

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & DELL RAPIDS PLANNING COMMISSIONS
March 22, 2010**

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

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

CITY PLANNING COMMISSION MEMBERS PRESENT: Christine Mullaney, Dale Dunn, Roger Dearduff, Mike Kroger, Darrell Donelan, and Bob Lamberty.

STAFF PRESENT:

Scott Anderson, Pat Herman, Phil Kappen, and Ryan Streff - County Planning
Dustin DeBoer – Office of the State's Attorney
S.L. Martin – City of Dell Rapids

The City Planning Commission was chaired by Bob Lamberty. The County Planning Commission was chaired by Chair Susie O'Hara.

CONSENT AGENDA

There were no items on the consent agenda.

REGULAR AGENDA

A motion was made for the City by Donelan and seconded by Dearduff to approve the regular agenda. The motion passed unanimously. Same motion for the County by Rogen and seconded by Cypher. The motion passed unanimously.

Item 1. Minutes – February 22, 2010

A motion was made for the City by Donelan and seconded by Dearduff to **approve** the meeting minutes from the February 22, 2010 meeting. The motion passed unanimously. Same motion for the County by Rogen and seconded by Cypher. The motion passed unanimously.

Item 2. Conditional Use Permit # 10-10 to allow a restaurant, bar and event center.

Petitioner: Dean & Michele Kommes

Location: 24654 475th Ave. south of Dell Rapids on Hwy 115

General Information

Legal Description - Lot A in Subdiv of Lot 11 of Kenefick's Subdiv in the E1/2 and the N460' E378.8' of Lot 11 of Kenefick's Subdiv in the E1/2 of Section 16-T104N-R49W

Present Zoning – I1- Light Industrial

Existing Land Use - Vacant Commercial

Parcel Size – ± 5 Acres

Report by: Pat Herman

Staff Analysis:

This conditional use permit is to allow a restaurant, bar, community center and an events center. The site is located south of Dell Rapids in the existing industrial park. Lying between Hwy 115 and Garfield Avenue, the building was the Spader RV center. Properties north, south and west of the site are zoned I-1 Light Industrial. To the east of the site is agriculturally zoned property.

The petitioner's will rehab the existing building which was constructed in 1950. This is a pole framed building with concrete foundation and metal roof. The one story building has 13,784 square feet. The petitioner's would like use 7,684 square feet for a full service restaurant and pub. There would also be a community room available for use consisting of 1,200 square feet. The remaining space would be remodeled in the future use as an events center. The submitted written narrative also details plans for an outdoor bar/grille and seating area as well as summer league activities such as volleyball or kickball. The narrative is attached to the staff report.

Hours of operations will be as follows:

Monday, Tuesday and Thursday – 11:00 am to 11:00 pm

Wednesday – closed

Friday & Saturday 11:00 am to 1:00 am

Sunday – 11:00 am to 10:00 pm

The applicant is required to work with the County Building Inspector to re-adapt this structure for the new uses. Because of the size of the building, either a dry fire suppression system or partitioning of smaller spaces with fire walling is required. The inspector will also review the number of available exits as well as other code requirements. The facility will not be allowed to operate until the building inspector has given approval. If a dry suppression system is used, the County Building inspector will require that the system be approved by the State Fire Marshall.

The number of bathroom fixtures shown on the submitted site plan meets the requirements of the international plumbing code. The plan was reviewed by Mike Richards, Executive Director of the SD Plumbing Commission. The applicant will be required to add one additional fixture count for both men and women before the events center can be opened for business.

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 for this building is compatible to the existing businesses in the area. There are some single family dwellings to the north, southeast and southwest but limiting outside activities in the late evening should negate any impact.

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

This use should have no effect on the vacant land to the east which is crop farmed. The land immediately to the north is vacant but zoned for industrial use.

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

The facility will use rural water. The applicant is working with the State septic officers to design a septic system to meet the needs of the various uses in the building, including food preparation. The septic drain field has been shown on the site plan to the east of the building. This area will need to be fenced or restricted to ensure that no overflow parking is allowed on the drain field.

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

The main access to the facility is from SD Highway 115. The applicants are aware that hard surfacing is required. The petitioners have indicated 80 parking spaces on the submitted site plan. Parking regulations in Section 15.02 (P) of the Joint Zoning Ordinance requires:

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.

