

Yankton County Planning Commission
August 9, 2016

The monthly meeting of the Yankton County Planning Commission was called to order by Chairperson Carl Kretsinger at 6:00 p.m. on August 9, 2016.

Members present at call to order: Sylliaasen, Gudahl, Kettering, Guthmiller, Pietila, Kretsinger, Klimisch and Becker, Schultz (6:05 PM), Kotalik (6:15 PM), Welch (6:50 PM).

Members absent: Svatos and Bodenstedt.

Action 8916A: Moved by Pietila, second by Kettering to approve the July 12, 2016 Planning Commission minutes as written.

By voice vote, all members present voted aye.

Motion carried.

Greg Henderson facilitated a Board Capacity workshop with the Planning Commission. The workshop outlined the process of understanding information and applying judgment to achieve strategic focus. The strategic focus will direct the implementation tools (substantive and procedural) to develop direction for Yankton County.

Brian McGinnis facilitated a Comprehensive Plan discussion on Chapter VII, Economy. The Planning Commission requested some clarification on earlier presentations and a review of previous chapters in future meetings. A conversation regarding the statistics and facts is beginning to develop policy for Yankton County.

The Planning Commission will meet at 6:00 PM, September 13, 2016 to discuss the Agriculture section.

Plat Considerations:

This was the time and place for plat request from Eileen Hillesland.

Lot 1, Parcel C, McVay Addition, SW1/4, NW1/4 and NW1/4, NW1/4, S18-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA, 434th Avenue, Yankton, SD.

Action 8916B:

Move by Kettering, second by Becker to recommend approval of the plat request. Said property is legally described as: Lot 1, Parcel C, McVay Addition, SW1/4, NW1/4 and NW1/4, NW1/4, S18-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA, 434th Avenue, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for a plat request from Phil Spady.

Lots 15 and Lot 16, Thon's Addition, S1/2, E1/2, W1/2, NW1/4 S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA SD Hwy 52, Yankton, SD.

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Action 8916C: Moved by Schultz, second by Klimisch to recommend approval of the plat.

Said property is legally described as: Lots 15 and Lot 16, Thon's Addition, S1/2, E1/2, W1/2, NW1/4 S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA SD Hwy 52, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with CrownCastle / AT&T. Applicant is requesting a Conditional Use Permit to provide antenna modifications on a Wireless Telecommunications Facility in an Agriculture District (AG) in Yankton County. Said property is legally described as NW1/4, S32-T94N-R57W, hereinafter referred to as Ziskov North Township, County of Yankton, State of South Dakota. The E911 address is 42943 308th Street, Tabor, SD.

Robert Naumann presented the application and recommends approval of the Conditional Use Permit. The project has met the requirements for Article 25 and will have a final inspection after the antennas are installed.

The Planning Commission reviewed the application and discussed the activity from previous applications. Mr. Naumann stated the projects have completed the final inspection and meet all the requirements in Article 25.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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CONDITIONAL USE
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Crown Castle

Parcel Number: 14.032.400.100

Legal description: NW1/4, S32-T94N-R57W

Physical Address: 42943 308 Street, Yankton, SD

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; Applicant requested CUP under Article 25, Section 2506 to modify an existing tower in an Agriculture District.
2. Notice of public hearing was given, as in Section 1803 (3-5); The applicant is not required to notify property owners with this application as stated in Article 25.

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3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 7:50 pm on August 9, 2016 in the Yankton County Government Center County Commission chambers. Mr. Mark Hennick, representing CrownCastle AT&T, requested a Conditional Use Permit to modify existing wireless communication tower in Yankton County. AT&T cooperated with Robert Naumann (Center for Municipal Solutions) to fulfill the requirements for Yankton County Ordinance #16, Article 25. Robert Naumann, representing CMS, stated the materials submitted by the applicant are essentially complete and all conditions of approval have been satisfied. The recommendation is approval of Conditional Use Permit with the following conditions: Granting permanent relief for provision of additional landscaping and screening requirements. This is to be completed and documentation sent to Yankton County and CMS for review and approval prior to final inspection. The Planning Commission discussed the application and post construction inspections. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this Ordinance described in the application, to include:
 - A. Recommend granting of the conditional use;
 - B. Recommend granting with conditions; or
 - C. Recommend denial of the conditional use.

The commission recommends granting of the conditional use permit with conditions stated in the following findings
5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; The applicant has shown sufficient access to property with established roadway (308 Street).
 - B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; All off right-of-way parking is in compliance with wireless tower sites as required by Article 25.
 - C. Refuse and service areas, with particular reference to the items in (A) and (B) above; Refuse and service areas are in compliance with Article 25.
 - D. Utilities, with reference to locations, availability, and compatibility; Utilities are currently available and will be in operational condition
 - E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering are provided permanent relief as stated in Article 25.

