

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
January 25, 2010

A meeting of the Planning Commission was held on January 25, 2010 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

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

The meeting was chaired by Chair Susie O'Hara

CONSENT AGENDA

There being no objections from the Planning Commission or audience, a motion was made by Steinhauer and seconded by Kelly to approve the consent agenda. The motion passed unanimously.

ITEM 1. MINTUES – November 23, 2009

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

Item 2. **CONDITIONAL USE PERMIT #10-01 to exceed 1200 sq. ft. of accessory building area. Request is for 4,576 square feet.**

Petitioner: Tim Kapperman

Location: 46282 264th Street, 3.5 miles south of Hartford

General Information

Legal Description - Tract 2 Schoenfelder's Addition S1/2 SE1/4 in Section 9-T101N-R51W

Present Zoning - A-1 Agricultural

Existing Land Use - Vacant Residential

Parcel Size - 6.27 Acres

Report by: Ryan Streff

Staff Analysis

This property is located in Wall Lake Township, approximately 3½ miles south of Hartford or 1 mile north of the Wall Lake corner. The surrounding land use is agriculture with many small to medium sized residential acreages (2.45 -20 acres). The parcel is part of four (4) continuous lots along 264th Street in section 9 of Wall Lake. The petitioner has applied for a conditional use permit to exceed the 1,200 sq. ft. accessory building area at 26282 264th Street. The property owner is requesting this conditional use permit to construct a 4,576 sq. ft. (44'x 104') accessory storage building.

The petitioner would like to exceed 1200 sq. ft. of accessory building area on his 6.27 acre lot. Section 12.07 D of the county zoning ordinance 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.

The petitioner is asking for approval for a 4,576 square foot accessory building. There are two (2) lots, one (1) of which is to the west and one (1) that is to the north, that have larger accessory building areas than what is proposed by this petitioner. In addition there are five (5) other lots in the vicinity that exceed the 1,200 square foot accessory building area. (See attached accessory building area map)

Currently there is no residential dwelling unit built on this parcel. The petitioner has been informed that accessory structures cannot be constructed on the lot without having a primary residential dwelling unit.

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 are front yard 30', side yard 7', and rear yard 30'.

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 structures in the general area 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 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 construction of the proposed accessory building should have no impact on further construction or development within the subdivision or general area. The building will only be used for the owner's personal storage or residential related items and no commercial or business activities will be allowed. This use will not affect the 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 along 264th Street. This access will also be the primary access point to the residential dwelling unit on the property. A driveway/culvert permit will be required by Wall Lake Township prior to issuing a building permit.

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 buildings in the area and recommended approval of Conditional Use Permit #10-01 with the following conditions:

1. Accessory building area shall not exceed 4,576 square feet on the property.
2. The building shall not exceed one story in height.
3. A building inspection is required to measure the outside dimensions of the building.
4. A building permit is required.
5. The building shall be an accessory use to the continued use of the property as a residential lot.
6. Only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
7. All outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
8. A driveway/culvert permit will be required by Wall Lake Township prior to issuing a building permit.

Action

Based on the staff report a motion was made by Steinhauer and seconded by Kelly to **approve** Conditional Use Permit #10-01 with the conditions as stated. The motion passed unanimously.

REGULAR AGENDA

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

- Item 3. **Zoning Ordinance Text Amendment #10-03 Vehicle Restrictions**
Petitioner: Minnehaha County Planning Department
Staff Report: Pat Herman & Ryan Streff

Staff Analysis

The County Planning Department is proposing an addition to Chapter 12, Additional Use Regulations, of the Zoning Ordinance which will place restrictions on commercial, recreational, and agricultural vehicles and equipment. This portion of the zoning ordinance will apply to the agricultural, recreation/conservation, and residential zoning districts. There are also new definitions proposed which complement this new section of the ordinance.

We are bringing this amendment forward in a means to address the general public's complaints about these types of vehicles/equipment and their impact on different types of land use. The zoning ordinance has lacked the appropriate wording needed to legally attend to these issues.

Ordinance Explanation

Each portion of the ordinance is explained in bolded, italicized print.

AN ORDINANCE AMENDING THE 1990 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY BY ADDING VEHICLE & EQUIPMENT RESTRICTIONS TO THE ADDITIONAL USE SECTION AND SUPPORTIVE DESCRIPTIONS IN THE DEFINITION SECTION OF THE ORDINANCE.

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 12.14 is hereby added to read:

Below is the introduction, reason for the ordinance, and the listing of zoning districts for which it applies.

12.14 Vehicle & Equipment Restrictions.

(A). Intent. It is the intent of this section to limit the impact of commercial vehicles and equipment, recreational vehicles, and agricultural vehicles and equipment upon those areas of the county in which the land use is residential or agricultural in nature. Fire, law enforcement, emergency vehicles, and those vehicles designed for persons with disability

are exempt from this section of the ordinance.

