



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
January 23rd, 2023**

A meeting of the Planning Commission was held on January 23rd, 2023 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Ryan VanDerVliet, Mike Ralston, Doug Ode, and Joe Kippley.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Maggie Gillespie – States Attorney's Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:00 p.m.

ITEM 1. Election of Officers for 2023

Commissioner Randall made a motion to nominate Bonnie Duffy for Chair and was seconded by Commissioner Ralston. The motion passed unanimously. Commissioner VanDerVliet made a motion to nominate Becky Randall for Vice-Chair and was seconded by Commissioner Kippley. The motion passed unanimously.

Commissioner Kippley made a motion to recess the County Planning Commission and was seconded by Commissioner Randall. The motion passed unanimously. The County Planning Commission meeting was **recessed** at 7:02 p.m.

Commissioner Duffy **reconvened** the County Planning Commission meeting at 8:45 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and several people from the audience requested to speak to the commission.

Christian Swanson, of 230 Nidaros Avenue, Baltic, SD, commented to the commission his concerns with the Coachman Manor mobile home park expansion that was approved in late 2022. Mr. Swanson stated that he has had several discussions with people that are opposed to the expansion, and that they were never notified until after it was already approved. Finally, he stated several other concerns including the lack of police presence, the burden it will cause on the school district, and the fact that the city of Sioux Falls is not allowing any new mobile home parks within their city limits.

Betty Strom, of 7504 W Loganberry Street, Sioux Falls, SD, addressed the commission with her comments on the proposed carbon dioxide pipelines within the County. She stated that she is concerned in regards to conflicts of interest that any commissioners may have with the pipeline, and that she believes a point of order should be called to reduce any potential for conflict of interest.



Consent Agenda

Commissioner Duffy read each item on the consent agenda, and no Items were moved to the regular agenda.

A motion was made to approve the consent agenda consisting of Items 2, 3, & 4 by Commissioner Randall and seconded by Commissioner Ralston. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

ITEM 2. Approval of Minutes – November 28, 2022

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Ralston to **approve** the meeting minutes from November 28, 2022. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.



Consent Agenda

ITEM 3. CONDITIONAL USE PERMIT #23-02 to exceed 2,400 square feet of accessory building space (requesting 3,600 square feet) on the property legally described as Lacey Tract 3 SW¼ Section 5 T101N-R48W Split Rock Township.

Petitioner: Eric Postma

Property Owner: Same

Location: 7700 E Callies Place

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lacey Tract 3 SW¼ Section 5 T101N-R48W Split Rock Township.

Present Zoning – RR Rural Residential

Existing Land Use – Residential Acreage

Parcel Size – 1.09 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to build a 60 feet wide by 60 feet long shed exceeding the 2,400 square feet of accessory building space allowed on the property without a conditional use permit. The property is located at the edge of a small residential subdivision off Six Mile Road. A larger accessory building in a residential subdivision requires approval of a conditional use permit prior to construction.

The petitioner submitted a site plan and building plans to support the application. The site plan shows two existing detached accessory buildings exist on the property. These three buildings will be removed to make space for the new building. The removed buildings include two small sheds and a detached garage.

The building plans submitted for the application are detailed. The plans show that approximately two thirds of the shed is planned for garage space with an undesignated room in the other third. The undesignated room includes a bathroom with a shower and what appears to be a full kitchen with a full size range. This arrangement is not allowed as it can be used as an additional dwelling on the property. The petitioner must be aware that at a minimum, the final construction must not have a full kitchen to prevent the use of the building as a separate dwelling for full or temporary living quarters.

Conditional Use Permit Criteria:

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 shed is shown to be located behind the house in the rear yard. There will be no new driveways for the shed and it will be used for personal storage. The one large shed will consolidate



buildings on the property rather than having multiple smaller structures. With these characteristics, the shed should not have a negative affect on existing uses.

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

The property is across the street from the Sioux Falls joint jurisdiction boundary, and it is about three quarters of a mile east of Veteran's Parkway. Development in this area will likely not change until Sioux Falls City limits extend towards the lot. The large building will also not likely change this development.

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

The property has an existing access onto Callies Place. The property owner will need to extend any utilities for the structure at the time of construction.

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

The property is used for a single family dwelling. There is already enough parking on the site for the land use.

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

The property owner must comply with all rules of the public nuisance ordinance. The CUP should limit the use of the shed to exclude commercial businesses and activities in order to prevent nuisance commercial uses. Lighting should be designed to prevent glare onto neighboring properties.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed larger accessory building should not harm the health, safety, or general welfare of the public when conditions are applied.