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- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; All signage will conform to Article 14, Yankton County Zoning Ordinance
- G. Required yards and other open spaces; Yards and open spaces have been met or exceeded

General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest. The use is compatible with adjacent properties and the granting of a Conditional Use Permit will not adversely affect the public interest. The recommendation is approval of Conditional Use Permit with the following conditions: Granting permanent relief for provision of additional landscaping and screening requirement. This is to be completed and documentation sent to Yankton County and CMS for review and approval prior to final inspection.

Action 8916D: Moved by Schultz, second by Becker to recommend approval of a Conditional Use Permit based on Finding of Facts dated August 9, 2016, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, to provide modification of an existing Wireless Telecommunication Tower. Said property is legally described as NW 1/4, S32-T94N-R57W, hereinafter referred to as Ziskov North Township, County of Yankton, State of South Dakota. The E911 address is 42943 308th Street, Tabor, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Neal Anthony. Applicant is requesting a variance of Minimum Lot Requirement from one (1) acre to .27 acre and from one (1) acre to .19 acre in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 4 & Lot 5, Block 3, Oak Hills, S13-T93N-R57W and Lot 2 & Lot 3, Block 3, Oak Hills, S13-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 154 Oak Hills Drive and 144 Oak Hills Drive, Yankton, SD.

Plat consideration:

Replat of Lot 3 and Lot 4, Block 3, Oak Hills Addition to be hereinafter known as Lot 3A and Lot 4A, Oak Hills Addition, S13-T93N-R57, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 154 Oak Hills Drive and 144 Oak Hills Drive, Yankton, SD.

Mr. Anthony stated the proposed plat will align the lot with the topography. A landscape plan will be implemented to remove trees and build a retaining wall to mitigate the erosion issues. The neighbor, Tom Vollmer, being represented by Mr. Anthony, is in agreement with the proposed plat request.

The Planning Commission discussed the application and determined the proposed plat will improve the landscape and topography issues on the property.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Neal Anthony

Parcel Number: 13.013.500.320 & 13.013.500.315

Legal description: Lot 4 & Lot 5, Block 3, Oak Hills, S13-T93N-R57W and Lot 2 & Lot 3,
Block 3, Oak Hills, S13-T93N-R57W

Physical Address: 154 Oak Hills Drive and 144 Oak Hills Drive, Yankton, SD.

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; *The residential lots are influenced by topography and difficult to properly maintain. The property descriptions will conform to current property maintenance and improved property appearance.*
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; *The hardship can be shared by other properties but is limited to properties influenced by topography issues.*
 - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; *The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.*
 - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. *No convenience, profit or caprice was shown.*
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. *The requested variance can be recurring with special circumstances discussed in the findings.*
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
 - A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved

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- and which are not applicable to other lands, structures, or buildings, in the same district; The property is demonstrating special conditions or circumstances with size and location and could be applicable to others structures or buildings when a topography issue occurs.
- B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of minimum lot requirement have been granted in Yankton County.
- C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are not a result of the applicant.
- D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (minimum lot requirement) have been recommended previously by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on July 28, 2016 (supported by affidavit), a legal notice was published on July 30, 2016 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on August 4, 2016.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 8:00 pm on August 9, 2016. Mr. Anthony stated the proposed plat will align the lot with the topography. A landscape plan will be implemented to remove trees and build a retaining wall to mitigate the erosion issues. The neighbor, Tom Vollmer, being represented by Mr. Anthony, is in agreement with the proposed plat request.
The Planning Commission discussed the application and determined the proposed plat will improve the landscape and topography issues on the property.
No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request.

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8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Minimum Lot Requirement is approved.

Action 8916E: Moved by Becker, second by Gudahl to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated August 9, 2016, of Minimum Lot Requirement from one (1) acre to .27 acre and from one (1) acre to .19 acre in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 4 & Lot 5, Block 3, Oak Hills, S13-T93N-R57W and Lot 2 & Lot 3, Block 3, Oak Hills, S13-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 154 Oak Hills Drive and 144 Oak Hills Drive, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

Action 8916F: Moved by Becker, second by Kettering to recommend approval of a plat. Said property is legally described as: Replat of Lot 3 and Lot 4, Block 3, Oak Hills Addition to be hereinafter known as Lot 3A and Lot 4A, Oak Hills Addition, S13-T93N-R57, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 154 Oak Hills Drive and 144 Oak Hills Drive, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Cyril Schrage. Applicant is requesting a Conditional Use Permit to move a Manufactured Home in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 4 & Lot 5, Block 4, Woodland Estates, S13-T94N-R57W, hereinafter referred to as Ziskov North Township, County of Yankton, State of South Dakota. The E911 address is 198 Kniest Avenue, Yankton, SD.