Section 12.14 shall apply to the Agricultural, Recreation/Conservation, and Residential zoning districts. Commercial vehicles, agricultural vehicles, recreational vehicles, and equipment are prohibited unless in compliance with Section 12.14.

The following portion of the ordinance would allow a resident to bring home a commercial vehicle from work, provided points a-d are met. The ordinance limits commercial vehicles to a maximum of two per lot, limits weight and length, and does not allow attached equipment, such as a trailer. Vehicles and equipment which would meet the definition of a commercial vehicle, but are used by the property owner for personal use on the property would not be prohibited. It has been the past practice of the Planning Department to consider the semi-tractor/semi-cab as a work vehicle which could be driven home and the ordinance does exempt them from the weight restrictions.

(B). Commercial Vehicles and Equipment. It is not the purpose of the section to prohibit commercial vehicles as described herein from residential parcels when actually engaged in a business activity which requires their presence for a specific purpose and limited time period.

1. One commercial vehicle per resident, not to exceed a maximum of two commercial vehicles, shall be permitted on a property with an occupied residence provided that:
 - a. The vehicle shall be currently licensed, fully functional, and have a gross vehicle weight of 15,000 pounds or less and not exceed 22 feet in length. A semi-tractor is exempt from the gross vehicle weight requirement for Section (B)1a.
 - b. The vehicle shall be operated by a person residing on the premises, and shall provide primary transportation for the resident to and from their place of employment.
 - c. The vehicle shall not be parked or stored within the right-of-way.
 - d. No attached vehicle or equipment shall be allowed.
2. Commercial vehicles and equipment that are currently licensed (if required) and fully functional and are in use as part of a permitted construction project shall be allowed for the duration of the said project. Should the construction project cease for period of six (6) months, the commercial vehicles and equipment shall be removed from the property. Commercial vehicles and equipment shall not be stored or parked for longer than seventy-two (72) hours upon any right-of-way.
3. Commercial equipment that is fully functional, owned by the resident, and used by the resident for regular or ongoing maintenance of the property (i.e. lawn care, driveway maintenance, snow removal) and not for profit, shall be allowed on properties used for residential and agricultural uses.

4. Commercial vehicles or equipment shall not be used for human or animal occupancy. Semi –trailers shall not be used for storage.

There are three problems that arise with recreational vehicles and equipment. Unauthorized storage facilities of these types of vehicles; parking vehicles and equipment in the right-of-way; and the uses of vehicles as living quarters or storage buildings. Section C addresses these concerns.

(C). Recreational Vehicles and Equipment.

1. The vehicle title holder shall be a permanent resident of the dwelling unit at which the recreational vehicle is parked or stored.
2. The vehicle and equipment shall be fully functional and licensed if required.
3. No recreational vehicles shall be stored or parked for longer than 72 hours upon any right-of-way in a residential development district.
4. No recreational vehicle or trailer shall be connected to gas, water, septic or sewer service unless approved by a county issued permit.
5. Recreational vehicles shall not be used as accessory structures nor shall they be used for human or animal occupancy.
6. Recreational vehicles shall not have their wheels removed or be affixed to the ground so as to prevent ready removal of the vehicle.

Section D is included to address agricultural vehicles/equipment that has fallen out of use and left to slowly rust away. This section was carefully worded to not impede vehicles used in ongoing agricultural operations.

(D). Agricultural Vehicles and Equipment.

Agricultural vehicles and equipment shall meet the following conditions.

1. Shall be fully functional and currently licensed if required.
2. Shall be owned by the property owner or tenant.
3. Shall be presently used in the activity of agricultural operations or used for regular or ongoing maintenance of the property.

While some townships have buildings in which to store their maintenance equipment, many times this equipment is stored on the operator's property. It is important this equipment be allowed in a location which helps facilitate its use in a timely manner. If the equipment needs to be housed in a residential developed area, screening should be

required.

(E). Township Road Maintenance Vehicles and Equipment.

Those persons employed by and/or operating township road maintenance vehicles and equipment shall be allowed to store said vehicles and equipment on their property. If the property is located within a residential development area, the vehicles and equipment shall be screened from public view.

Section 2: That Article 26.02 is hereby added and amended to read:

This definition defines a residential area. The term is used in this ordinance amendment in Section E. This definition also exists in the adopted animal control ordinance.

583. RESIDENTIAL DEVELOPMENT AREA. An area of land that is located in a residential zoning district; a residential subarea within a planned development zoning district; or a subdivision of five or more lots.

The following four definitions define the different types of vehicles addressed in this amendment. The most detailed definition is for commercial vehicles and equipment. A gross vehicle weight of 10,000 lbs was used as the cut off weight as dually pick-ups and large vans would fall beneath that weight but most trucks will exceed that limitation.

