

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION  
July 23, 2007**

A meeting of the Planning Commission was held on July 23, 2007 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Deb Bunde, Mike Cypher, Susie O'Hara, Mark Rogen, Don South, and Wayne Steinhauer

STAFF PRESENT: Scott Anderson, Phil Kappen, and Pat Herman - County Planning

The meeting was chaired by Don South.

**APPROVAL OF THE CONSENT AGENDA**

Items 4 & 5 were placed on the regular agenda at the request of the audience and Planning Commission. A motion was made by Cypher and seconded by O'Hara to approve the consent agenda (Items 4 & 5 removed). The motion passed unanimously.

**ITEM 1. MINUTES – June 25, 2007**

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

**Item 2 was deferred from the June 25th meeting.**

**ITEM 2. CONDITIONAL USE PERMIT # 07-36 to amend CUP #02-05 to allow mini-storage and revise hard surfacing requirements.**

Legal Description – Haug Steel Tract (ex Rd. & ex. Haug Addn.) SE1/4 in Section 12-T102N-R50W  
Location - 47176 258<sup>th</sup> St. Crooks exit of I-29  
Petitioner / Owner- Kevin Severson

**General Information**

Present zoning - C Commercial  
Existing Land Use - Commercial  
Parcel Size - 2.0 Acres

**Report by:** Scott Anderson

**Staff Analysis**

The applicant contacted staff on July 9, 2007 to determine the status of this conditional use permit request. The applicant requested to withdraw the request.

**Recommendation**

Staff recommended that the Planning Commission acknowledge the withdrawal of Conditional Use Permit #07-36 at the applicant's request.

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to accept the withdrawal of Conditional Use Permit #07-36. The motion passed unanimously.

**ITEM 3. CONDITIONAL USE PERMIT #07-58 -to allow outside storage for a fire truck assembly business.**

Legal Description – Lot 6 Block 2 Benson's 2<sup>nd</sup> Addn. NE1/4 of Section 13-T102N-R50W  
Location - 25814 Rudolph Ave. Renner/Crooks I-29 exit  
Petitioner / Owner- Tim Heiman

**General Information**

Present zoning - I-1 Industrial  
Existing Land Use - Industrial  
Parcel Size - 3.91 Acres

**Report by:** Phil Kappen

### **Staff Analysis**

The subject property is located along I-29 at the southwest quadrant of the Crooks/Renner interchange. To the south is agricultural land, to the west and north are industrially-zoned properties, and to the east is I-29. In 2004 the petitioner obtained a building permit for a building to house a fire-truck assembly operation. At that time the petitioner indicated that there would be no outside storage on the property and, based on that information, a determination was made that no conditional use permit would be required. Since that time the planning staff has been forced to address outside storage concerns on two occasions. The petitioner has now applied for a conditional use permit to allow outside storage.

#### **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 use of the property conforms with the uses on neighboring properties, with the zoning of the property and with the uses planned for this area under the 2015 growth plan. As the property lies along I-29 care must be taken to ensure that the appearance of the property is maintained in an acceptable state.

The petitioner proposes a fenced storage area to the south of the existing building. A fenced enclosure already exists in this area, however, the fence is not a screening fence. All outside storage should be screened from public view with a 6-foot screening fence. The petitioner has some materials inside this fence, but, as of the date of this report, there were still materials outside the fence on the south and west sides of the enclosure. Landscaping scrubs should also be required along the I-29 ROW. Trees can not be used do to the existing power lines. Since the use has been commenced without first obtaining the required permit, the zoning ordinance requires that the petitioner pay a penalty equal to the application fee. The petitioner has paid the \$250 application fee, but not the \$250 penalty fee. The petitioner should be required to pay the \$250 penalty fee as a condition to any approval of this permit.