The application and site plan is for a 3,600 square foot building. The applicant should be aware that buildings 60 feet wide and wider require engineered plans to be approved by the building inspector prior to the issuance of a building permit.

Recommendation: Staff recommends **approval** of Conditional Use Permit #23-02 with the following conditions:

- 1.) The building location shall adhere to the submitted site plan.
- 2.) The total area of all accessory buildings may not exceed 3,600 square feet.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot. The building shall not be used for commercial purposes.
- 4.) The accessory building shall not be used as a dwelling, and a full kitchen is prohibited from being in placed in the structure.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.



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- 6.) That a building permit is required prior to construction of the accessory building. Engineered plans for the building must be reviewed by the building inspector prior to the building permit if the accessory structure is 60 feet wide or wider.
- 7.) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Ralston to **approve** Conditional Use Permit #23-02. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #23-02 – Approved



ITEM 4. CONDITIONAL USE PERMIT #23-03 to expand the Mini Storage Facility on the property legally described as Dawson's Tract 2 to include the property legally described as Dawson's Tract 1 all in the SE¼ Section 12 T102N-R50W Benton Township.

Petitioner: Timothy Tiaht

Property Owner: Same

Location: 25771 472nd Avenue

Staff Report: Mason Steffen

General Information:

Legal Description – Dawson's Tract 1 & Tract 2 SE¼ Section 12 T102N-R50W Benton Township.

Present Zoning – C Commercial

Existing Land Use – Mini Storage Units/Vacant Lot

Parcel Size – 4.67 Acres

Staff Report: Mason Steffen

Staff Analysis: The subject properties are located at the northeast corner of the Crooks/Renner Exit off of Interstate 29 and approximately ¼-mile north on 472nd Avenue. The existing storage unit facility has been in operation since 2016, and the proposed expansion area was rezoned to C Commercial in 2018 in preparation for this expansion request. Additionally, the nonconforming single-family dwelling that had existed on the expansion property was removed late last year in order to allow for this expansion. Finally, the proposed expansion of the storage unit facility would add approximately forty addition units between three new storage buildings.

The petitioner has submitted a site plan of the proposed expansion area, which indicates a new storage building on the existing property as well as two new buildings on the expansion property. The sizes of the three buildings will be a 16,800 square foot building with twenty-four storage units, a 2,750 square foot building with eleven storage units, and a 1,000 square foot building with five storage units. Additionally, the site plan indicates that each of these buildings will meet the required thirty foot front yard setback, as well as the twenty foot rear yard and ten foot side yard setbacks. On January 11, 2023, staff conducted a site visit of the subject property and surrounding area. Currently, there is a gated fence around the existing storage facility and this fence should be extended in order to control access to the expansion site. Given that the petitioner is not requesting outdoor storage, there is no screened fence requirement, but the gated fence would prohibit unauthorized access to the property. Finally, the location of the subject properties is in an area conducive to commercial growth, and the remaining residential uses in the area are separated from the operation by mature tree groves.

Conditional Use Permit Criteria:

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 expansion of the existing commercial use on an adjacent property should not overly impact the uses already permitted in the area. The expansion of this operation will operate the same as the existing facility that has been approved since 2016. Additionally, the remaining residential uses in the area are set back several hundred feet from the road, and have well-established tree groves between them and the subject property.

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

This area around the Crooks/Renner exit off of Interstate 29 is heavily used for commercial/industrial uses, and the expansion of the storage unit facility will be a continuation of these existing uses. Additionally, the expansion will remove a nonconforming residence from an area that is becoming less conducive to residential uses. Finally, multiple properties in the area have been rezoned to commercial, and commercial uses are likely to expand in the area into the future.

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

The operation has existing access on to the County Highway, and there is also an additional access to the expansion property that has been used for the residence until now. However, after discussion with the County Highway Department they would prefer that the operation only use the existing access. This is due to the fact that the two driveways are positioned close together at a point on the highway where the speed limit is fifty-five miles per hour. Therefore, it is recommended that the petitioner use the existing access for the entire operation, and that they will need to consult the County Highway Department in regards to the additional access. All of the other required utilities are already available on the property.

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

The buildings are spaced wide enough to allow for temporary parking. No permanently parked vehicles will be allowed as outdoor storage. The parking areas and driveways will be required to be hard surfaced in accordance with Minnehaha County Minimum Improvement and Maintenance Standards.

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.

