the land owner or buyer of the property understands the terms and conditions of agricultural related businesses in the area.

Commissioner Randall stated that she has an issue with moving a building eligibility closer to an approved CAFO. Commissioner Rogen added that this is a land use board and that decisions made need to benefit the surrounding land uses in the area. He continued to inform the commission and the public that this Board allows building eligibility transfers which many times results in an increase to the property values but very seldom do our decisions increase the property value of a business such as a CAFO in this same instance. Commissioner Rogen stated that the commission also needs to look out for and fight for the farmers best interests as well.

Commissioner Cypher asked the petitioner if she was opposed to the Commission deferring the item for 30 days. Mary Brendtro (208 E 5th Crooks) made it clear the family wanted to get the estate settled and did not want to defer the item. She stated that they are not moving these eligibilities in order to increase the property value. Ms. Brendtro continued to inform the commissioners that the family does not plan to build on these properties at this time.

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

Commissioner Cypher said that he would like to defer the item to next month's meeting to ensure that the no lawsuit was filed on the CAFO item. Commissioner Randall concurred saying that she did not want any decision taken by the Planning Commission to have any impact on a potential action against the CAFO.

Action

A motion was made by Cypher and seconded by Randall to **defer** Conditional Use Permit #10-35 to the August 23, 2010 Planning Commission meeting. The motion passed unanimously.

Conditional Use Permit #10-35 – DEFERRED.

ITEM 14. CONDITIONAL USE PERMIT #10-47 to exceed 1200 sq. ft. of accessory building area – 2400 sq. ft. requested.

Petitioner: Jim Vanderlinde

Location: 47576 Neener Circle 1 mile east of Renner

General Information

Legal Description - Tract 5a McCroskey Tracts in Section 10-T102N-R49W

Present Zoning – A-1 Agriculture

Existing Land Use - Residential

Parcel Size – 4.0 Acres

Report by: Ryan Streff

Staff Analysis:

The subject property is located in McCroskey Subdivision approximately one (1) mile east of Renner near the intersection of 258th Street and 476th Avenue. This property is in Section 10 of Mapleton Township. The petitioner has applied for a conditional use permit to exceed the 1,200 square feet of accessory building area. The petitioner is requesting a 2,400 square foot accessory building (40' x 60'). At this time there is an existing 1,056 square foot accessory building on the property that would be removed to construct the new 2,400 square foot accessory building.

Within McCroskey Subdivision and Blys Addition there are three (3) properties that exceed the maximum size permitted of 1,200 square feet of accessory building area. The accessory buildings that exceed this limit in the area are 1,280 sq. ft., 1,350 sq. ft., and 1,440 sq. ft. in size. All three (3) of these accessory building were built before the current 2001 zoning update to the Minnehaha County Zoning Ordinance. After this update in 2001, the county has enforced the maximum 1,200 sq. ft. of accessory building area in both the A-1 and RR districts where the properties were less than 40 acres in size. There is also one (1) additional larger building just south of the subject property in the Russman Addition that is 2,480 sq. ft. in size. This building was originally constructed on a farmstead in 1995 and in 1998 the NE portion of this property was platted to create a separate parcel. (Note: See Map of Building Sizes)

Since the zoning update in 2001 five (5) conditional use permit applications to exceed the 1,200 sq. ft. of accessory building area have been denied within the McCroskey Subdivision and Blys Addition. The Planning Commission denied accessory building requests that ranged from 1,440 sq. ft. to 2,400 sq. ft. in size.

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.

Due to the current circumstances existing in the area, accessory buildings of this size should not be permitted as five (5) other accessory buildings have been denied since the 2001 zoning update. Staff feels that permitting an accessory building of this size would be unreasonable due to the fact that adjacent properties that have applied for conditional use permits to exceed the 1,200 sq. ft. of accessory building area and have been denied.

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

An accessory building of this size is not considered to be normal development in this particular zoning district or rural subdivision. Currently there are sixteen (16) accessory building with McCroskey Subdivision and Blys Addition that do not exceed the 1,200 sq. ft. of accessory building area.

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

No other infrastructure improvements are required at this time.

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

There is ample space on the property for 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.

There shall be no offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property. The proposed building will only be used for personal storage and no commercial or business related activities will be allowed. All outside lighting shall be fully cut-off and fully-shielded with recessed lights that prohibit the spillage of light beyond the boundaries of the subject property.

Recommendation:

Staff finds that the proposed building would not be in character with the other properties within this district or rural subdivision. Staff recommended denial of conditional use permit #10-47.

Public Testimony

Jim Vanderlinde (47576 Neener Circle) stated that he purchased the property back in 1998 before the county adopted these strict accessory building ordinances. He informed the commission that he wants to build this structure for personal storage purposes only. Mr. Vanderlinde stated that his old garage was damaged in a storm last year and had to be torn down. He made it clear that this new structure would not obstruct any view from neighboring property. Mr. Vanderlinde continued to state that he has talked with adjacent property owners and they are not opposed to the construction of the building. He informed the commission that the building will be constructed in an area that is lined with evergreen trees so the building will not be seen by adjacent property owners. He stated that he does not plan on building a structure that is 2,400 sq. ft. but rather a structure that is 1,800 square feet.

Discussion

Commissioner Cypher stated that the commission had been consistent in maintained accessory building size in this neighborhood to 1200 square feet. He continued to state that if this accessory building is approved all the other property owners will comeback asking why they were denied previously.

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

Action

A motion was made by Cypher and seconded by South to **deny** Conditional Use Permit #10-47. The motion passed unanimously.

Conditional Use Permit #10-47 – DENIED.

Old Business

No old business

New Business

County Commissioner Jeff Barth thanked the Planning Commissioners for the job they do and the difficult decisions they have to make. Commissioner Barth also gave an update on the Drainage Task Force and the public hearings they have had regarding the drainage ordinance.

Scott Anderson explained that SECOG finished a new chapter on the Comprehensive Plan. He stated that they meet on Thursday to discuss the progress on the Plan.

County Commission Items

No County Commission items.