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

The property immediately to the west is already zoned for industrial purposes. A tentative plan for a loop road has already been approved (includes Ashton Street, Rudolph Avenue, Melissa Street and Cottonwood Avenue) and that road would have to be constructed prior to the operation of any additional uses in that area. The loop road would have to be hard-surfaced and any parking or driving surfaces on the lots would also have to be hard-surfaced.

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

There is an existing hard-surface road that accesses the north edge of the subject property. Much of the parking and driving surfaces on the subject property are already hard-surfaced, however, there may be additional hard-surfacing that is required when the loop road is completed. At that time the petitioner will also have to address access to the road. At this time there is wide open access to the entire road. Once the road is constructed the petitioner will have to limit access to specific driveways.

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

Staff believes that there is ample space on the site for parking. No on-street parking can be 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.**

Staff has not received any complaints relative to odor, fumes, dust, noise, vibration, or lighting from this use. All outside lights should be of a shoebox style that directs the light downward.

### **Recommendation**

Staff finds that the proposed use is consistent with the types of uses found in the I-1 Industrial District and that the proposed use conforms with the county's comprehensive development plan. Staff recommended approval of the conditional use permit #07-58 with the following conditions:

- 1) All outside storage of equipment, parts, materials or scrap must be screened from public view by a screening fence. The fence shall be a minimum of 6 feet high, shall be of earth-tone colors, and shall be maintained with a minimum opacity of 90% over the full height of the fence. The screening fence shall be completed by September 1, 2007.
- 2) Landscaping shrubs shall be planted along the I-29 right-of-way at a maximum spacing of 13 feet. The shrubs shall be landscaping quality shrubs such as purple-leaf sandcherry or viburnum. All

shrubs shall be planted by October 1, 2007 and shall be maintained in a live state. All outside lighting shall be of a shoebox style that directs light downward and prevents light spillage beyond the boundaries of the subject property.

- 3) Upon completion of Rudolph Avenue the owners of the subject property shall prepare a revised site plan for review and approval by the planning staff which limits road access to specific driveways. Once staff has approved a plan, the property owner shall ensure that all operations conform to the approved plan and that any necessary added hard-surfacing is completed on the subject property. No on-street parking is allowed within the rights-of-way of any adjoining streets.
- 4) Must pay \$250 penalty fee by the appeal date of July 30, 2007. If the penalty fee is not paid by that deadline this item will be automatically appealed to the County Commission.

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to approve Conditional Use Permit #07-58 with the conditions as stated. The motion passed unanimously.

### **REGULAR AGENDA**

A motion was made by Steinhauer and seconded by O'Hara to approve the regular agenda with the addition of Items 4 & 5. The motion passed unanimously.

#### **ITEM 4. CONDITIONAL USE PERMIT #07-59 - to allow three single family dwellings.**

Legal Description – SE1/4 (ex. Erickson's Addn) in Section 9-T102N-R47W

Location - 4.5 miles north of Valley Springs

Petitioner / Owner- Harold Buck / Dean Gage

#### **General Information**

Present zoning - A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size - 137.50 Acres

**Report by:** Pat Herman

#### **Staff Analysis**

The property is located in Red Rock Township, approximately 4.5 miles north of Valley Springs and one mile west of the South Dakota/Minnesota border. There are a number of rural acreages in the area, the remainder of the surrounding property is being crop farmed. The applicant is requesting approval for three single family dwellings. This 137 acre parcel has three building eligibilities which all require conditional use permit approval. The applicant is only planning to develop one building site at this time, in the northeast corner of the quarter-quarter. A 4.5 acre tract has been platted and submitted for county approval.

#### **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.**

Additional houses in an agricultural area will have an impact on farming operations; however the requested approval does not exceed density zoning. The area planned for the first house is not suitable for farming and will be adjacent to an existing acreage.

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

The petitioner does not have other eligibilities. There are additional eligibilities available on the adjoining parcels which owned by separate property owners.

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

One lot will take access from 487<sup>th</sup> Avenue. The applicant has already obtained a driveway permit from Red Rock Township. The two remaining building eligibilities could access either the township road or County Highway 130. There are two existing approaches onto the highway. If the applicant wishes to change those access points, county highway approval is required.