Lighting and glare from this type of operation does have the potential to be a nuisance to neighboring properties. However, lighting is also needed on the property to maintain the proper site visibility and for security. Therefore, any new lighting that is installed on the property for this expansion request should be designed to direct light so that it does not spill off of the property. Commercial businesses will also not be allowed to operate in the storage units, which will reduce the chances of any other types of nuisance being created by this facility.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed expansion property was specifically rezoned to C Commercial in 2018 to allow for this use. It is also unlikely that the requested expansion will create any additional health, safety or welfare concerns. Finally, this area is designated as a rural service area in the Comprehensive Plan, which specifically allows for the development of commercial and industrial uses.



Recommendation: Staff recommends **approval** of Conditional Use Permit #23-03 with the following conditions:

- 1) That the property shall adhere to the submitted site plan.
- 2) That no outside storage shall be allowed at any time.
- 3) That no commercial businesses shall be allowed to operate within the storage units.
- 4) That all driving and parking areas shall be hard surfaced to the standards of the Minnehaha County Zoning Ordinance. The hard surface is required to be installed within 6 months after all of the storage units are constructed or by August 31, 2024 whichever is sooner.
- 5) That all outdoor lighting shall be designed to prevent direct spillage of light beyond the property boundaries.
- 6) That building permits are required for the storage units and for any signage.

Action

As part of the consent agenda, a motion was made by Commissioner Randall and seconded by Commissioner Ralston to **approve** Conditional Use Permit #23-03. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #23-03 – Approved



Regular Agenda

ITEM 5. TEMPORARY USE PERMIT #22-03 to allow a temporary asphalt plant on the property legally described as Tract 3 Harr's Addition in the SW1/4 SE1/4 of Section 30-T102N-R50W, Benton Township.

Petitioner: Bituminous Paving Inc.

Land Owner: White Buffalo Ridge LLC

Location: Approximately ½ mile southeast of Interstate 90, Exit 390.

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 3 Harr's Addition in the SW1/4 SE1/4 of Section 30-T102N-R50W, Benton Township.

Present Zoning: I1 Light Industrial

Existing Land Use: Vacant lot

Parcel Size – 13.28 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

Temporary uses are allowed within the zoning ordinance through a process which includes notifying neighbors within 600 feet of the property, and allowing two weeks of time for neighbors to respond with any opposition. If written opposition is received, then a public hearing is scheduled for the Planning Commission with the same rules as a conditional use permit. A temporary use permit has the maximum duration of one year.

This temporary use permit request is for a temporary asphalt plant on the property near Hartford. A similar temporary use permit request was approved for the company on this property for the 2022 construction season. When staff sent notices for this request, two neighbors responded with written opposition to the request. Complaints about the asphalt plant include noise during morning through night, lights, smell, pollution with smoke and blown dust, and additional truck traffic not always knowing which driveway to use for the plant. The emailed opposition letters are included with this report.

Staff received no written narrative for the proposed request, but the application form includes a few details of the property. The duration of the temporary use is requested to last through December 1, 2023. The hours of operation are planned for 6:00 am to 9:00 pm. And portable toilets will be available on the site for workers.

Standards for Review:

The County Zoning Ordinance includes nine standards that shall be used to determine the suitability and compatibility of a temporary use request. Below is a list of standards with a description of how the proposed use meets the standard.



1) The temporary use will have no adverse effect on nearby properties or jeopardize public health, safety, and general welfare.

The written opposition presented to the planning department lists many items that are affecting the use of neighboring properties. The Planning Commission can place conditions to limit the hours of operation. Limiting the hours of operation will reduce nuisance time frame of noise and lighting. Staff recommends that lights are required to be redirected away from the two residential properties adjacent to the site. Water can be used on the property to suppress dust from aggregate piles and driveway access on the property. An asphalt plant will produce a smell and smoke that cannot be avoided, but it may be limited with hours of operation. The property is zoned I1-light industrial and the temporary use will be for one construction season.

2) The temporary use will not create hazardous traffic conditions or result in traffic in excess of the capacity of the roads serving the use.

The proposed temporary use has direct access onto SD Highway 38. The driveway access has gravel a short distance from the highway to prevent mud and debris from tracking onto the road. The highway can handle the additional truck traffic.

3) The site is adequate to accommodate the proposed use, including the provision for on and off site parking.

The property is large and can accommodate many off street parking location and loading of trucks. The site is being used to store recycled road products and aggregate for the asphalt mix process. The operation is located within the center portion of the parcel with aggregate storage on the south and east side.

