

**MINUTES OF THE JOINT MEETING  
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS  
February 22, 2010**

A joint meeting of the County and City Planning Commissions 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.

CITY PLANNING COMMISSION MEMBERS PRESENT: Steve Gaspar, Mike Roth, Pam Breidenbach, and Kent Metzger.

**STAFF PRESENT:**

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

The City Planning Commission chair Pam Breidenbach presided over the meeting. The County Planning Commission was chaired by Chair Susie O'Hara.

**CONSENT AGENDA**

A motion was made for the City by Roth and seconded by Gaspar to **approve** the consent agenda. The motion passed unanimously. Same motion for the County by Rogen and seconded by Steinhauer. The motion passed unanimously.

**Item 1. Minutes – January 25, 2010**

A motion was made for the City by Roth and seconded by Gaspar to **approve** the meeting minutes from the January 25, 2010 meeting. The motion passed unanimously. Same motion for the County by Rogen and seconded by Steinhauer. The motion passed unanimously.

**Item 2. Conditional Use Permit #10-08 to allow a recreational facility and to revoke CUP#09-60, #09-34, #01-61, #00-62, #94-45 & #89-19.**

**Petitioner: Chad Westra**

**Location: 5300 N. Ditch Road, north edge of Sioux Falls**

**General Information**

Legal Description - PT NE1/4 SE1/4 S of I-90 (EX E-2, E-5, C1-E2, & C1-E3) in  
Section 29-T102N-R49W

Existing Land Use - Commercial recreation

Current Zoning – RC Recreation Conservation

Parcel Size - 21.50 Acres

**Staff Report: Ryan Streff**

**Staff Analysis**

The subject property is located just north of the city limits in the joint jurisdictional area between Minnehaha County and the City of Sioux Falls. It is bordered on the east and

south sides by the City of Sioux Falls, on the west by a single family home and the Big Sioux River, and Interstate 90 to the north. The property is located within the 100-year flood plain as designated by the Federal Emergency Management Agency (FEMA) and is also located within the floodway zone.

The petitioner is requesting conditional use permit #10-08 to allow for a recreation facility. The recreation facility will consist of previously approved uses such as the following; 1. lighted driving range, 2. mini-golf, 3. golf equipment sales, 4. golf shop, 5. concessions (i.e. prepackaged items), 6. event center, 7. pumpkin patch, and 8. photography. Additional uses requested by the petitioner for the recreation facility include the following; 1. expanded event center (capacity of 180), 2. expanded concessions to include a deli and other quickly prepared fast-food items, 3. extend hours for the ability to host overnight events (i.e. after prom parties, school functions, and other special events).

The recreation facility has two delineated buildings that are used as event centers. These buildings include the main clubhouse and the accessory building located in the southwest corner of the property. The current event center areas and the proposed addition would be used to host events such as birthdays, reunions, anniversaries, wedding events, showers, school functions, and business meetings. The proposed event center addition to the south building would seat an additional 51 people which would increase the buildings occupancy load to 134. Total event center space in both areas would be increased to accommodate 180 people. The proposed event center addition (24' x 32') would be attached to the south end of the south accessory building/event center.

The current site plan provided by the petitioner does not include restroom facilities in the south building. Due to the added capacity of this building, staff is requiring that the south event center include restroom facilities. Staff would also like to note that the only restroom facilities on the property are located in the main clubhouse which is approximately 235 feet from the south building. The main clubhouse has a septic system with a 2,000 gallon septic tank which is not large enough for the entire facilities operations. Staff has determined that the recreation facility needs an upgraded septic system or holding tank to meet occupancy load and state regulations. The septic system and tank size will depend on the amount of drain field required after a perk test is performed. The design of the system will have to be approved by the state. State approval is required because of the commercial type use of the property.

**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 site for the structure meets all applicable setbacks and the placement of the structure will not impact the neighboring properties. The construction of this addition should not impede on the enjoyment or use of the surrounding properties or effect property values. The property is visible from Interstate 90 but this should not impact the area or motorists on the roadway. The expanded use may potentially increase traffic to the site. Staff has attempted to mitigate the traffic impact by requiring the applicant to provide a dust inhibitor on Ditch Road.

**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 addition to the event center should have no impact on further construction or development within the immediate area. The building shall only be used for recreation or storage purposes only. All properties surrounding and including this parcel are zoned RC (Recreation and Conservation District). The proposed types of

recreational uses are allowed and are appropriate in this district.