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

The lots will be sufficient in size to handle all parking associated with 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.**

The items listed above should not be at the level as to constitute a nuisance.

There is an existing drainage ditch on this property in the northeast corner, on the portion being platted for a building site. In 2000 a drainage permit was issued to allow the property owner abutting this land to north, Gerald Bly, to place a new outlet in the open ditch and run a new exit solid drain tile to the outlet. The permit also allowed lateral tile to be added on each side of the existing tile. A waiver to allow the drain tile was signed by the current property owner, Dean Gage. Staff spoke with the petitioner and with the person who is buying the land, Bruce Boyd, regarding the existing drainage ditch and the importance of not impeding the water flow. Mr. Boyd stated that he understood the importance of maintaining the existing drainage ditch. The petitioner should be aware that it is a violation of state law to back water onto a neighbor's property.

**Recommendation**

Staff found the request to be in conformance with density zoning and recommended approval of Conditional Use Permit #07-59 with the following conditions:

- 1) The lots shall be platted and a right-to-farm notice covenant filed on the deed of each lot prior to the issuance of a building permit.
- 2) Written approval from Red Rock Township or the County Highway Department for driveway approaches.
- 3) The existing drainage ditch in the NE1/4 of the property with not be impeded in any manner.

**Public Testimony**

Ms. Herman explained that this quarter of land would exceed the number of dwelling units allowed under density zoning because of the date the lots had been recorded with the Register of Deeds. This parcel was legally recorded between 1979 and 1988. The zoning ordinance states that residential eligibilities then require a conditional use permit. The number of eligibilities is determined by dividing the parcel acres by 40 and rounding down. ( $137/40=3.4$ )

Harold Buck, the petitioner, stated that he had discussed the drainage issue with the person buying the property and with Gerald Bly. He is not opposed to any of the conditions.

Gerald Bly, 48683 257<sup>th</sup> St., owns the land to the north and northwest. He wanted to clarify that the drainage would be allowed to continue and noted that some work would soon be needed on the ditch. He showed the Planning Commission the drainage permit he had obtained from the county.

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

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to approve Conditional Use Permit #07-59 with the conditions as stated. The motion passed unanimously.

**ITEM 5. CONDITIONAL USE PERMIT #07-60- to exceed 1200 sq. ft. of accessory building area (2000 sq. ft. requested.)**

Legal Description – Lot 2 Streich's Addition N990 W1/2 NW1/4 in Section 34-T101N-R48W

Location - 26712 481<sup>st</sup> Ave. 2.5 miles east of Sioux Falls

Petitioner / Owner- William Rausch

**General Information**

Present zoning - A-1 Agricultural

Existing Land Use - Agricultural  
Parcel Size - 8.42 Acres

**Report by:** Scott Anderson

**Staff Analysis**

The property is located three miles east of Sioux Falls, or four miles south of Brandon. The parcel is part of a residential subdivision which is accessed from 481<sup>st</sup> Avenue and Skyview Circle. This lot only has access from 481<sup>st</sup> Avenue.

The petitioner would like to construct an accessory building on this site. In subdivisions 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 2,000 sq. ft. is smaller than the largest existing accessory buildings in the area located at 48110 Skyview Circle and 48119 Skyview Circle. There are several other large accessory buildings located in the subdivision. Square footage for accessory buildings on the neighboring properties range from 1,056 sq. ft. at 48114 Skyview Cir., 2,400 sq. ft. at 48119 Skyview Cir., 2,332 sq. ft. at 26728 481<sup>st</sup> Ave., and 3,440 sq. ft. at 48124 Skyview Circle. The petitioner's requested size of 2,000 sq. ft. would be consistent with the accessory building square footage on the other properties in the neighborhood.

**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.**

Given the existence of other larger accessory buildings, 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 for the personal storage of the petitioner's residential related items and no commercial or business activities are allowed.