4) Adequate sanitation facilities will be available on the site.

The application includes and explanation that about 30 people will be working on the site including truck drivers. In addition two portable toilets are planned for the site. The two portable toilets should be adequate for the number of workers on the site.

5) The time period and hours of operation for the temporary use are clearly specified.

The petitioner states within the application form that the requested hours of operation is 6:00 am to 9:00 pm with no changes for weekends. These proposed hours roughly correlate with daylight hours from the middle of May to the middle of July. One major complaint about the permitted operation last year was lighting early in the morning and late at night. To prevent nuisance lighting and still allow time for working, staff suggests limiting the hours of operation to daylight hours, with start time beginning no earlier than 6:00 am or later than 9:00 pm. This will give longer working time during summer months and shorter working time in spring and fall.

6) Provision is made for the removal, clean-up, and restoration of the site.

Prior to the temporary asphalt plant in 2022, the property was a vacant industrial zoned parcel. Many pieces of equipment, trucks, and aggregate storage is part of the asphalt plant. The petitioner must be required to remove the equipment and aggregate storage after the expiration of the temporary use permit.



7) The temporary use will not adversely impact the natural environment.

An asphalt plant will release some smells and gases regardless of the location of the temporary facility. The proposed facility is located in an industrial zoned property adjacent to a State Highway. There is a need for asphalt production, and the impact on the natural environment will be the same regardless of location. This location has the advantage of proper zoning and easy access to the highway.

8) The site is suitable for the proposed temporary use, considering flood hazard, drainage, soils, and other considerations which may constitute a danger to life, health, or property.

This site is not within the flood hazard area. Berms are constructed around the perimeter of the property which will help reduce potential drainage concerns on the property.

9) All temporary improvements and any permanent structures proposed to be used will comply with all applicable provisions of the county's building code.

The proposed temporary use will not have any permanent structures. A couple temporary job site trailers are present as shelters, and these temporary trailers will not need any building code review.

Recommendation: Staff recommends **approval** of Temporary Use Permit #22-03 with the following conditions.

- 1.) Temporary Use Permit #22-03 is approved for a temporary asphalt plant from March 1st, 2023 until December 1, 2023. Any request for an additional time period for the temporary use shall require a new temporary use permit.
- 2.) If one (1) or more acre of area is disturbed, the applicant is required to obtain a General Permit from the Department of Agriculture and Natural Resources.
- 3.) The temporary use shall operate in the area of the as depicted on the submitted site plan.
- 4.) The hours of operation shall be limited to daylight hours from sunrise to sunset, and not starting before 6:00 am or extending after 9:00 pm at any time.
- 5.) All temporary lighting must be positioned and directed away from residential dwellings or SD Highway 38.
- 6.) The portable asphalt plant shall be removed from the site by December 1, 2023.
- 7.) The access to the site shall use the existing access on South Dakota Highway 38.
- 8.) No loading or unloading is allowed on the highway.
- 9.) A minimum of a four inch thick gravel surface must be provided for the driveway beginning at the edge of South Dakota Highway 38 for a distance of 75 feet of the driveway.

Public Testimony & Discussion

Kevin Hoekman, of County Planning Staff, presented an overview of the staff report and recommendation to the commission.

Commissioner Ode asked staff if limiting the hours of operation to daylight hours will extend the amount of time the project will take. Kevin Hoekman stated that he could not specifically answer that question, and that the petitioner would need to answer.

The petitioner, Chris Brehmer of Bituminous Paving, was present and available for questions from



the commission. Mr. Brehmer stated that the temporary asphalt plant on the property would be for the shoulder repair on Interstate 90 that is planned to take place this Fall. Additionally, he stated that the operation is tested by the Environmental Protection Agency for health and safety standards, and that limiting the working hours to daylight hours could increase the project length by up to 25%.

Commissioner Kippley asked the petitioner to clarify if the same operation existed in 2022, and what months it was in operation. Mr. Brehmer explained that in 2022 they used the asphalt plant from the beginning of November to Thanksgiving. Commissioner Kippley followed up to ask what the operating months would be in 2023, and if the operation would continue into 2024. The petitioner stated that the operating window would be for approximately two months in the early to late Fall of 2023, and that weather permitting it would not extend into 2024.

