

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
February 22, 2010

A meeting of the Planning Commission was held on February 22, 2010 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

Scott Anderson, Pat Herman, Phil Kappen and Ryan Streff -County Planning  
Gordy Swanson – Office of the State's Attorney

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 Randall and seconded by Cypher to approve the consent agenda. The motion passed unanimously.

**ITEM 1. MINTUES – January 25, 2009**

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

**ITEM 2. CONDITIOAL USE PERMIT #10-04 to allow a single family dwelling.**

**Petitioner:** Dan Burns

**Location:** 46849 253<sup>rd</sup> Street, 1 mile east of Lyons

**General Information**

Legal Description - W315' & E 92' N1155.4' W407' & N658.79' W2211.7' E2231.7'  
NW1/4 in Section 21-T103N-R50W

Present Zoning – A-1 Agriculture

Existing Land Use - A-1 Agricultural

Parcel Size – 21.50 Acres

**Report by:** Pat Herman

**Staff Analysis:**

The petitioner is requesting approval for a single family dwelling. The property has two residential building eligibilities. The first eligibility is used by the existing house. The second eligibility requires conditional use permit approval as detailed by Section 3.04(D) of the Zoning Ordinance.

(D). A single-family dwelling on a parcel which is not a lot of record provided:

- 1). The deed to the land or the agreement to convey the parcel was recorded with the Register of Deeds prior to September 27, 1988.

The property is located approximately one mile east of Lyons in an area of the county that has limited residential development. Willow Creek and its tributary run through the property, and the floodplain follows both of these waterways.

**1) The effect upon the use and enjoyment of other property in the immediate**

**vicinity for the uses already permitted, and upon property values in the immediate vicinity.**

The petitioner anticipates locating the house on the northeast end of the property. The closest existing house would be approximately 800 feet to the east. The land on which the house is to be constructed is not good farm ground.

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

Adding a new house in an agricultural area will always have some impact on farming activities. There are no livestock operations in the vicinity, other than cattle owned by the petitioner. The closest house to the east has a small number of horses.

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

Access is from 253<sup>rd</sup> Street, a township gravel road. The petitioner intends to use an existing access easement on the east side of the property. The petitioner has indicated that some fill will be needed for the site.

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

There is sufficient space to meet the parking needs of 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.**

A single family dwelling should not have type of uses that would constitute a nuisance.

**Recommendation**

The request for a single family dwelling meets the requirements Section 3.04(D) of the Minnehaha County Zoning Ordinance and staff recommended approval of Conditional Use Permit #10-04 with the following conditions:

1. The lot shall be platted and right-to-farm notice covenant filed on the deed of the lot prior to the issuance of a building permit.
2. The floodplain shall not be disturbed and shall be shown on the plat.

**Action**

A motion was made by Randall and seconded by Cypher to **approve** Conditional Use Permit #10-04. The motion passed unanimously.

**Conditional Use Permit #10-04 – APPROVED.**

**ITEM 3. CONDITIONAL USE PERMIT #10-03 to allow light manufacturing.**

**Petitioner:** Heiman Fire Equipment

**Location:** 26071 Brower Cir, south edge of Hartford

**General Information**

Legal Description – Lot 2 Block 1 Brower Addn SW1/4 in Section 27-T02N-R51W

Present Zoning – I-1 Light Industrial

Existing Land Use - Light Industrial

Parcel Size – 1 Acre

**Report by:** Phil Kappen

**Staff Analysis:**

The subject property is located in Brower's Addition, a commercial/industrial subdivision in the southeast quadrant of the Hartford I-90 exit. The properties to the east and south are in existing commercial uses. The lot to the north is a vacant I-1 property and the land across 463<sup>rd</sup> Avenue (County Highway 151) to the east is farmland. The petitioner proposes a light manufacturing business in which polyethylene water tanks are assembled. The assembly is accomplished with an electric welding gun. Their proposed hours of operation are from 8 am to 5 pm Monday through Friday.

**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 is consistent with the neighboring commercial uses. The appearance of this area must be maintained as the property lies along an entryway to the city of Hartford. The petitioner has indicated that all operations and materials will be kept within the existing building. No outside storage is proposed. This should be reflected as a condition on the permit.

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

Vacant lots within the subdivision will likely be developed with varying commercial uses in the foreseeable future. The proposed use should not impact the development of those properties. The property across the highway, while currently agricultural, meets the criteria set forth in the county's comprehensive plan for future commercial or industrial sites. The plan notes that sites at interstate interchanges are appropriate for such uses.

