

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
April 22, 2013

A meeting of the Planning Commission was held on April 22, 2013 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Jeff Barth, Mike Cypher, Wayne Steinhauer and Mark Rogen.

STAFF PRESENT:

Scott Anderson, Pat Herman, Ryan Streff and Dustin Powers - County Planning

The meeting was chaired by Wayne Steinhauer.

CONSENT AGENDA

A motion was made by Rogen and seconded by Duffy to **approve** Items 1 thru 4 and 6 thru 9 of the consent agenda. Item 5 was moved to the regular agenda. The motion passed unanimously.

ITEM 1. Approval of Minutes – March 25, 2013

A motion was made by Rogen and seconded by Duffy to **approve** the minutes from March 25, 2013. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #13-022 to exceed 1200 square feet of accessory building area – 3360 Requested.

Petitioner: David Lund

Property Owner: same

Location: 46702 Sage Street; West Acres Subdivision

General Information

Legal Description – Tract 33 West Acres SW ¼ of Section 17-T101N-R50W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – > 1 Acre

Staff Report: Scott Anderson

Staff Analysis

The property is located approximately three (3) miles west of Sioux Falls, on Sage Street in West Acres Subdivision. The parcel is located in Wayne Township.

The petitioner would like to construct an accessory building on this site. In subdivisions or residential developments which exceed four lots in size, accessory building area is limited to 1200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner's requested size of 3,360 square feet, which is smaller than the largest existing accessory building in the area. The petitioner's request would be consistent with the other large accessory building in the area. The other large existing accessory building in the area has a building that is 4,050 square feet and is located at 46702 Snowberry Street as shown on the map included with this report.

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

Given the existence of the other larger accessory building in the area, the construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The building can only be used as an accessory structure to the established residential use and no commercial or business activities are allowed. The applicant has provided statement indicating that the building will be used to store his camper, boat and trailers.

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

The applicant would be constructing a new approach to the building from Buckeye Street. Wayne Township would need to approve the new approach. As this is only an accessory structure, no other infrastructure is required.

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.

Staff finds that the requested conditional use is appropriate for this residential area. The recommended conditions of approval will help to ensure the over-sized building will be in character with the surrounding area. The Planning Department will perform a building inspection to measure the size of the structure. Measurements are taken of the outside perimeter.

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 #13-22 with the following conditions:

1. The total accessory building square footage shall not exceed 3,360 square feet.
2. The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
3. The accessory building shall not exceed one story in height.

4. A building inspection is required to determine that the building does not exceed 3,360 square feet measured from the outside perimeters.
- 5) A building permit is required
- 6) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.
- 8) That prior to applying for a building permit, the applicant shall obtain an approach permit from Wayne Township for the new approach onto Buckeye Street.

Action

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-022 with the stated conditions. The motion passed unanimously.

CUP #13-022 – APPROVED

ITEM 3. CONDITIONAL USE PERMIT #13-021 to allow a temporary fireworks stand.

Petitioner: Nalini Payer

Property Owner: Mike Cole

Location: 26391 463rd Avenue; 1 mile north of Wall Lake Corner

General Information

Legal Description – Lot 1 Parcel 4 Minnehaha County W.A. NO. 7 SE ¼ of Section 9-T101N-R51W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 8.08 Acres

Staff Report: Scott Anderson

Staff Analysis

The subject property is located approximately 500 feet north of the intersection of 264th Street and 463rd Avenue. This property is in the A-1 Agricultural District. All of the surrounding properties are zoned A-1 Agriculture District. Although the predominate zoning in the vicinity is A-1 Agriculture, the area is generally a residential area with more than 10 single family residences surrounding the subject property.

The petitioner has applied for this conditional use permit to allow an annual sixteen (16)-day fireworks sale from June 23rd to July 8th. Fireworks will be sold from a tent, trailer or portable POD located at the site and placed in the southeast corner of the property along County Highway 151 (463rd Avenue). The parking on the site would be located on the subject property and will not be allowed in the right-of-way of County Highway 151. Staff conducted a site inspection on April 5, 2013 and found that the gravel driveway and parking area indicated on the site plan have not been constructed. Staff recommends that prior to the operation of the fireworks stand, the applicant shall have the parking area constructed and graveled as shown on the site plan.