Meghan & Devin Howard, of 46645 Highway 38, addressed the commission with their concerns regarding the temporary asphalt plant. Mrs. Howard explained to the commission that her quality of life has been severely degraded by the asphalt plant, and that during the three weeks of operation in 2022 she could hardly be outside without coughing and getting a headache. Mrs. Howard also stated that they were made aware by the property owner that the petitioner would be leasing the property for an asphalt plant in 2022, but that they were told it would only take place in 2022 and only during normal business hours. Devin Howard also explained to the commission that the lights being used by the asphalt plant are unreasonable, and shine through their windows at night. These neighbors also stated that several trucks have mistakenly used their driveway to try to access the asphalt plant, and that these trucks are degrading their driveway. Mrs. Howard then explained that the berm that was constructed on the east side of the subject property does not fully block their view of the operation, and that large portions of this berm have washed out. Finally, Mrs. Howard stated that they have been in contact with the petitioner to try and resolve their issues, but that these conversations did not lead to any meaningful conclusions.

Zoey North, of 46642 Highway 38, came to the podium to explain her concerns with the asphalt plant. Mrs. North explained to the commission that her and her husband have health issues, and that the temporary asphalt plant has caused them to leave their home due to the smog. She further stated that the conditions caused by the asphalt plant are unacceptable, and that the other industrial neighbors in the area have been good neighbors. Mrs. North also explained that there are property owners up to ½-mile away that have an issue with the smoke and smog from the operation, and that her property along with the Howard's are only several hundred feet from the property.

Alex Hagen, of 200 E 10th Street, Sioux Falls, explained to the commission that he is the attorney representing Zoey North. Mr. Hagen stated that the petitioner submitted no written narrative to planning staff, and that the scope of the work presented to the neighbors was far more limited than what was being presented at this meeting. Additionally, Mr. Hagen stated that this nine-month temporary use permit will be allowed to operate during sunlight hours, seven days a week, and will have an adverse impact on his client's health and enjoyment of their property. Mr. Hagen also stated that a standard for review of every temporary use permit is that it shall have no adverse effect on neighboring properties, so by definition this asphalt plant should not be allowed with a temporary use permit. Finally, he explained that if the permit was to be limited to a certain timeframe for when the work was to take place that may be acceptable, but as of now the permit would allow the



petitioner to operate the asphalt plant at any time within the nine month approved timeframe.

Commissioner Kippley stated that it appears there could be common ground found between the petitioner and the neighbors before the permit is approved. Commissioner Kippley also commented that he would like to see the item deferred so that the parties involved can work with planning staff to find acceptable conditions for the asphalt plant.

Action

Commissioner Kippley made a motion to **defer** Temporary Use Permit #22-03 to the Planning Commission meeting on February 27, 2023. The motion was seconded by Commissioner Randall.

Commissioner Ralston stated that he is not normally in favor of deferring action, but in this case he sees that mutual ground could be found between the neighbors and the petitioner.

Commissioner Ode commented that the parties involved should work together to resolve their differences before the meeting in February.

Commissioner Kippley made a final comment that both the neighbors and petitioner should have a good faith discussion with planning staff before the next meeting, in order to discuss potential acceptable conditions that can be discussed at the meeting.

The motion passed with 5 votes in favor and 0 votes against the motion.

Temporary Use Permit #22-03 – Deferred to February 27, 2023



ITEM 6. CONDITIONAL USE PERMIT #22-75 to allow a Motor Vehicle Repair Shop on the property legally described as Lot 1 Block 1 Brower 2nd Addition SW¼ Section 27 T102N-R51W Hartford Township.

Petitioner: Thomas Aesoph

Land Owner: Same

Location: 46334 Jeffrey Street

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 1 Block 1 Brower 2nd Addition SW¼ Section 27 T102N-R51W Hartford Township.

Present Zoning: I1 Light Industrial

Existing Land Use: Contractor's Yard

Parcel Size – 1.22 Acres

Staff Report: Kevin Hoekman

Staff Analysis Update Summary:

This item was first brought before the Planning Commission on October 24, 2022. At the hearing staff presented four standards that should be met before the approval of the conditional use permit. Staff visited the site on January 10, 2023 and found the first three standards are met. The petitioner purchased a building permit for completing the office space and for allowing a final inspection to be completed when ready. With these concerns met, staff is recommending approval of the conditional use permit with conditions. The staff analysis below is updated for review.