**RECREATION FACILITY.** A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, either active or passive. Related functions such as changing rooms or restrooms, and maintenance may be housed in buildings or structures.

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

Due to the added capacity of the event center, restroom facilities with either a holding tank or septic system shall be required for this building. A perk test will need to be performed and the system design will need to be approved by the state. All ADA standards and requirements shall be met for all accesses, restrooms, loading and unloading areas, and sidewalks.

All other necessary facilities have been provided to the subject property and no further improvements or upgrades are needed.

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

There are approximately 46 parking spaces in the petitioner's parking lot. At a minimum an additional 14 parking spaces are needed. All 60 parking spaces shall be delineated by a gravel or hard surfaced parking lot. An approved parking plan will be required for the recreation facility before construction or additional uses can commence. No on-street parking should be allowed along Ditch Road.

Restaurant, Bar, Cafe or Recreation or Amusement Establishment Not Specified  
Herein: One parking space for each 100 square feet of floor area or one parking space per three fixed seats, whichever is greater.

Total event center square footage = 4, 772  
One parking space per each 100 sq. ft. = 58 parking spaces  
One parking space per three fixed seats = **60 parking spaces needed**

**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.**

Due to the expansion of this use and the increase in potential traffic a dust inhibitor will be required on Ditch Road at the property owner's expense. This dust inhibitor will be applied on Ditch Road from 60<sup>th</sup> Street N to the northern most access of the property which is approximately 2,000 feet. The dust inhibitor will control dust pollution that may affect surrounding properties in the area. Staff would like to note that the practice of using a dust inhibitor on roadways with recreational uses has been required for facilities such as the Crooks Gun Club. Additional noise could be created due to the event center and patio area on the property. Noise from this site should not be a problem as the site is located back from the road and there are existing trees between the petitioner's property and the adjacent residential property which will further prevent noise pollution. To date staff has not received any complaints regarding noise from the property. Any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.

### **Recommendation**

Staff finds that any potential impact of this use to neighboring properties will be minimal and that this use is appropriate in the RC Recreation/Conservation District. The action will also revoke conditional use permits #89-19, #00-62, and #09-60. Staff recommended approval of the conditional use permit #10-08 with the following conditions:

1. The Recreation Facility and all uses shall operate between the hours of 8:00am and 12:30am with the exception of two (2) extended times a year that the owner can host overnight events. The owner shall contact the Planning & Zoning Department before these events are scheduled.
2. No food preparation is allowed on the site other than deli type sandwiches and other quickly prepared fast-food and prepackaged items.
3. No alcohol or malt beverage sales shall be allowed on the property without first obtaining the appropriate permit(s).
4. A dust inhibitor shall be applied on Ditch Road from 60<sup>th</sup> Street N. to the northern most access to the property. The type and optimum amount of dust inhibitor shall be determined by the governing body responsible for maintaining Ditch Road.
5. Restroom facilities in both event center areas shall be required with an approved septic system or holding tank design from the state. A septic permit is required from Minnehaha County.
6. All signage shall comply with Article 17.00 (On-Premise Signs) and Article 17A.00 (Off-Premise Signs).
7. All parking shall comply with Article 16.00 (Parking and Loading Regulations). An approved parking plan with a minimum of 60 delineated spaces on a gravel surface or other hard-surface is required. This plan shall be submitted to the Planning & Zoning Department before construction or new uses can commence.
8. If outdoor music is provided in association with an event it shall conclude by 10:00 PM.
9. The Recreation Facility shall meet all ADA Standards.
10. Any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
11. A Building Permit and Flood Plain Development Permit shall be obtained before any construction occurs on the property.
12. If there is any construction within the Flood Plain or Floodway a professional engineer or architect shall submit a Flood Plain Development Permit with an Engineering "No-Rise" Certification, certifying that the construction will not result in an increase in base flood elevation during a 100-year flood occurrence or impact the flow of through the area.
13. A Sales Tax ID number shall be obtained and maintained for the business.
14. A seating plan with occupancy load shall be required. This plan shall be submitted to the Planning & Zoning Department before construction or new uses can commence.
15. The Recreation Facility shall adhere to the uses identified in Conditional Use Permit #10-08. No other uses will be permitted unless a conditional use permit is obtained and approved by the Planning Commission.
16. Upon annexation to the City of Sioux Falls, the applicant shall bring the site into conformance with existing city ordinances.