Mr. Schrage stated he requests to move a 2013 Manufactured Home to an existing pad (previous manufactured home) with installed utilities and septic system. Mr. Schrage stated he may change the plans to a modular home if financing is available. The intent at present time is to continue with the CUP request.

The Planning Commission discussed the application and stated the manufactured home was meeting the required performance standards; other properties in the area have manufactured homes and the property had a manufactured home in the past.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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CONDITIONAL USE
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Cyril Schrage

Parcel Number: 13.013.700.432

Legal description: Lot 4 & Lot 5, Block 4, Woodland Estates, S13-T94N-R57W

Physical Address: 198 Kniest Avenue, Yankton, SD

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; Applicant requested CUP under Article 7 Section 707 (7) to move a Manufactured Home in a Moderate Density Rural Residential District (R-2).
2. Notice of public hearing was given, as in Section 1803 (3-5); The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed Conditional Use Permit on July 27, 2016 (supported by affidavit), a legal notice was published on July 30, 2016 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on August 1, 2016.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; a public meeting was held at 8:10 pm on August 9, 2016 in the Yankton County Government Center County Commission chambers. Mr. Schrage stated he requests to move a 2013 Manufactured Home an existing pad (previous manufactured home) with installed utilities and septic system. Mr. Schrage stated he may change the plans to a modular home if financing is available. The intent at present time is to continue with the CUP request. The Planning Commission discussed the application and stated the manufactured home was meeting the required performance standards, other properties in the area have manufactured homes and the property had a manufactured home in the past. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this Ordinance described in the application, to include:
 - D. Recommend granting of the conditional use;
 - E. Recommend granting with conditions; or
 - F. Recommend denial of the conditional use.The commission recommends granting of the conditional use permit with conditions stated in the following findings.
5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

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- H. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; the applicant has shown sufficient access to property with established roadway (Kniest Avenue).
 - I. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; All off right-of-way parking is in compliance with proposed site plan requirements.
 - J. Refuse and service areas, with particular reference to the items in (A) and (B) above; Refuse and service areas are in compliance with Article 7.
 - K. Utilities, with reference to locations, availability, and compatibility; Utilities are currently available and will be in operational condition.
 - L. Screening and buffering with reference to type, dimensions, and character; Screening and buffering are provided as stated in Article 7.
 - M. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; All signage will conform to Article 14, Yankton County Zoning Ordinance
 - N. Required yards and other open spaces; Yards and open spaces have been met or exceeded as stated in Article 7.
6. General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest. The use is compatible with adjacent properties and the granting of a Conditional Use Permit will not adversely affect the public interest. The recommendation is approval of Conditional Use Permit requested CUP under Article 7, Section 707 (7) to move a Manufactured Home in a Moderate Density Rural Residential District (R-2) in Yankton County

Action 8916G: Moved by Schultz, second by Sylliaasen to recommend approval of a Conditional Use Permit based on Finding of Facts dated August 9, 2016, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, to move a Manufactured Home in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 4 & Lot 5, Block 4, Woodland Estates, S13-T94N-R57W, hereinafter referred to as Ziskov North Township, County of Yankton, State of South Dakota. The E911 address is 198 Kniest Avenue, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Jeff Gudahl. Applicant is requesting a variance of Minimum Lot Requirement from one (1) acre to .63 acre in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 5, Block 2, Woodland Estates, SE1/4, S13-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 105 Woods Circle, Yankton, SD.

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Plat consideration:

Lot 6 and Lot 7, Block 2, Woodland Estates, SE1/4, S13-T93N-R57, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 105 Woods Circle, Yankton, SD.

Mr. Gudahl stated the proposed plat will correct property boundaries to improve the residential property.

The Planning Commission discussed the application and determined the proposed plat will improve the residential property and increase conformity with a wider lot frontage.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Jeff Gudahl

Parcel Number: 13.013.700.250

Legal description: Lot 5, Block 2, Woodland Estates, SE1/4, S13-T93N-R57W

Physical Address: 105 Woods Circle, Yankton, SD.