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 limited time frame for the fireworks sales, the use should have no effect on the enjoyment of the surrounding property or on property values in the area. The hours of operation should be limited to 9:00 am to 10:00 pm. This is consistent with other firework sales approved by conditional use permit in the County.

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

Given the temporary nature of the proposed use, there should be no impact on future development of the area.

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

Access to the site will be from County Highway 151. This access also serves as the main entrance to the subject property. If needed, the petitioner will provide a portable restroom at the site.

No other new utilities, access roads, drainage or facilities will be needed.

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

There is ample parking available on this site to handle the vehicle load generated by this temporary land 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.

This temporary use should not create any nuisances that are listed above.

Recommendation

Staff recommended approval of Conditional Use Permit #13-21 with the following conditions:

1. That the temporary sales of fireworks shall be allowed to operate annually between June 23rd and July 8th.
2. That access shall be from County Highway 151.
3. That the business shall be allowed to operate between the hours of 9:00 am and 10:00 pm.
4. That one on-site sign is permitted and shall not exceed 32 square feet in size. Two signs or banners are permitted on the proposed tent and shall not exceed 15 square feet each. No other signs, banners or flags, with the exception of the American flag, shall be permitted in conjunction with the use.
5. That sign(s) shall not be placed on the property prior to June 23rd and shall be removed by July 8th.
6. That fireworks shall be sold from a tent, trailer or portable POD located at the site and placed in the southwest corner of the lot.
7. That parking shall not be allowed within the right-of-way of County Highway 151. All parking shall be contained to the parking area on the site plan.
8. That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
9. That prior to the operation of the fireworks stand, the applicant shall have the driveway and parking areas constructed and graveled as shown on the site plan.
10. That the applicant is responsible for any accidents/injuries that may occur on the site, and that Minnehaha County is not liable.

Action

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-021 with the stated conditions. The motion passed unanimously.

CUP #13-021 – APPROVED

ITEM 4. REZONING #13-003 to rezone from A-1 Agricultural to C Commercial.

Petitioner: Paul Roe
Property Owner: same
Location: North side of Rowena

General Information

Legal Description – Tract 2 Roe’s Addition NE ¼ of Section 26-T101N-R48W
Present Zoning – A-1 Agricultural
Existing Land Use - Vacant
Parcel Size – 3.75 Acres

Staff Report: Pat Herman

Staff Analysis

The subject property is located in Rowena, at the north end of Douglas Avenue. Land to the north, east and west is zoned for agricultural use. To the southwest is a large lot zoned for commercial use and to the southeast there is industrial zoning where the old grain elevator is located.

The petitioner is requesting to zone a portion of his property from the A1 Agricultural District to the C Commercial District. His intent is to construct mini-storage units on this site. Mini-storage units require a conditional use permit and at that time the property would be reviewed for setbacks, building outlay, paving and other issues.

There are two residential dwellings that are south of the site on Douglas Avenue. The petitioner will be required to provide 30 feet of buffering as dictated by the Red Rock Corridor Plan. The Red Rock Corridor Plan indicates the two residential lots as commercial on the future land use plan.

The petitioner’s lot is shown as agricultural on the same plan. Rowena has traditionally been a designated area for commercial development. The petitioner’s property is immediately adjacent to the commercial designation on the future land use map and has direct access from Douglas Avenue.

Recommendation

Staff finds that the request to rezone property to the C Commercial District is consistent with the Minnehaha County Comprehensive Plan and compatible with the future land use map for the Red Rock Corridor. Staff recommended approval of Rezoning #13-003.

Action

A motion was made by Rogen and seconded by Duffy to **recommend approval** of Rezoning #13-003. The motion passed unanimously.