### **Action**

Based on the staff report a motion was made for the City by Roth and seconded by Gaspar to **approve** Conditional Use Permit #10-08 with the conditions as stated. The

motion passed unanimously. Same motion for the County by Rogen and seconded by Steinhauer. The motion passed unanimously.

**Conditional Use Permit #10-08 – APPROVED.**

**REGULAR AGENDA**

A motion was made for the City by Roth and seconded by Metzger to approve the regular agenda. The motion passed unanimously. Same motion for the County by Cypher and seconded by Steinhauer. The motion passed unanimously.

**Item 3. Conditional Use Permit #10-07 to exceed 1200 sq. ft. of accessory building area. 7280 sq. ft. total is requested.**

**Petitioner:** Stan Mellegard

**Location:** 1801 W. 70<sup>th</sup> St. N. 1 mile north of Sioux Falls

**General Information**

Legal Description - Lot C (EX H-1) Erickson Trs W1/2 NW1/4 in Section 29-T102N-R49W

Existing Land Use -

Current Zoning - RC Recreation Conservation

Parcel Size – 17.14 Acres

**Staff Report:** Phil Kappen

**Staff Analysis**

The subject property is located on the north edge of Sioux Falls immediately north of Interstate 90. To the east is the Big Sioux River and to the south, across the interstate, is agricultural land. To the west is a rural cemetery. A residential subdivision, Swanson Tracts, lies to the north, northwest and west of the site.

The petitioner operates a tree nursery at the site. The growing of trees or shrubs is considered an agricultural crop and is allowed as a permitted special use in the Recreation/Conservation District provided that there are no retail sales on the premises and no structures exceed 500 square feet in size. As there are existing buildings in excess of the 500 square-foot size, the existing use constitutes a non-conforming use. Proposed permitted special uses that do not meet the requirements listed in the 2002 Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls may apply for conditional use approval. There has never been any application for conditional use approval of the nursery use on the property.

The petitioner wishes to store larger nursery stock at the site and is proposing an additional 2240 square-foot building to store the added nursery stock. The subject property currently has two accessory buildings, a 720 square-foot garage and a 4320 square-foot steel building, for a total of 5040 square feet of building area. With the addition of the proposed building, there would be a total of 7280 square feet of accessory buildings on the property. The property is part of a platted subdivision and any accessory buildings totaling more than 1200 square feet require a conditional use permit. This requirement, found in Section 15.07 (d) of the Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls, has been in effect since 2001. Due to the fact that the nursery use is a non-conforming use, any approval of an additional accessory building would constitute an increase in a non-conforming use. Increases in such uses are prohibited by Section 18.05 of the Joint Zoning Ordinance. The current use might be brought into conformance by first obtaining conditional use approval for the nursery.

**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.**

Only five other properties in the area of the subdivision have more than 1200 square feet of accessory buildings. These properties are shown on the accompanying map and include a 1600 square-foot residential accessory building at 6205 N. Hummingbird Avenue, 1380 square feet of residential accessory buildings at 6104 N. Western Avenue, and a 1488 square-foot residential accessory building at 1901 W. 70<sup>th</sup> Street North. The largest building in the subdivision, a 4704 square-foot residential accessory building, is found at 2204 W. 70<sup>th</sup> Street North. Just north of the subdivision, at 6501 N. Western Avenue, there are a total of 5392 square feet of agricultural accessory buildings in an old farmstead.

There are a total of 10,300 square feet of agricultural accessory buildings one-quarter mile to the south of the subject property at 1704 W. 60<sup>th</sup> Street North. This is an active farmstead and cannot be considered as a part of the Swanson Tracts area as it is both physically separated from the subject area by Interstate 90 and the site is accessed from 60<sup>th</sup> Street North to the south rather than through Swanson Tracts.

The approval of 7280 square feet of accessory building on the subject property would be out of character with the other properties in the neighborhood, and the potential commercial truck traffic resulting from any change in the current use would have an adverse impact on the residences in the subdivision. This residential neighborhood existed before the tree nursery was established.