Staff first contacted the City of Hartford regarding this application on February 4<sup>th</sup> and in a telephone conversation on February 10<sup>th</sup> with Hartford City Manager, Theresa Sidel, she noted that their concerns would likely be centered on the appearance of the property, particularly as the site lay along one of the primary entrances to the city.

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

Access to the property is via Brower Circle. Road conditions in this subdivision have been an ongoing problem for a number of years and staff has received numerous complaints regarding the roads. Staff initially considered a recommendation of denial for any additional conditional use permits in the area due to the dangerous conditions of the

roads.

Staff contacted the Hartford Township chairman, Terry Kroeger, on February 1, 2010 and found that Hartford Township performs some snow removal on the roads but had accepted no other maintenance responsibilities. Staff also found that a road association in the subdivision had been re-established and that some road repair had been performed.

On February 2, 2010, staff spoke with the road association president, Matt Maras. He indicated that the association had reconstructed some roads in the area, regrading ditches and replacing culverts to improve water flow and rebuilding roadways with a 6-inch base of crushed concrete. He noted that he had no problem with the proposed conditional use permit, particularly since the association had improved that specific stretch of road. According to Mr. Maras, the Brower Addition Road Association has accepted responsibility for the ongoing maintenance of the roadways within the subdivision and he indicated that they have explored the possibility of hard surfacing the roadways. The zoning ordinance requires that any commercial or industrial property which accesses a hard surfaced roadway must hard surface all driving and parking areas. As Brower Circle is not currently hard surfaced, there should not be a requirement that the parking and driving surfaces must be hard surfaced at this time. However, when the roadway is hard surfaced the required areas on the property should then also be paved.

It appears that the previous roadway concerns have now been addressed.

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

The zoning ordinance requires that a manufacturing plant provide two parking spaces for every three employees on the maximum shift, adequate space for all trucks and vehicles used for the business, and sufficient parking spaces for all customers. Based on this standard, the petitioner must provide a minimum of 10 parking spaces on the site.

**5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**

Any outdoor lighting should be of a full cutoff and fully-shielded design to prevent the spillage of light beyond the property boundaries.

**Recommendation**

Staff finds that the proposed use is consistent with the types of uses that may be found in an I-1 Industrial area and that the proposed use can be made compatible with surrounding land uses. Staff, therefore, recommended approval of conditional use permit #10-03 with the following conditions:

1. The property shall be used for the light industrial use of poly tank assembly.
2. No outside storage of any parts, materials or products shall be allowed.
3. The petitioner shall have the Minnehaha County Building Inspector check the site for conformance with applicable building codes prior to the commencement of the business.
4. The petitioner shall provide a minimum of 10 parking spaces on the site. All parking spaces shall meet the setback requirements from property lines.
5. Within one year of such time a Brower Circle is hard surfaced, the driveway accessing the property and the parking area, and the required parking area on the subject property shall all be hard surfaced.
6. All outside lighting shall be of a full cutoff and fully-shielded design to prevent the spillage of light beyond the property boundaries.
7. All signage shall conform to the requirements of the Minnehaha County Zoning

Ordinance.

8. The petitioner shall maintain a valid South Dakota sales tax license.

**Action**

A motion was made by Randall and seconded by Cypher to **approve** Conditional Use Permit #10-03. The motion passed unanimously.

**Conditional Use Permit #10-03 – APPROVED.**

**ITEM 4. CONDITIONAL USE PERMIT #10-06 to allow a masonry business.**

**Petitioner:** Travis Nelson

**Location:** 26070 Brower Cir, south edge of Hartford

**General Information**

Legal Description – Lot 2 Block 2 Brower Addn SW1/4 in Section 27-T02N-R51W

Present Zoning – I-1 Light Industrial

Existing Land Use - Light Industrial

Parcel Size – 1.03 Acre

**Report by:** Phil Kappen

**Staff Analysis:**

The subject property is located in Brower's Addition, a commercial/industrial subdivision in the southeast quadrant of the Hartford I-90 exit. The surrounding properties are all in various commercial or light industrial uses. The petitioner proposes a contractors shop and storage yard for a masonry business. The building inspector has inspected the building and found it suitable for the requested use.