Rezoning #13-003 – APPROVAL RECOMMENDED

ITEM 6. CONDITIONAL USE PERMIT #13-027 to transfer one residential building eligibility from the SE ¼ SE ¼ to the SW ¼ SE ¼; both in Section 6-T102N-R49W.

Petitioner: Glen Helgeson

Property Owner: same

Location: 1 mile north of Crooks/Renner Exit

General Information

Legal Description – SW ¼ SE ¼ of Section 6-T102N-R49W

Present Zoning – A-1 Agricultural District

Existing Land Use - Agriculture

Parcel Size – 40 Acres

Staff Report: Scott Anderson

Staff Analysis

The applicant wants to transfer a building eligibility from the SE ¼ of the SE ¼ to the SW ¼ of the SE ¼. The applicant has indicated that moving the eligibility would aid in future drainage of the lot and provide a better sight for a house. They are moving the eligibility out of a more productive agricultural area into a pasture area. The applicant has owned this property since 1975.

On April 3, 2013, staff conducted a site visit. There are no animal confinement operations near the location of the transfer. The transfer is located in an area with many residential lots. Vintage Village and many other residences are located approximately ½ mile to the south.

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

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating 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 does not increase the number of dwelling units allowed in this section.

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

Rural water is available in the area and a waste water system will be utilized. The applicant indicated that the proposed building site will use a driveway that will come off of SD Kiwanis Avenue.

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

Off-street parking requirements will be provided for once a single-family residence is constructed on the subject property.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and

lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance.

Recommendation

Staff finds this conditional use permit request to be consistent with density zoning and recommended approval of Conditional Use Permit #13-27 with the following condition:

1. The lot shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.

Action

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-027 with the stated conditions. The motion passed unanimously.

CUP #13-027 – APPROVED

ITEM 7. CONDITIONAL USE PERMIT #13-029 to transfer three residential building eligibilities from the NW ¼ NE ¼ & N ½ NW ¼ of Section 12-T102N-R48W to the SW ¼ SE ¼ (ex. Hokenstad's Addition) & S ½ SW ¼ of Section 1-T102N-R48W.

Petitioner: Cynthia Tompkins

Property Owner: Dorothy Hokenstad Estate

Location: 3 miles northeast of Brandon

General Information

Legal Description – SW ¼ SE ¼ (ex. Hokenstad's Addition) & S ½ SW ¼ of Section 1-T102N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use - Agriculture

Parcel Size – 119.25 Acres

Staff Report: Ryan Streff

Staff Analysis

Conditional Use Permit #13-029 is a request to transfer three (3) residential building eligibilities. The property is located in Section 1 and 12 of Brandon Township. The dominate land use of the surrounding area is agricultural with scattered residential acreages. The transfer will move the 3 eligibilities to the adjacent property to the north. Approval of this transfer request would move three eligibilities **from** the NW1/4 NE1/4 & N1/2 NW1/4 of Section 12 Brandon Township **to** the SW1/4 SE1/4 & S1/2 SW1/4 in section 1 of Brandon Township.

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's request to transfer the building eligibilities will not increase the number of dwellings allowed under density zoning. The transfer will move the eligibilities from agricultural farm ground to adjacent agricultural farm ground to the north. The transfer should have no affect on surrounding property or property values.

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

There should be no major effect upon the normal and orderly development of the area.

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

The construction of new dwelling units is required to be in conformance with Minnehaha County's zoning, septic and building code. Brandon Township does require driveway/culvert permits and the petitioner must receive approval from the township before constructing any new driveway or access. This approval must be obtained before Minnehaha County can issue a building permit for any structures on the property.

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

The minimum required lot size for a residential dwelling is 1 acre. This is sufficient space to meet any parking needs for 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.

These should not be at a level as to constitute a nuisance.

Recommendation

Staff found that the requested transfer is in conformance with the zoning ordinance and recommended approval of Conditional Use Permit #13-029 with the following condition:

1. That each housing site shall be platted and a right-to-farm notice covenant shall be filed prior to the issuance of a building permit.
2. That Brandon Township shall approve any new driveway access before a building permit is obtained.