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

There is existing access from 481<sup>st</sup> Avenue.

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

There is sufficient parking for any 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 offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property.

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 #07-60 with the following conditions:

- 1) The total accessory building square footage shall not exceed 2,000 square feet.
- 2) The building shall be used only for the petitioner's personal residential storage. No commercial or business uses or storage shall be allowed.
- 3) The building shall not exceed one story in height.
- 4) A building inspection is required.

**Public Testimony**

The petitioner stated that he wished to increase the size of the building he was requesting from 2,000 sq. ft. to 2,160 square feet as he could get the larger building for the same price. Mr. Anderson stated he was not opposed to this change.

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

Based on the staff report and public testimony, a motion was made by Cypher and seconded by O'Hara to approve Conditional Use Permit #07-60 with the following conditions:

- 1) The total accessory building square footage shall not exceed 2,160 square feet.
- 2) The building shall be used only for the petitioner's personal residential storage. No commercial or business uses or storage shall be allowed.
- 3) The building shall not exceed one story in height.
- 4) A building inspection is required.

The motion passed unanimously.

**ITEM 6. CONDITIONAL USE PERMIT REVIEW # 06-31 -to allow a 2400 head finisher hog barn and holding pond for an existing CAFO.**

Legal Description – SE1/4 & SW1/4 NE1/4 of Section 22-T103N-R31W  
Location - .Ron Steineke 6 miles north of Hartford

**General Information**

Present zoning - A-1 Agricultural  
Existing Land Use - Agricultural  
Parcel Size - 200 Acres

**Report by:** Phil Kappen

**Staff Analysis**

The subject property is located along 464<sup>th</sup> Avenue (Co. Hwy149) approximately 5 miles north of Hartford. The property owner obtained a conditional use permit in 2006 to replace an existing CAFO (older hog buildings) with a new confinement facility and to construct a holding pond for an existing beef feedlot. Conditional Use Permit #06-31 was approved unanimously by the Planning Commission with the following conditions:

- 1) The replacement 2,400 head finisher hog barn (SE1/4) shall be located adjacent to the existing finisher barn in the N1/2 N1/2 SE1/4 of Section 22
- 2) The existing cattle feedlot in the northeast quarter and the swine finishing facility relocating from the southeast quarter of Section 22 shall both be limited to 1000 animal units each.
- 3) The petitioner shall prepare a landscaping plan that covers both facilities for approval by the planning staff. At a minimum, the plan shall include trees and shrubs around both the holding pond area and on south side of the replacement finishing facility. All belts shall be a minimum of five rows in width. All plants in the landscaping plan shall be established with one year of the completion of construction of the holding pond or the replacement barn. Any trees that die shall be replanted within one growing season.
- 4) Both the existing 1000 animal unit feedlot (NE1/4) and the replacement swine facility relocating from the SE1/4 shall obtain permits from the South Dakota Department of Environment and Natural Resources. Copies of all state approved construction plans shall be filed with the Minnehaha County Planning Office.
- 5) As a part of the state permit the petitioner shall have annual nutrient management plans prepared and approved by the state. All waste management shall be performed in conformance with this plan. Copies of an executive summary of the approved nutrient management plan shall be filed with the Minnehaha County Planning Department which show the sites proposed for nutrient application and the means of application. Copies of the full nutrient management plan shall be provided to the county upon request.
- 6) All liquid waste from the feedlot holding pond and all waste from the replacement swine facility shall be injected or knifed into the ground.
- 7) Upon completion of the replacement finishing facility all seven old swine buildings in the SE1/4 shall be removed.

Mr. Steineke has not met all of the required conditions of the approved conditional use permit. The status of each condition is detailed as follows:

- 1) Okay – replacement barn located in proper location.
- 2) The animal number seem to be in conformance, however, Mr. Steineke has also kept cattle in the old location which was to be replaced by the new building.