**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.**

All surrounding properties are in commercial uses and the proposed use is consistent with those uses. Provisions should be made for the screening of any outside materials or supplies in order to maintain the appearance of the area. The petitioner has proposed constructing a screened outside storage area along the east end of the property.

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

Vacant lots within the subdivision will likely be developed with varying commercial uses in the foreseeable future. The proposed use should not impact the development of those properties.

Staff first contacted the City of Hartford regarding this application on February 4<sup>th</sup> and in a telephone conversation on February 10<sup>th</sup> with Hartford City Manager, Theresa Sidel, she noted that their concerns would likely be centered on the appearance of the property, and they would prefer to have outside storage areas screened from public view.

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

Access to the property is via Brower Circle. Road conditions in this subdivision have been an ongoing problem for a number of years and staff has received numerous complaints regarding the roads. Staff initially considered a recommendation of denial for any additional conditional use permits in the area due to the dangerous conditions of the roads.

Staff contacted the Hartford Township chairman, Terry Kroeger, on February 1, 2010 and found that Hartford Township does perform some snow removal on the subdivision roads but had accepted no other maintenance responsibilities. Staff also found, however, that a

road association in the subdivision had been re-established and that some road repair had been performed.

On February 2, 2010, staff spoke with the road association president, Matt Maras. He indicated that the association had reconstructed some roads in the area, regrading ditches and replacing culverts to improve water flow and rebuilding roadways with a 6-inch base of crushed concrete. He noted that he had no problem with the proposed conditional use permit, particularly since the association had improved that specific stretch of road. According to Mr. Maras, the Brower Addition Road Association has accepted responsibility for the ongoing maintenance of the roadways within the subdivision and he indicated that they have explored the possibility of hard surfacing the roadways. The zoning ordinance requires that any commercial or industrial property which accesses a hard surfaced roadway must hard surface all driving and parking areas. As Brower Circle is not currently hard surfaced, there should not be a requirement that the parking and driving surfaces must be hard surfaced at this time. However, when the roadway is hard surfaced the required areas on the property should then also be paved.

It appears that the previous roadway concerns have now been addressed.

There is an existing wastewater holding tank on the property to serve the building's floor drain. In addition, there is an existing septic system serving the bathroom.

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

The zoning ordinance requires that, for all non-specified commercial uses, one parking space must be provided for each 300 square feet of building. This requirement provides sufficient parking spaces for all employees and for any customers. Using this standard, a total of 10 parking spaces must be provided at the site.

**5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**

Any outdoor lighting should be of a full cutoff and fully-shielded design to prevent the spillage of light beyond the property boundaries.

**Recommendation**

Staff finds that the proposed use is consistent with the types of uses typically found in the I-1 Industrial area and that the proposed use is compatible with surrounding land uses. Staff, therefore, recommended approval of conditional use permit #10-06 with the following conditions:

1. The property shall be used for a contractor's shop and storage yard.
2. All outside storage of parts and materials shall be screened from public view by a screening fence of at least 6 feet in height which is earth tone in color and has a minimum opacity of 90% maintained over the full height of the fence. The fence shall be erected by June 1, 2010.
3. The petitioner shall provide a minimum of 10 parking spaces on the site. All parking spaces shall meet the setback requirements from property lines.
4. Within one year of such time a Brower Circle is hard surfaced, the driveway accessing the property and the parking area, and the required parking area on the subject property shall all be hard surfaced.
5. All outside lighting shall be of a full cutoff and fully-shielded design to prevent the spillage of light beyond the property boundaries.
6. All signage shall conform to the requirements of the Minnehaha County Zoning Ordinance.

7. The petitioner shall maintain a valid South Dakota sales tax license.

**Action**

A motion was made by Randall and seconded by Cypher to **approve** Conditional Use Permit #10-06. The motion passed unanimously.