Action

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-029 with the stated conditions. The motion passed unanimously.

CUP #13-029 – APPROVED

ITEM 8. CONDITIONAL USE PERMIT #13-030 to exceed 1200 square feet of accessory building area – 1350 Requested

Petitioner: Charles Risty

Property Owner: same

Location: 48390 266th Street; 1 mile northeast of Rowena

General Information

Legal Description – Tract 1 Risty's Addition E ½ SE ¼ of Section 24-T101N-R48W

Present Zoning – A-1 Agricultural

Existing Land Use - Residential

Parcel Size – 5.91 Acres

Staff Report: Ryan Streff

Staff Analysis

This subject property is located in Section 24 of Split Rock Township, approximately one and a half (1 ½) mile northeast of Rowena. The petitioner's property is 5.91 acres in size and is located in the A-1 Agricultural Zoning District. Adjacent properties that surround this site are zoned A-1 Agricultural and are mainly used as residential acreages and for agricultural farming operations.

The petitioner has applied for Conditional Use Permit #13-030 to exceed 1,200 sq. ft. of accessory building area at 48390 266th Street. The property owner is requesting the conditional use permit to construct a 1,350 sq. ft. (30' x 45') accessory storage building. This would be the only accessory building on the property. A conditional use permit application is required by Section 12.07 (D) of the Minnehaha County Zoning Ordinance which states: *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.*

Larger accessory buildings areas can be found within the general vicinity and range in size from 364 sq. ft. to 1,734 square feet. (See attached accessory building area map)

The property owner shall meet all regulations regarding accessory buildings. These regulations are found in *Article 12.07 Accessory Buildings and Uses*. Minimum setbacks required for accessory buildings in the A-1 Zoning District that are located within 10 feet of the main building are front yard 30', side yard 7', and rear yard 30'. Accessory building that are not considered part of the main building shall be no closer than three feet to the side and rear property lines. There is a minimum setback of 50' from any section line road or major arterial street.

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

There are larger accessory building areas in the general vicinity of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure will not impact the neighboring properties. The construction of this accessory building should not

impede on the enjoyment or use of the surrounding properties or affect property values.

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

The construction of the proposed accessory building should have no impact on further construction or development within the general area. The building will only be used for the owner's personal storage, residential related items, and no commercial or business activities will be allowed. This use will not affect the residential uses or agricultural land in the area.

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

Access to the proposed accessory building will be through a driveway located at 48390 266th Street. This driveway also provides access to the residential dwelling unit on the property.

No other infrastructure improvements are required at this time.

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

The property has sufficient parking for all residential activities.

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 uses in the building which should constitute these types of nuisances.

Recommendation

Staff found that the proposed accessory building size conforms to the general sizes of other accessory building areas in the vicinity and recommended approval of Conditional Use Permit #13-030 with the following conditions:

- 1) That the accessory building area shall not exceed 1,350 square feet on the property.
- 2) That the building shall not exceed one story in height.
- 3) That a building inspection is required to measure the outside dimensions of the building.
- 4) That a building permit is required.
- 5) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 6) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage shall be allowed.
- 7) That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 8) That the Planning & Zoning Department reserves the right to enter and inspect accessory buildings at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

Action

A motion was made by Rogen and seconded by Duffy to **approve** Conditional Use Permit #13-030 with the stated conditions. The motion passed unanimously.

CUP #13-030 – APPROVED

ITEM 9. PRELIMINARY PLAN #13-002 for The Meadows.

Petitioner: Mary Kidwiler
Property Owner: same
Location: West side of Hartford

General Information

Legal Description – Tract 1 The Meadows Addition of Section 16-T102N-R51W
Present Zoning – The Meadows Planned Development District
Existing Land Use - Agricultural
Parcel Size – 30 Acres

Staff Report: Pat Herman

The petitioner has requested that this item be deferred indefinitely. Minnehaha County, the City of Hartford and the petitioner are examining options for sewer and water hook-up to Hartford.