The 2006 IBC figures a restaurant, bar and the private seating area at 15 sq. ft. per occupant. Combined, these areas would allow an occupant load of 290 persons which would require 96 parking spaces. This occupant load does not exempt space for the bar and other equipment and features. With this allowance, the 80 parking spaces shown on the site plan is sufficient for these parts of the building. These parking spaces and the driveway from Hwy 115 are required to be hard surfaced.

The remainder of the building to be used for the events center has an occupancy load of 606 persons and the outdoor seating area could accommodate 200 people. Both of these areas will not see continuous use. The outdoor area will be seasonal while the events center will vary in use, based on the demand. Staff will consider the parking spaces required for this use as overflow parking, and not require hard surfacing. Given the limited time for use of the outdoor space, staff will not require additional parking for this area. A revised site plan showing an additional 202 parking spaces for the events center is required. There is sufficient space on the site for the overflow parking. This area cannot be accessed over or put on top of the septic drain field.

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 are residential uses to the southeast and southwest of the site. Any outside lighting should be constructed to shine directly downward and there should be no light spillage off of the property. Noise would only be a problem during the summer hours when activities are taking place outside. Staff will recommend that outside activities not be allowed past 11:00 pm.

Staff will add a condition that this facility must be inspected and reviewed by the Prairie Freedom Center Independent Living Choices. The organization provides education and advocacy about rights and responsibilities under the Americans with Disabilities Act and conducts accessibility reviews. The applicant has been provided the contact information for this organization.

The applicant did not indicate any signs on the submitted site plan. Signs must meet the regulations of Section 16.0 On-Premise Signs in the Joint Zoning Ordinance.

Pat Herman, County Planner, has worked with Dell Rapids City Administrator S.L. Martin on this application. County Building Inspector Tom Warne has also been involved since the application was submitted and is working with the applicant on the construction requirements.

Recommendation:

The staff finds that the requested use is compatible to the surrounding land use and in

conformance with the I1 Light Industrial Zoning District. Staff recommended approval of Conditional Use Permit #10-10 with the following conditions:

- 1) Conditional Use Permit #10-10 shall be for a bar, restaurant, community center, events center with outside seating and related recreational activities.
- 2) Hours of operation shall be:
 - Monday through Thursday – 11:00 am to 11:00 pm
 - Friday & Saturday 11:00 am to 1:00 am
 - Sunday – 11:00 am to 10:00 pm
- 3) Outside activities shall not occur after 11:00 pm.
- 4) The building shall meet the requirements of the 2006 IBC as adopted by Minnehaha County. A building permit will be obtained for the remodeling work from the County Planning Department.
- 5) State approval is required for the septic system. A septic permit will be obtained from the County Planning Department. The septic drain field shall be kept free of traffic and parking by placement of a barrier.
- 6) The driveway from Highway 115 and 80 parking spaces, as shown on the submitted site plan, shall be hard surfaced by June 1, 2011.
- 7) Two hundred and two additional overflow parking spaces shall be provided for the events center. These parking spaces are not required to be hard surfaced. A revised site plan showing these parking spaces shall be provided to the County Planning Department prior to the commencement of business in the events center.
- 8) Signs must meet the regulations of Section 16.0 On-Premise Signs in the Joint Zoning Ordinance.
- 9) The applicants will obtain a S.D. tax license and meet the standards of the S.D. Health Department.
- 10) A dry suppression system must be approved the State Fire Marshall.
- 11) This facility must be inspected and reviewed by the Prairie Freedom Center Independent Living Choices. A copy of their findings shall be provided to the County Planning Department.
- 12) Commencement of business shall not occur until the County Building Inspector has approved the facility for operations. Each use of the building shall have approval from the building inspector prior to commencement of business.

Public Testimony

Commissioner Dearduff question why staff has suggested that the drain field is not to be used for a parking or driving area. Pat Herman informed the commission that compaction of the area due to parking and/or driving can cause the septic system to fail.

Commissioner Steinhauer asked why the Prairie Freedom Center was mentioned in the conditions and not just the wording that would suggest that the petitioner meet all ADA requirements. Ms. Herman stated that adding this to the conditions was a way to inform the petitioner of who to contact for this service.

Dean & Michele Kommes (petitioner) stated that they have consulted a licensed septic installer and they suggested the septic system be moved from the NE to the SE area of the lot. Commissioner Lamberty asked if they intended to fence the septic system. Mr. Kommes informed the commissioners that some type of barricades such as curb stops would be up down in this location to prevent people from driving and/or parking on the area.