**Conditional Use Permit #10-06 – APPROVED.**

**REGULAR AGENDA**

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

**ITEM 5. CONDITIONAL USE PERMIT #10-05 to allow a dog boarding kennel and training facility.**

**Petitioner:** Lance & Cindy Wollmann

**Location:** 46560 263<sup>rd</sup> St., 2.5 miles southeast of Hartford

**Staff Report:** Scott Anderson

**General Information**

Legal Description – Tract 6 Matthies Estates Addn. W1/2 W1/2 SE1/4 in Section 1-T101N-R51W

Present Zoning – A1 Agricultural

Existing Land Use - Residential

Parcel Size – 6 Acres

**Report by:** Scott Anderson

**Staff Analysis:**

The applicant is requesting a conditional use permit to board and train dogs. The applicant indicated that they currently train the eight (8) dogs that they own and would like to offer training and boarding for other dogs. The applicant applied for a conditional use permit in 2005 to allow boarding and breeding of dogs at this same location. On August 22, 2005, the Planning Commission denied the request and the conditional use permit was not appealed to the County Commission. Staff recommended denial of Conditional Use Permit #05-72 based on incompatible land uses. The applicant has indicated that the neighbors that opposed the original request have moved. They are proposing to enclose the dog runs.

On June 28, 2005, the applicant obtained Building Permit #05-201 for a 44' x 54' detached accessory structure. It was indicated that this structure would be used for personal storage. The applicant is proposing to use this structure for the kennel business. Water and a septic system have been installed for the accessory building. In addition, in-floor heat will be installed. Six (6) foot covered dogs runs will be located along the south side of the building. Each dog run measures 4 foot by 6 foot and have a concrete floor with drain.

The applicant has provided a business plan outlining the proposed operation of the training facility and boarding. Staff will include this business plan for the Planning Commission's review. The business plan/narrative does not indicate the maximum number of dogs that would be boarded or trained. They indicated that some of the training will take place off site. They have not indicate what the proposed business hours will be. A site plan has been provided, but it does not show any parking for customers.

**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 will have a negative impact on surrounding properties to the east.

There are two (2) existing residences located approximately 250 feet and 640 feet away from the proposed kennel site. The noise and additional traffic will reduce the enjoyment of those existing residences.

In 2005, the property owners to the east were opposed the proposed conditional use permit. The applicant has indicated that the owners from 2005 have moved and that the new owners are not opposed to the request. This fact does not change what staff believes will be an incompatible land use. The Planning Commission denied the same request in 2005 based on findings that the use was incompatible to the surrounding land uses. The proposed conditional use request submitted by the applicant has not significantly changed, other than by enclosing the dog runs. There is a potential for a significant amount of new traffic and noise from dogs being loaded and unloaded and trained on the six (6) acre parcel.

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

The proposed use could negatively impact the normal and orderly development of the area. Any future development could see the kennel and training facility as a negative due to noise, flies and additional traffic.

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

Adequate access has been provided to the site. The existing residence has direct access off of 263<sup>rd</sup> Avenue, which is a paved, county-maintained road. All required utilities have been constructed to the site.

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

In addition to the attached double stall garage, there are approximately 4 to 6 off-street parking spaces provided by the driveway, approach to the garage and side yard area. This would not meet the minimum parking requirement of 8 spaces. One space is required for each 300 square feet of floor area for retail businesses. The kennel has 2,376 square feet.

**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 is a possibility that the proposed use could become a nuisance. The most serious issue when dealing with kennels is noise abatement. The applicant has offered to enclose all of the dog runs so no dogs would be allowed outside to run, but there is a potential for dogs to bark when they are being trained outside. Dogs could also bark as they are being unloaded or picked up by customers.

Staff finds that the proposed kennel is not compatible with the existing land uses of the area. The applicant has failed to demonstrate that the land uses that were deemed incompatible in 2005 have changed. The existing single family residences of the area need to be protected from the negative aspects of the proposed use. Any dogs allowed

outside may result in noise. In addition, traffic into and out of the business will negatively impact the area.

### **Recommendation**

Staff finds that a kennel, boarding facility and training business is not suited to the existing neighborhood and recommended denial of Conditional Use Permit #10-05.

### **Public Testimony**

Lance Wollmann (46560 263<sup>rd</sup> ST) stated that he had applied for a similar conditional use permit in 2005 for boarding and breeding of dogs at the same location. Mr. Wollmann informed the commission that he would like to board and train hunting dogs at his facility. He said that most of his training is done off-site 90% of the time due to the lack of open space at his personal residents. Wollmann made it clear that he has no business hours and is by appointment only so traffic should not be a concern. He said that at most there could be 2 cars per day. He stated that he has 9 dogs so he would only have room in his facility for 9 other dogs to either train or board. Mr. Wollmann questioned how just this last year Second Chance was able to obtain a conditional use permit to board horses on the property adjacent to his. He also mentioned an operation down the road for training long-horn cattle to be used during rodeos. He stated that his neighbor has many dogs on her property and that his dogs would not have an added effect to the surrounding properties.