- 3) Mr. Steineke has had a landscape plan prepared for the replacement swine building which appears adequate. These trees are planned to be planted in spring of 2008. The Planning Office, however, has not yet received a proposed landscaping plan for the holding pond area.
- 4) It appears that Mr. Steineke has received state approval for the swine portion of his operation. We have not, however, received notification that the cattle portion of the operation has received the required state approval. It may be that this action is in the middle of an approval process, but, Mr. Steineke has not provided those details to the planning office.
- 5) We have not received the complete executive summary of an approved nutrient management plan. A map showing the proposed application sites has been provided, but a brief discussion of the manner of application has not been provided to the planning office.
- 6) To the best of our knowledge at this time the liquid waste is being injected.
- 7) The seven old swine buildings, which were replaced by the replacement barn, are still on the property, and the petitioner has used these buildings and lots for housing livestock.

Staff has been able to contact Mr. Steineke on two occasions and he has indicated that he does not wish to remove the old buildings. If he did not agree with the conditions placed on the conditional use permit by the planning commission, however, he could have appealed the planning commission decision to the county commission. Mr. Steineke chose not to make that appeal within the required time frame. He is, therefore, bound by the approved conditions. Staff has subsequently tried to contact Mr. Steineke on at least three occasions to determine his progress in meeting the required conditions and have left messages on his answering machine. As of the date of this report, he has not returned our phone calls. Staff has left two messages with Mr. Steineke informing him of the date and time of the July Planning Commission meeting and that his item would be reviewed at that meeting. A copy of this staff report was also mailed to Mr. Steineke.

**Recommendation:**

Mr. Steineke should be required to address the status of his efforts to comply with the requirements of his conditional use permit. This should be done at a planning commission meeting. The Planning Commission has two options at this time. You could:

- 1) Take action to revoke the conditional use permit due to Mr. Steineke's failure to comply with the permit conditions, or
- 2) Direct Mr. Steineke to comply with all conditions by a certain date and defer any action on the CUP until after that deadline.

You cannot take any action to amend the conditional use permit at this time as there has been no official application from a petitioner requesting such action. Staff recommends the second option of deferral and requests that you set a deadline date by which Mr. Steineke must be in full compliance with the conditions of his permit.

**Public Testimony**

Commissioner Bunde asked why the petitioner was allowed to operate if he had not received the required permits from the state for the cattle operation/holding pond. Isn't there a time period, such as 1 year, in which these things should be completed? Mr. Kappen explained that the swine portion of the facility had been permitted, however the holding pond was still being reviewed by the State. He agreed with Commissioner Bunde that when the application came in it was presented as improving waste management facilities.

Dave Hill, 809 W. 10<sup>th</sup> St., representing Ron Steineke, addressed each of the seven conditions listed by the Planning Department.

- 1) is ok.
- 2) There was a 1 month period where there were 20 cow/calf pairs in the buildings.
- 3) Mr. Steinke thought the landscape plan had been forwarded to the office. He provided a conservation district map for the north site.
- 4) Has a letter from the state to turn in.
- 5) Mr. Steinike thought he had provided everything that was required but will provide the one page narrative.
- 6) is a non-issue.
- 7) This is the big issue. The original plan was to build on the south site, replacing the existing buildings. At the meeting there was discussion about moving the facility to the north. This concept was raised and accepted. Why do the buildings need to be removed if the north site was developed? Mr. Hill contended

that this condition was accidentally left in. The buildings are essentially empty except for the 1 month he had the calves in the building. He would like to use them for storage and for other animals. This really should be been addressed a year ago. Mr. Hill stated that the new building is in use, but there is still some finishing work needed to be done.

Ron Steineke, the property owner, stated that the buildings are completely gutted and will never be used for hogs again. It would not be the end of the world if he had to take them down. But he would like to keep them and use the buildings for storage. Commissioner Cypher pointed out that this was approved as a replacement facility with the conditions that the buildings would be removed.