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

There are only a few vacant properties within the subdivision and it is likely that these sites will be developed with additional single-family residences. There is only one access road into the area. Commercial truck traffic along this access will impact the residential properties by causing additional dust, increasing wear and tear on the roadway, and creating traffic hazards through the mixing of commercial truck traffic into the residential and pedestrian traffic of the neighborhood. The land to the east is floodplain and is limited for future development. There have been proposals for added residential development in the area, however, those proposals were denied by the Sioux Falls City Council and the Minnehaha County Commission due to road access concerns and the lack of sewer availability. The Sioux Falls 2035 Development Plan does not call for any additional development in this area.

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

The residential subdivision and the subject property are connected to North Kiwanis Avenue by a single access road, 70<sup>th</sup> Street North. The street is a gravel road that is maintained by Mapleton Township. Due to the existing volume of traffic, there have already been maintenance problems along the roadway. Any increase in traffic, particularly commercial truck traffic, would have severe impacts on the access road passing through the strictly residential area.

In a staff conversation on February 2<sup>nd</sup> with Mapleton Township chairman, Lloyd Siemonsma, Mr. Siemonsma noted that the township had already experienced problems with the road due to truck traffic accessing the subject property. He also noted that there have been discussions with the residents of the subdivision about the potential for hard-

surfacing the roadways in the neighborhood. The township recognizes that any hard-surfacing requirements would be much greater if the road were constructed to handle ongoing commercial truck traffic rather than only residential traffic.

The access road crosses a railroad track toward the west edge of the subdivision creating a further limitation for access to and from the subdivision. The crossing is currently in poor condition and commercial truck traffic over the crossing would only exacerbate the existing problem.

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

The existing total size of accessory buildings on the site would require 17 parking spaces for a commercial use. Section 16.02 (u) of the Joint Zoning Ordinance requires parking for this type of use to be computed at one parking space per 300 square feet of accessory building. With the proposed accessory building area a total of 24 parking spaces would be required. The petitioner's site plan does not show any proposed parking spaces. No parking of vehicles or equipment can be allowed on any of the public right-of-ways in the neighborhood as the rural-type roadways are not constructed with sufficient width to allow roadway parking.

**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.**

Dust control is necessary along the entire 70<sup>th</sup> Street North haul route to prevent impacts on existing and potential single-family homes. Any outdoor lighting in the area should be of a full cutoff and fully-shielded design to prevent spillage of light beyond the boundaries of the property. Hours of operation should be limited to prevent noise impacts on the residential properties.

The petitioner has erected two on-premise signs on the property without first obtaining either the required zoning approval or the required building permits. Section 17.02 (a)(2) of the joint zoning ordinance allows on-premise signs for uses such as plant nurseries or tree farms if the use has been approved by conditional use permit. There have been no conditional use permits approved for the nursery use at this site. If any application were made, after the fact, for such a conditional use permit, Section 22.06 of the joint zoning ordinance would require that a penalty fee also be paid.

**Recommendation**

Due to the proximity of the landscape nursery use to the residential neighborhood, the potential for adverse impact along the access road serving the neighborhood and to the residential properties, and the fact that approval would constitute approval of an increase in size of a non-conforming use, staff recommended denial of Conditional Use Permit #10-07. On February 1<sup>st</sup> the county and city planning staff met and jointly reviewed this application. Both staff concurred that denial of the conditional use permit was appropriate.

**Public Testimony**

Commissioner Roth asked for staff to clarify the differences between conforming and non-conforming uses and how this has affected the joint Zoning Ordinance. Roth also questioned what the concerns were of the township.

Mr. Kappen explained that a non-conforming use was an activity that had been in operation but did not meet the requirements of the current zoning ordinance. A conforming use would meet all the requirements. In this instance, the zoning ordinance limits the total square footage of accessory building area for a tree farm to 500 square

feet. The petitioner already exceeded that square footage at the time the zoning ordinance was adopted. Mr. Kappen added that Mapleton Township had been in contact and was not opposed to this request.

Stan Mellegard (1801 W 70<sup>th</sup> ST N) stated that he is 100% sure that there would be no additional employees on the property. He stated that this building is going to have three of its walls underground and that the building will be strictly used as a bare-roots nursery. He informed the commissioners that he has contacted all of the home owners along the access road and stated that they are not in opposition of the accessory building request. He submitted a signed petition from the neighbors. He stated that there will be no retail sales commenced at this site.