680. VEHICLE. A vehicle shall include, but not be limited to, any motor vehicle which is designed to be driven, and which is self-propelled, or is intended to be self-propelled. This definition shall also include all vehicles, whether or not self-propelled, that are intended to be attached, pulled or fixed to a vehicle.

681. VEHICLE AND EQUIPMENT, AGRICULTURAL. Any tool, implement, piece of equipment or machinery that is presently used in an agricultural operation or which is used in the regular or ongoing maintenance of the property; which includes but is not limited to equipment used for planting, harvesting, spraying, fertilizing, haying, livestock and manure handling, and other farming functions, or for property maintenance.

682. VEHICLE AND EQUIPMENT, COMMERCIAL. A commercial vehicle and equipment is defined as any of the following:

1. Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, for-hire or not-for-hire or has commercial vehicle identification.
2. Vehicles including but not limited to any solid waste collection vehicle, semi-tractor, semi-trailer, dump truck, concrete mixer truck, box truck,

towing or recovery vehicle, and any construction equipment whether located on the ground or on a truck, trailer, or semi-trailer.

3. Any vehicle having three or more axels, or exceeding twenty-two feet in length.
4. Any vehicle or equipment that has a gross vehicle weight of more than 10,000 pounds.
5. Any equipment or trailer (open or closed) which is towed by another commercial vehicle.

683. VEHICLE, RECREATIONAL. Any vehicle designed for, used or capable of use for sport or recreation, whether or not eligible to be licensed for use upon streets and highways, including but not limited to campers, pickup campers, tent trailers, and motor homes, boats and boat trailers, snowmobiles, motor bikes, or all terrain vehicles, but excluding vehicles designed for commercial, industrial or agricultural use.

The definition for warehouse is included because it needed to be renumbered to allow room alphabetically for the various vehicle definitions.

684. WAREHOUSE. A building used primarily for the storage of goods and materials.

Adopted this day of, 2010

Recommendation

Staff recommended approval of zoning ordinance text amendment #10-03.

Action

A motion was made by Kelly and seconded by Steinhauer to **defer** the Zoning Ordinance Text Amendment #10-03 to the February 2010 Planning Commission meeting. The motion passed unanimously.

Item 4. **Zoning Ordinance Text Amendment #10-04 Hard Surfacing**
Petitioner: Minnehaha County Planning Department
Staff Report: Pat Herman & Ryan Streff

The County Planning Department has seen an increase in requests to use crushed asphalt as a hard surfacing medium on driveways and parking lots for commercial property owners. The County Planning Commission directed the staff to research the possibility of used crushed asphalt. The following ordinance amendment, changing Chapter 15 Parking and Loading Regulations, would allow the use of crushed asphalt, provided the listed requirements are met.

Ordinance Explanation

Each portion of the ordinance is explained in bolded, italicized print. New additions are underlined, strike outs shown for text to be removed.

AN ORDINANCE AMENDING THE 1990 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY BY REVISING THE STANDARDS FOR DRIVEWAYS, PARKING LOTS AND LOADING/UNLOADING AREAS.

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 15.04 (A) & (B) are hereby amended to read:

In part A, concrete, asphalt, and crushed asphalt have been listed as choices for hard surfacing. An exception is proposed which would not require hard surfacing for the storage areas of businesses. The text is consistent with the zoning ordinance for Sioux Falls.

- (A). Any driveways, parking lots, or loading/unloading areas in a commercial or industrial zoning district shall be constructed with a hard surface when the property is accessed from a hard surface road. Hard surfacing shall consist of:
1. Concrete;
 2. Asphalt; or
 3. Crushed asphalt. Crushed asphalt shall be applied to the following specifications.
 - 1) A minimum 3" packed gravel base.
 - 2) Recycled asphalt packed to 4.5-5 inches.
 - 3) Chip seal shall be applied two (2) times.
 - 4) 2-4 inches of hot-mix asphalt shall be applied when the recycled asphalt material begins to break down.

Exception: Truck terminals, heavy equipment display, service and rental, concrete and paving plants, construction yards and similar establishments need not hard-surface areas maintained as maneuvering or parking/storage areas for heavy equipment when such areas are not adjacent to a front yard setback or otherwise screened from the public right-of-way.

Part B has been reworded to make it clear that a gravel surface is only an option if an applicant does not need to meet the requirements listed under part A. The previous wording had been confusing to many applicants.

- (B). If a driveway, parking lot or loading/unloading area is not required to be hard surfaced ~~with concrete or asphalt~~ in Section 15.04(A), a gravel surface shall be provided. The gravel surface shall be maintained to a minimum thickness of at least four inches.

Adopted this day of, 2010

Recommendation

Staff recommended approval of zoning ordinance text amendment #10-04.

Action

A motion was made by Kelly and seconded by Steinhauer to **defer** the Zoning Ordinance Text Amendment #10-04 to the February 2010 Planning Commission meeting. The motion passed unanimously.

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business