Commissioner South stated that Mr. Steineke had used the buildings for cattle, even when they were supposed to be removed. He asked Mr. Steineke why he had not returned Phil Kappen's phone calls. Mr. Steineke stated that whenever Phil calls its always argumentative and that he doesn't care for Phil and Phil doesn't care for him. Commissioner South asked how much time Mr. Steinike thought he needed to remove the buildings. Mr. Steineke thought the colonies might be able to use the buildings and he requested a year.

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

The Commission members discussed what still needed to be finished by the petitioner to meet the conditions of the conditional use permit. This would be to complete state approval for the holding pond, the narrative for the manure plan, a completed landscaping plan and removal of the buildings. Commissioner Cypher stated that the Planning Commission relied on the state approval for the technical details of these operations.

Based on the staff report and public testimony, a motion was made by Steinhauer and seconded by Rogen to defer any action on Conditional Use Permit #06-31 provided that Mr. Steineke:

- 1) Shall provide the Planning Department with a comprehensive landscape plan, a one page brief discussing the application manner of manure, and the required state approval for the holding pond no later than August 10, 2007. If this is not completed Conditional Use Permit #06-31 will be brought back before the Planning Commission on August 27, 2007.
- 2) The seven swine buildings in the SE1/4 of Section 22-T103N-R34W shall be removed from the property no later than October 13, 2007. If this is not completed Conditional Use Permit #06-31 will be brought back before the Planning Commission on October 22, 2007.

**ITEM 7. ZONING TEXT AMENDMENT #07-04 – Amendments to Article 23 Zoning Permits and Article 25 General Provisions.**

Petitioner – Planning Department

**Report by:** Pat Herman

**Staff Analysis**

The Planning Department is proposing several amendments to the 1990 Revised Zoning Ordinance for Minnehaha County. The changes will affect Article 23.00 Zoning Permits and Article 25.00 General Provisions. The amendments are as follows:

Article 23.00: These sections are being changed by replacing the words "zoning permit" with the words "building permit". Planning Staff is proposing the term change to make this section compatible with the wording used in the International Building Code. The words "building permit" are also better understood by the general public. Zoning Permits are still required prior to a change of use or occupancy within a building.

Section 25.02 (A): This section addresses the punishment for violations of the zoning ordinance. This year the South Dakota Legislature raised the fine which can be levied for a misdemeanor. This change will site the state law which establishes the punishment, instead of listing the exact amount.

A copy of the ordinance is attached. Removals are shown with strike outs, additions are underlined.

**Recommendation**

The staff recommended approval of zoning text amendment #07-04.

**Public Testimony**

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

Based on the staff report and public testimony, a motion was made by Bunde and seconded by Cypher to recommend approval of Zoning Text Amendment #07-04. The motion passed unanimously.

ORDINANCE MC

AN ORDINANCE AMENDING THE 1990 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY BY REVISING THE TEXT PERTAINING TO ZONING AND BUILDING PERMITS AND GENERAL PROVISIONS.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

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

**Section 1: That Article 23.00 is hereby amended to read:**

**ARTICLE 23.00**  
**BUILDING ZONING PERMITS**

SECTIONS: 23.01 Building Zoning Permits Required  
23.02 Application  
23.03 Information on Site Plan  
23.04 Issuance  
23.05 Validity of Permit  
23.06 Expiration  
23.07 Suspension or Revocation  
23.08 Zoning Permits Required

23.01 BUILDING ZONING PERMITS REQUIRED. It shall be unlawful for any person, firm or corporation to erect, construct, change, enlarge, alter, repair, move, improve, remove, convert, demolish, use, occupy or maintain any building or structure ~~or land use~~ regulated by this ordinance or cause the same to be done without first obtaining a separate building zoning permit for each building or structure ~~or land use~~ change from the Office of Planning & Zoning.