Susan Pulizzi (46568 263<sup>rd</sup> ST) stated that she fosters dogs for Second Chance Rescue and her neighbor to the east fosters horse for them as well. She informed the commission that there is never unwanted noise from Mr. Wollmann's property. Ms. Pulizzi said if anything her dogs are much more noisy than his. She stated that there is a grove of trees and a privacy fence between the two properties. She questioned how this type of use could be an incompatible land use for agricultural land. Commissioner Steinhauer asked Ms. Pulizzi how many dogs she fosters for Second Chance. She stated that she fosters 10-15 dogs at her property.

Commissioner South questioned how many dogs are allowed on particular piece of property. Anderson stated that if they are your own dogs and the property is not within a residential development area there is no limit, as-long-as there is no business for the sale or breeding of the dogs.

Commissioner asked what the difference between boarding and fostering dogs is. Anderson explained that boarding dogs involves the exchange of money.

Commissioner Steinhauer questioned staff if the commission could limit this use and the conditional use permit to this applicant or property owner. Anderson stated that making this conditional use permit exclusive to this resident only is possible.

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

### **Action**

A motion was made by South and seconded by Steinhauer to **approve** Conditional Use Permit #10-05 with the following conditions. The motion passed unanimously

- 1) Conditional Use Permit #10-05 shall be exclusive to the applicants, Lance & Cindy Wollmann. Conditional Use Permit #10-05 shall expire when the Wollmann's no longer own or run the business.
- 2) Hours of operation shall be limited to daylight hours.

- 3) A sales tax identification number shall be maintained through the State of South Dakota.
- 4) No more than 18 adult dogs, including those owned by the Wollmans, shall be boarded on the property.
- 5) The septic system for the facility shall be maintained.
- 6) There shall be a minimum of three off-street parking spaces.
- 7) All outside lights shall not allow light spillage off of the property.
- 8) On-Premise and Off-Premise signs shall not be allowed.

**Conditional Use Permit #10-05 – APPROVED.**

**ITEM 6. 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.

The amendment has been reviewed by Gordy Swanson, Office of the State's Attorney.

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.

#### **Recommendation**

County staff recommended approval of the Zoning Ordinance text amendment #10-03.

#### **Public Testimony**

There was no public Testimony on this item.

#### **Discussion**

Commissioner South stated that it comes down to where you live and if you have neighbors that will be affected when determining what vehicles to restrict.

Commissioner Rogen informed staff that he did not feel that the weight restriction of 15,000 pounds (GVW) should be enforced for acreages or for residents outside of the three (3) mile joint jurisdictional area. He stated that this weight restriction would only be affective in subdivisions. Commissioner Rogen concluded that the text amendment to the Zoning Ordinance should use the Federal Commercial Motor Vehicle weight description.

Commissioner South asked how staff was going to monitor the weight of these vehicles. Ms. Herman explained that the GVW is posted inside the door of each vehicle. Commissioner South agreed with Commissioner Rogen that the text should include the Federal Commercial Vehicle weight description.

Commissioner Steinhauer, addressing the section on recreational vehicles, asked if family members could store their vehicles on his property. He followed up by stating that he would like to set a number for the amount of non-owned recreational vehicles that can be stored on a particular lot or piece of property. He suggested a maximum of three. If a

person had three recreational vehicles which were not his own, that person should not be allowed any additional recreation vehicles.

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

**Action**

A motion was made by South and seconded by Steinhauer to recommend **approval** of the Zoning Ordinance Text Amendment #10-03 with changes to the GVW and non-owned recreational vehicles. The motion passed unanimously.

**Zoning Ordinance Text Amendment #10-03 – APPROVAL RECOMMENDED.**

**ITEM 7. 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.

The amendment has been reviewed by Gordy Swanson, Office of the State's Attorney.

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.

#### **Recommendation**

County staff recommended approval of the Zoning Ordinance text amendment #10-04.

#### **Public Testimony**

Commissioner Randall questioned if this particular ordinance would be confusing to the applicant due to the different types of driving surfaces allowed or not allowed.

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

#### **Action**

A motion was made by South and seconded by Steinhauer to recommend **approval** of the Zoning Ordinance Text Amendment #10-04. The motion passed unanimously

**Zoning Ordinance Text Amendment #10-04 – APPROVAL RECOMMENDED.**