Commissioner Steinhauer asked how long Mr. Mellegard intended to conduct business at this site. Mellegard stated that it is a hobby of his that he is very passionate about and would like to keep his farm operating until he no longer physically able to conduct business. He made it clear to the commission that this property is used for a farming activity and always has been. He questioned how the zoning of the land could go from A-1 to RC without being informed. Phil Kappen stated that the zoning has always been RC. Mr. Kappen did state that property may be assessed differently by the Department of Equalization but this would not affect the zoning of the property.

Commissioner Cypher stated that the application does not comply with our zoning regulations. Commissioner Steinhauer stated that we cannot legally approve this because the current zoning regulations prohibit this type of use to be expanded without first obtaining a conditional use permit for a nursery or tree farm. Commissioner Metzger agreed that this application cannot be approved at this time. Commissioner Rogen suggested that the commission defer the conditional use permit for thirty days to allow the applicant to apply for a plant nursery or tree farm.

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

**Action**

A motion was made for the City by Metzger and seconded by Roth to **defer** Conditional Use Permit #10-07 for thirty days. The motion passed unanimously. Same motion for the County by Rogen and seconded by Randall. The motion passed unanimously.

**Conditional Use Permit #10-07 – Deferred for thirty days.**

**Item 4. Zoning Ordinance Text Amendment #10-01 Vehicle Restriction**  
**Petitioner:** Minnehaha County Planning Department  
**Staff Report:** Pat Herman & Ryan Streff

Staff Analysis

The County Planning Department is proposing an addition to Chapter 15, Additional Use Regulations, of the Joint 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 city planning department is in support of the amendment and the ordinance amendment has been reviewed by the legal departments of both entities.

Ordinance Explanation

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

AN ORDINANCE AMENDING THE 2002 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY AND THE CITY OF SIOUX FALLS BY ADDING VEHICLE & EQUIPMENT RESTRICTIONS TO THE ADDITIONAL USE SECTION AND SUPPORTIVE DESCRIPTIONS IN THE DEFINITION SECTION OF THE ORDINANCE.

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

15.17 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 15.17 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 15.17.

*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 24.02 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.***

**593. 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.***

**734. 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.

**735. 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.

**736. 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.

**737. 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.*

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

**Recommendation**

City and county staff recommended approval of zoning ordinance text amendment #10-01.

**Public Testimony**

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 Metzger made it clear that he did not particularly like either of the box trucks that were shown on the screen. He stated that these vehicles were not suitable for residential subdivisions in the joint area. Commissioner Breidenbach concluded that having a restriction like this depends on the particular property and type of residential area it is in.

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 Roth also agreed to include the federal weight standards.

Commissioner Metzger questioned if there are any restrictions in place that would prohibit residents from parking these types of vehicles within the front-yard setback. Ms. Herman stated that the city has restrictions for this but the county does not.

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. Commissioner Metzger agreed with this suggestion.

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

**Action**

A motion was made for the City by Roth and seconded by Gasper to recommend **approval** of the Zoning Ordinance Text Amendment #10-01 with changes to the GVW and non-owned recreational vehicles. The motion passed unanimously. Same motion for the County by South and seconded by Steinhauer. The motion passed unanimously.

**Zoning Ordinance Text Amendment #10-01 – APPROVAL RECOMENDED.**

**Item 5. Zoning Ordinance Text Amendment 10-02 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 16 Parking and Loading Regulations, would allow the use of crushed asphalt, provided the listed requirements are met.

The city planning department is in support of the amendment and the ordinance amendment has been reviewed by the legal departments of both entities.

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 2002 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY AND THE CITY OF SIOUX FALLS BY REVISING THE STANDARDS FOR DRIVEWAYS, PARKING LOTS AND LOADING/UNLOADING AREAS.

Section 1: That Article 16.04 (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 16.04(a)~~, a gravel surface shall be provided. The gravel surface shall be maintained to a minimum thickness of at least four inches.

### **Recommendation**

City and county staff recommended approval of the zoning ordinance text amendment #10-02.

### **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.

Commissioner Gasper stated that after researching these standards he found that it would not be cost effective to use recycled asphalt for a parking or driving surface. He was in favor of the standards listed.

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

### **Action**

A motion was made for the City by Gasper and seconded by Roth to recommend **approval** of the Zoning Ordinance Text Amendment #10-2. The motion passed unanimously. Same motion for the County by Steinhauer and seconded by Rogen. The motion passed unanimously.

**Zoning Ordinance Text Amendment #10-02 – APPROVAL REMENDED.**