Recommendation

Staff recommended deferral of Preliminary Plan #13-002 The Meadows.

Action

A motion was made by Rogen and seconded by Duffy to **defer** Preliminary Plan #13-002. The motion passed unanimously.

Preliminary Plan #13-002 – DEFERRED

ITEM 5. CONDITIONAL USE PERMIT #13-025 to allow a banquet/reception hall with off-site parking.

Petitioner: Sapari Enterprises

Property Owner: VFS, LLC

Location: 26665 481st Avenue; ½ mile south of Iverson Crossing intersection

General Information

Legal Description – Lot 1 & 2 of Tract 1 Jeanne’s Addition NE ¼ & SE ¼ of Section 28-T101N-R48W

Present Zoning – Perry Planned Development District

Existing Land Use - Vacant

Parcel Size – 2 Acres

Staff Report: Dustin Powers

Staff Analysis

The applicant has applied for a conditional use permit to allow a banquet/reception hall in the Perry Planned Development District to have required parking spaces off-site from the property with the banquet/reception hall use. This applicant has purchased Lots 1 & 2 to construct a banquet/reception hall. According to Article 15.01 of the 1990 Revised Zoning Ordinance for Minnehaha County:

- (B). Parking spaces for all structures shall be located on the same site as the structure such parking is intended to serve; except that by conditional use, parking may be located within 300 feet of the use it is intended to serve.*

On October 12th, 2012, staff met with the representatives of the project to discuss the potential of allowing the banquet/reception hall. At the time we discussed the need to amend the Perry Planned Development District to allow the banquet/reception hall use. Also staff discussed that this would be in the Red Rock Corridor Overlay District and presented the requirements that the project would be subject to if the amendment was approved. On October 23rd, 2012, staff received a site plan for one-half acre with just the building on the site plan. Staff indicated to the applicant the one-half acre was not sufficient and that even one acre would probably not be large enough to meet the site plan requirements because the parking, driveways, landscaping, etc were not shown on the submitted site plan.

On December 18th, 2012 the text amendment to allow the banquet/reception hall in Subarea F of the Perry Planned Development was approved by the County Commission.

On January 22nd, 2013 the applicant submitted a plat for Lots 1 & 2 to be platted as two, 1-acre lots, even though a site plan had not been approved for the one acre lot.

On March 15th, 2013 a site plan was filed with the Planning Office that did not meet the requirements for the lot. On March 18th, 2013 another site plan was filed with corrections; however, still did not meet the requirements set forth by the zoning ordinance. On March 20th, 2013 a meeting with staff was held to address the issues with the site plan’s missing

requirements. After discussions the applicant submitted a site plan on March 21st, showing the parking on Lots 1 & 2.

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 parking plan should have little impact on neighboring properties. The construction of the required parking spaces on Lots 1 & 2 should not impede on the enjoyment or use of the surrounding properties or effect 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 parking should have no impact on further construction or development within the subdivision or general area. The parking for Lots 1 & 2 should be used for the banquet/reception hall on Lot 2.

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

Access to the proposed banquet/reception hall would be through the proposed joint access to Lots 1 & 2 (481st Avenue). Rural water will be extended to the building and a septic system will be provided for the on-site wastewater system.

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

The applicant subdivided the land into two, 1-acre parcels prior to receiving site plan approval for the development. Therefore, the only option for the applicant to receive site plan approval for the banquet/reception hall is to allow the required and overflow parking off-site from the facility. The zoning ordinance does call out for these situations and staff is satisfied with allowing the additional parking on Lot 1.

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 banquet/reception hall use on this property. All outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.

Staff has found that these conditions for approval will help ensure that if the required parking spaces are split or sold to another property owner that the site will have to go through a site plan review process. The planning department will perform a review of the final site plan to ensure that the site plan is in accordance with the zoning ordinance.

Recommendation

Staff recommended approval of conditional use permit #13-025 with the following conditions:

1. That if any portion of the required parking spaces is split or sold to another property owner, the site shall immediately go thru a site plan review process.
2. That the property shall be in conformance with the 1990 Revised Zoning Ordinance for Minnehaha County, which includes the Red Rock Corridor Overlay District standards.