23.02 APPLICATION. To obtain a building zoning permit, the applicant ~~shall first file an application, therefore, in writing on a form furnished by the~~ shall apply at the Office of Planning & Zoning. Every applicant application shall:

(A). Identify and describe the work to be covered by the permit for which application

is made.

- (B). Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
- (C). Indicate the proposed use or occupancy and work proposed.
- (D). Be accompanied by a site plan.
- (E). Be signed by permittee, or his authorized agent, who may be required to submit evidence to indicate such authority.
- (F). Give such other data and information as may be required by the Planning Director.

23.03 INFORMATION ON SITE PLAN. Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance and all relevant laws, ordinances, rule, and regulations.

EXCEPTION: The Planning Director may waive the submission of plans, if he finds that the nature of the work or change in land use applied for is such that reviewing of plans is not necessary to obtain compliance with this ordinance.

23.04 ISSUANCE. The application, plans, building permit fee and other data filed by an applicant for a building zoning permit shall be reviewed by the Planning Director. Such plans may be reviewed by other departments to verify compliance with any applicable laws or requirements under their jurisdiction.

If the Planning Director finds that the work described in an application for a permit and the plans, and other data filed therewith, conform to the requirements of this ordinance and other pertinent laws and ordinances, ~~and that the fees specified in Article 24.00 have been paid, he shall issue a permit~~ the building permit shall be issued.

The Planning Director may issue a building zoning permit for the construction or use of part of a building or a structure before the entire plans for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this ordinance. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building, structure, or use will be granted.

23.05 VALIDITY OF PERMIT. The issuance or granting of a permit or approval of plans shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this ordinance or of any other ordinance of the jurisdiction. No permit presuming to give authority to violate or cancel the provisions of this ordinance shall be valid.

23.06 EXPIRATION. Every building zoning permit issued under the provisions of this

ordinance shall expire by limitation and become null and void if the building or work or use authorized by such permit is not commenced within 180 days from the date of such permit, or if the building, work, or use authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall first be obtained to do so, provided no changes have been made or will be made in the original plans and specifications for such work.

**23.07 SUSPENSION OR REVOCATION.** The Planning Director may, in writing, suspend or revoke a building zoning permit issued under the provisions of this ordinance whenever the permit is issued in error or on the basis of incorrect information supplied.

**23.08 ZONING PERMITS REQUIRED.** It shall be unlawful for any person, firm or corporation to change the use or occupancy within any building or structure regulated by this ordinance, or cause the same to be done without first obtaining a separate zoning permit for each use or occupancy change from the Office of Planning & Zoning. If the Planning Director finds that the change described in an application for a permit and the plans, and other data filed therewith, conform to the requirements of this ordinance and other pertinent laws and ordinances, the zoning permit shall be issued. A zoning permit shall be subject to the regulations of Section 23.06 Expiration and Section 23.07 Suspension or Revocation as outlined in this ordinance.

**Section 2: That Section 25.02(A) is hereby amended to read:**

- (A). The owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished ~~by a fine not to exceed \$200.00, 30 days in jail, or both~~ pursuant to SDCL 7-18A-2. Each and every day that such violation continues may constitute a separate offense.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Minnehaha County, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

1 <sup>st</sup> Reading	July 31, 2007
Legal Ad. – Argus Leader	August 8, 2007
Dell Rapids Tribune	August 8, 2007
Garretson Weekly	August 9, 2007
Public Hearing	August 21, 2007
Fact of Adoption – Argus Leader	August 27 & September 3, 2007
Dell Rapids Tribune	August 29 & September 5, 2007
Garretson Weekly	August 29 & September 5, 2007
Effective Date	September 25, 2007

**OLD BUSINESS**

Mr. Anderson briefed the Commission on the Brower industrial subdivision just south of Hartford. He stated that he had met with Richard Brower and 6-7 property owners concerning the condition of Jeffery St. They are going to meet with the Township Board on August 14 to discuss paving options. Mr. Anderson said that Mr. Brower did not want to step up to the plate and take responsibility for repairing the road.