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 Mullaney and seconded by Donelan to **approve** Conditional Use Permit #10-10 with the conditions as stated. The motion passed unanimously. Same motion for the County by Cypher and seconded by Randall. The motion passed unanimously.

Conditional Use Permit #10-10 – Approved

ITEM 3 ZONING ORDINANCE TEXT AMENDMENT #10-05 Conditional Uses, Vehicle Restrictions, Hard Surfacing, and Definitions

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 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 the Office of the State's Attorney.

Ordinance Explanation

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

ORDINANCE MC

AN ORDINANCE AMENDING THE 2001 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY AND THE CITY OF DELL RAPIDS BY ADDING NEW USES TO THE A-1 AGRICULTURAL AND RC RECREATIONAL/CONSERVATION DISTRICTS; AMENDING HARD SURFACING REQUIREMENTS; ADDING VEHICLE & EQUIPMENT RESTRICTIONS; AND ADDING RELATED DEFINITIONS FOR THE PROPOSED AMENDMENTS

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC28-01, the 2001 Revised Zoning Ordinance for Minnehaha County and the City of Dell Rapids is hereby amended as follows:

In section 1, the term Animal Livestock Shelter is being added as a use allowed by

conditional use permit approval. It if defined in the definition section.

In sections 1 & 2 the term private outdoor recreational facility is being replaced with recreation facility. Recreation facility is also being added to the definition section. Farmer's market is being added as use that would allowed by conditional use permit approval and it is also being defined.

Section 1: That Article 3.04 (M, P &CC) is hereby added or amended to read:

- (M). Recreation Facility.
- (P). Farmer's Market.
- (CC). Animal Livestock Shelter

Section 2: That Article 9.04 (D & Q) is hereby added or amended to read:

- (D) Recreation Facility.
- (Q) Farmer's Market.

Section 3: That Article 12.13 is hereby added to read:

Below is intent of this portion of the ordinance and the listing of zoning districts for which it applies.

12.13 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 12.13 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 12.13.

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 4: 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.

Section 5: That Article 26.02 is hereby amended to read:

18. ANIMAL LIVESTOCK SHELTER. Any facility operated, owned, or maintained by a duly incorporated Humane Society, animal welfare organization, or non-profit organization for the purpose of providing for and promoting the welfare, protection and the humane treatment of livestock. Livestock does not include exotic animals or household pets as defined by Ordinance MC29-02 the 2002 Minnehaha County Animal Control Ordinance.

Replacing the old definition shown in old, with a more detailed definition for a bed and breakfast establishment.

BED AND BREAKFAST ESTABLISHMENT. A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.

55. BED AND BREAKFAST ESTABLISHMENT. A bed and breakfast accommodation may provide no more than ten bedrooms for guests (exclusive of the living quarters of the owner or operator). Guests at a bed and breakfast accommodation may stay up to fourteen consecutive days provided that the bed and breakfast accommodation may only offer a daily rate and shall not offer weekly or bi-weekly rates. A bed and breakfast accommodation may include kitchen and dining facilities to furnish meals for guests only. Food preparation within a guest bedroom is prohibited. A bed and breakfast accommodation may not include a restaurant, banquet facilities or similar services.
257. FARMER’S MARKET. An area where space is rented to individual vendors who

grow farm products such as agricultural and horticultural goods, or who produce food specialty products such as baked goods, candies, jams, jellies, spices, condiments, cheeses, eggs, milk, honey, meats, fish and pasta. This definition does not include the sale of arts and crafts products.

558. PRODUCE STAND. A produce stand is defined as a temporary or permanent structure used for the display and sale of agricultural products, not to include retail nursery operations.

573. 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

This definition defines a residential area. The term is used in this ordinance amendment in addressing vehicle restrictions. 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

Staff recommended approval of zoning ordinance text amendment #10-05.

Public Testimony

Commissioner Donelan asked if construction vehicles used for utility work would be allowed. Pat Herman stated that these types of vehicles would be permitted as long as work is being done in the area.

Commissioner Kelly asked if it mattered wither or not the commercial vehicles were screened or place within an enclosed structure. Ms. Herman stated that if the property is not zoned commercial, commercial equipment is not permitted unless otherwise stated in the ordinance.

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 Mullaney and seconded by Dunn to **approve** the zoning ordinance text amendment #10-05. The motion passed unanimously. Same motion for the County by Rogen and seconded by South. The motion passed unanimously.

Zoning Ordinance Text Amendment #10-05 – Approved