Public Testimony

Commissioner Duffy stated that staff indicated that 66 parking spaces are required to be paved and wanted to know what the maximum amount of people that could be in that facility. Dustin Powers indicated that according to the building code the maximum occupancy for the facility is 320 people. The zoning ordinance requires one parking space for 100 square feet of building area.

Commissioner Barth asked what the driveway width was going to be. Dustin Powers indicated that he has spoke with the County Highway Department and they will be requiring a 36 foot wide driveway that can accommodate one lane in and two lanes out.

Sam Assam stated that this is going to be a very nice looking facility and the sole reason for the applications for conditional use permit and variance is based on financing. The applicant will officially own both properties but because he wishes to put most of the financing into the building they have had to finance the properties separately.

Action

A motion was made by Cypher and seconded by Barth to **approve** Conditional Use Permit #13-025 with the stated conditions. The motion passed unanimously.

CUP #13-025 – APPROVED

ITEM 10. VARIANCE #13-003 to eliminate the required 15’ landscaping buffer.

Petitioner: Sapari Enterprises

Property Owner: VFS, LLC

Location: 26665 481st Avenue; ½ mile south of Iverson Crossing intersection

General Information

Legal Description – Lot 1 & 2 of Tract 1 Jeanne’s Addition NE ¼ & SE ¼ of Section 28-T101N-R48W

Present Zoning – Perry Planned Development District

Existing Land Use - Vacant

Parcel Size – 2 Acres

Staff Report: Dustin Powers

Staff Analysis

The applicant is requesting approval to eliminate the landscaping buffer between Lots 1 & 2 of Tract 1 Jeanne’s Addition in Section 28 of Split Rock Township. These properties are in Subarea F of the Perry Planned Development District. The properties are also subject to the Red Rock Corridor Overlay District regulations which require a 15-foot landscaping buffer for each commercial property. According to Article 11.10.03 of the 1990 Revised Zoning Ordinance of Minnehaha County:

(D). Buffer Requirements

(1).A buffer or other form of visual screening shall be provided when certain identified land uses or districts abut other identified land uses or districts:

(a). The uses or districts necessitating a buffer as defined in this section are identified in Table 1. A buffer should be provided between any nonresidential and residential use, except for when agricultural and residential uses abut.

(b). Any outdoor storage area and/or garbage storage.

(2).Where required, the buffer shall consist of the widths identified in Table 1 and Table 2. Materials required in each buffer are identified in Table 3.

(3).For each bufferyard, the required materials in Table 3 shall be spaced evenly on center to the length of the required bufferyard.

Table 1: Bufferyards (width in feet)				
Developed Use	Neighboring Use			
	Agricultural	Residential	Commercial	Industrial
Agricultural				
Residential				
Commercial		30	15	10
Industrial		40	20	15

***All commercial uses which are allowed within the industrial zoned areas must meet the requirements set forth within the industrial zoning districts.**

Table 3: Bufferyard Materials	
Buffer Width	Required Materials Per 100 Linear Feet*
10 feet wide	4 trees
15 feet wide	5 trees
20 feet wide	6 trees
25 feet wide	7 trees
30 feet wide	8 trees
35 feet wide	9 trees
40 feet wide	10 trees
50 feet wide	12 trees

On October 12th, 2012, staff met with the representatives of the project to discuss the potential of allowing the banquet/reception hall. At the time we discussed the need to amend the Perry Planned Development District to allow the banquet/reception hall use. Also staff discussed that this would be in the Red Rock Corridor Overlay District and presented the requirements that the project would be subject to if the amendment was approved. On October 23rd, 2012, staff received a site plan for one-half acre with just the building on the site plan. Staff indicated to the applicant the one-half acre was not sufficient and that even one acre would probably not be large enough to meet the site plan requirements because the parking, driveways, landscaping, etc were not shown on the submitted site plan.