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; *The residential lot is improved with improved lot line placement and increased zoning compliance by increasing the lot width.*
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; *The hardship can be shared by other properties but is limited to properties influenced survey issues.*
 - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; *The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.*
 - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. *No convenience, profit or caprice was shown.*

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2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. The requested variance can be recurring with special circumstances discussed in the findings.
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
 - A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property is demonstrating special conditions or circumstances with size and location and could be applicable to others structures or buildings when a property description issues occurs.
 - B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of minimum lot requirement have been granted in Yankton County.
 - C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are not a result of the applicant.
 - D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (minimum lot requirement) have been recommended previously by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on July 28, 2016 (supported by affidavit), a legal notice was published on July 30, 2016 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on August 4, 2016.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 8:20 pm on August 9, 2016. Mr. Gudahl stated the proposed plat will correct property lines to improve the residential property. The Planning Commission discussed the application and determined the proposed plat will improve the residential property and increase conformity with a wider lot frontage. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a

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finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request.

8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Minimum Lot Requirement is approved.

Action 8916H: Moved by Kettering, second by Shultz to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated August 9, 2016, of Minimum Lot Requirement from one (1) acre to .63 acre in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 5, Block 2, Woodland Estates, SE1/4, S13-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 105 Woods Circle, Yankton, SD.

By roll call vote, eight members present voted aye, one member present abstain.

Motion carried.

Action 8916I: Moved by Schultz, second by Kettering to recommend approval of a plat. Said property is legally described as: Lot 6 and Lot 7, Block 2, Woodland Estates, SE1/4, S13-T93N-R57, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 105 Woods Circle, Yankton, SD.

By roll call vote, eight members present voted aye, one member present abstain.

Motion carried.

This was the time and place for discussion with Debbie VanderPoel. Applicant is requesting a variance of Minimum Lot Requirement from twenty (20) acre to one (1) acre in an Agriculture District (AG) in Yankton County. Said property is legally described as S1/2, SW1/4, NW1/4, S27-T94N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 4216 Deer Boulevard, Yankton, SD.

Plat consideration:

Tract 1, VanderPoel Addition, S1/2, SW1/4, NW1/4, S27-T94N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 4216 Deer Boulevard, Yankton, SD.

Mrs. VanderPoel stated the proposed plat is to separate the production property from the farmstead property. The residential property will have an ownership change and the proposed plat will allow mortgage financing.

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The Planning Commission discussed the application and determined the proposed plat meets all farmstead requirements.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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Article 18, Section 1807

FINDINGS OF FACT

Applicant: Debbie Vander Poel

Parcel Number: 10.027.400.300

Legal description: S1/2, SW1/4, NW1/4, S27-T94N-R56W

Physical Address: 4216 Deer Boulevard, Yankton, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; *The residential property is separated from the production property to allow mortgage financing.*
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; *The hardship can be shared by other properties but is limited to properties requiring mortgage financing.*
 - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; *The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.*
 - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice. *No convenience, profit or caprice was shown.*
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. *The requested variance can be recurring with special circumstances discussed in the findings.*
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:

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- A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property is demonstrating special conditions or circumstances with size and location and could be applicable to others structures or buildings when property is separated to provide mortgage financing.
- B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of minimum lot requirement have been granted in Yankton County.
- C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are not a result of the applicant.
- D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (minimum lot requirement) have been recommended previously by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on July 28, 2016 (supported by affidavit), a legal notice was published on July 30, 2016 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on August 4, 2016.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 8:30 pm on August 9, 2016. Mrs. VanderPoel stated the proposed plat is to separate the production property from the farmstead property. The residential property will have an ownership change and the proposed plat will allow mortgage financing.
The Planning Commission discussed the application and determined the proposed plat meets all farmstead requirements.
No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request.

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8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. *The Planning Commission approves this request.*
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. *The variance request of Minimum Lot Requirement is approved.*

Action 8916J: Moved by Kotalik, second by Sylliaasen to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated August 9, 2016, of Minimum Lot Requirement from twenty (20) acre to one (1) acre in an Agriculture District (AG) in Yankton County. Said property is legally described as S1/2, SW1/4, NW1/4, S27-T94N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 4216 Deer Boulevard, Yankton, SD.

By roll call vote, all members present voted aye.
Motion carried.

Action 8916K: Moved by Becker, second by Sylliaasen to recommend approval of a plat. Said property is legally described as: Tract 1, VanderPoel Addition, S1/2, SW1/4, NW1/4, S27-T94N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 4216 Deer Boulevard, Yankton, SD.

By roll call vote, all members present voted aye.
Motion carried.

Pat Garrity gave a brief report on the July 28, 2016 Dairy Overlay meeting. He discussed the attendance and the demographics / county growth power point presentation.

Action 8916L: Moved by Gudahl, seconded by Becker for adjournment.

By voice vote, all members present voted aye.
Motion carried.

The next meeting of the Yankton County Planning Commission will be held at 6:00 P.M., Tuesday, September 13, 2016.

Respectfully submitted:
Patrick Garrity AICP
Zoning Administrator