On December 18th, 2012 the text amendment to allow the banquet/reception hall in Subarea F of the Perry Planned Development was approved by the County Commission.

On January 22nd, 2013 the applicant submitted a plat for Lots 1 & 2 to be platted as two, 1-acre lots, even though a site plan had not been approved for the one acre lot.

On March 15th, 2013 a site plan was filed with the Planning Office that did not meet the requirements for the lot. On March 18th, 2013 another site plan was filed with corrections; however, still did not meet the requirements set forth by the zoning ordinance. On March 20th, 2013 a meeting with staff was held to address the issues with the site plan's missing requirements. After discussions the applicant submitted a site plan on March 21st, showing the parking on Lots 1 & 2 and the required landscaping between the lots. However, the applicant applied for a variance on March 28th, 2013 to eliminate the landscaping requirement between Lots 1 & 2.

1. That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.

Not all situations or events can be covered by a zoning ordinance and thus a mechanism is put into place in which the public can seek a variation to the regulations. In this situation, there are not any compelling set of circumstances or conditions which are somewhat unique and support the granting of a variance. The applicant subdivided the land into two, 1-acre parcels prior to receiving site plan approval for the development. The applicant has indicated that the property

was platted into two, 1-acre parcels for financing reasons; however staff doesn't believe that a financial hardship is an adequate reason to eliminate the zoning regulations.

2. That the Variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.

The proposed banquet/reception hall use is an allowable use in the Perry Planned Development District. The variance is requesting to eliminate the landscaping buffer required by the Red Rock Corridor Overlay District.

3. That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.

Strict application of the zoning ordinance would not be an unwarranted hardship on the property owner. The applicants were aware of the Red Rock Corridor Overlay District standards prior to the lots being subdivided and purchased.

4. That the granting of a Variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.

The purpose of the Red Rock Corridor Overlay District is to maximize the corridor's potential development while insuring the development is aesthetically pleasing and compatible with existing and future land uses. Eliminating the landscaping requirement could potentially diminish the purpose of the overlay district.

5. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

The proposed banquet/reception hall use is permitted for the property. The application for the variance is for the aesthetics of the property and denying the variance will not prohibit the reasonable use of the property.

Recommendation

Staff does not believe that there is an unwarranted hardship created by the zoning ordinance, therefore, staff recommended denial of Variance #13-003 to eliminate the landscaping buffer between Lots 1 & 2.

Public Testimony

Commissioner Steinhauer stated that the reason the landscaping is required between the two lots is because there is a lot line there and it doesn't matter that the same owner has both lots. Dustin Powers confirmed.

Sam Assam stated that this is a unique situation and the applicant will unify the lot into a single lot once the financing issues are taken care of and then the trees would not be required by the ordinance.

Commissioner Barth indicated that the landscaping would provide a good break for runoff water

that will be a result of the paved parking lot and building. Sam Assam indicated that the curb and gutter would prevent the water from reaching the landscaping buffer. Commissioner Steinhauer indicated that curb and gutter is not required for the parking area therefore it could be paved to work with the landscaping buffer.

Discussion

Commissioner Cypher stated that he is very reluctant to go against the Red Rock Corridor Overlay District and would be supporting the denial.

Commissioner Rogen stated that he is in support of the denial because if the Board approves it once it will set precedence for future applications.

Commissioner Barth stated that is not easy to convince the next owner to tear up the asphalt if we were to approve the variance but believes that the buffer on the north end of the two properties would be sufficient buffering for him as it is hard enough to run a business.

Commissioner Duffy stated that she was on Red Rock Corridor Task Force and took a lot of time deliberating what this area of the County should look like. At that time the Task Force was not sure what was going to happen with development in this area and other than this project we do not know what is going to develop in the future. Because there are two lots there should not be any reason for us to not deny this variance and set precedence for future developments.

Action

A motion was made by Cypher and seconded by Duffy to **deny** Variance #13-003. The motion passed unanimously.

Variance #13-003 – DENIED

Old Business

Ryan Streff presented information from past Minnehaha County Clean-Up Days.

New Business

No Items.