Staff Analysis:

This item was brought to the attention of planning staff by a complaint that trucks were being parked on the road and parts and other junk items are being stored outside of an enclosed building. Staff contacted the property owner on August 10th, and again on September 15th regarding outdoor storage, vehicle repair, and vehicles parking on the street. The petitioner applied for the conditional use permit for motor vehicle repair before the deadline of the second letter. A conditional use permit is required to operate a motor vehicle repair shop. After further review by staff, the proposed use should also include outdoor storage as many items for the use are being stored outside of the enclosed building. Outdoor storage requires a conditional use permit.

The petitioner submitted a narrative for the proposed repair shop. The petitioner explains that issues with supply chains have required him to maintain more used parts and supplies. A large warehouse was built on the property beginning in 2020 for the purposes of storing parts. The building has not yet obtained a final inspection to ensure building code requirements have been met. However a building permit has been issued for the final work on the warehouse building and office space inside. At the time of application, the petitioner stated that outdoor storage will not be an issue once the building is complete.

Please note in the following conditional use permit criteria that the use of the property for motor vehicle repair is generally compatible in the industrial park if a few conditions can be met.



Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.

The area around the proposed motor vehicle repair shop is light industrial with many contractor lots, storage, and warehousing type uses. Several other trucking uses also exist in the industrial park. A truck repair shop would fit into the neighborhood well.

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

The Brower Addition industrial park is not fully developed. Several vacant lots exist in the interior, and a more undeveloped area exists on the east side of the industrial park. A truck repair shop fits into the current development, however if the business reverts to past practices such as trucks parking on the road and dismantled vehicle parts stored outside will discourage development further into the park. The larger building is now being used for storage and should be able to contain unsightliness issues of the past.

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

The property is already developed on an existing lot. The use will not affect drainage any further than the current state. Utilities must be present for the existing use. The property is accessed from a hard surfaced private road. The private road is hard surfaced and maintained by a road district. It is difficult to determine where any driveway begins or ends as an access onto the street because, nearly the entire south side of the property acts as a driveway.

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

The property is large enough to meet ordinance requirements for parking. At the time staff visited the property in January, no vehicles were parked within the right-of-way. Parking in the right-of-way was a major concern when the property was first brought to the attention of staff.

The zoning ordinance requires 15 feet setback from the front yard for any parking. At the January site visit, it appeared as if this requirement was met. Going forward, the petitioner is encouraged to use a barrier to separate the required 15 feet parking setback.

The zoning ordinance also requires driveways and required parking to be hard surfaced per section 15.04 of the ordinance. The area behind the fence at the front of the building is considered maneuvering space and would not need hard surfacing. Hard surfacing has been an ongoing issue in the Brower addition since the streets were not paved all at once. This particular property was required to place hard surfacing in 2008 with the original contractor storage lot. The hard surfacing requirement has never been met on the property. Staff recommend hard surfacing requirement as a condition of approval for the area in front of the fence.

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

The truck repair shop was brought to the attention of staff because of trucks being stored in the right-of-way and on the edge of properties. Parts and dismantled vehicles were also stored



haphazardly throughout the property. The property appears as a salvage yard. With proper screening and parking vehicles in an appropriate storage area, a motor vehicle repair shop would be able to operate with minimal to no nuisance to neighbors.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The property owner made much progress to meeting the standard presented in the October Planning Commission meeting. The use of the property for truck repair is compatible with the neighborhood.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-75 with the following conditions.

- 1.) That the property shall adhere to the submitted site plan. For a motor vehicle repair shop.
- 2.) That the conditional use permit shall allow for motor vehicle repair and outdoor storage all outdoor storage of parts and inoperable vehicles must take place behind the fence on the property.
- 3.) That all new and replacement outside lighting shall be fully cut-off and fully shielded with recessed lights that prohibit the spillage of light beyond the boundaries of the subject property.
- 4.) That Article 15.00 Parking & Loading Regulations shall require two (2) parking spaces for each three employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection with the motor vehicle repair shop.
- 5.) All signage shall follow Article 16.00 On-Premise Signs. A building permit is required for the installation of any sign.
- 6.) That all driveways, parking and loading/unloading areas shall be hard-surfaced according to Article 15.04 of the zoning ordinance.
- 7.) No loading or unloading shall take place in the right-of-way at any time.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the motor vehicle repair shop at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinances.

Public Testimony & Discussion

Kevin Hoekman, of County Planning Staff, presented an update to the commission regarding the request, and also explained the updated recommendation for approval.

The petitioner, Thomas Aesoph of 46334 Jeffrey Street, was present and available for questions from the commission. Mr. Aesoph stated that he does not fully understand why this new conditional use permit for a motor vehicle repair shop is necessary given that the property was approved for a contractor's storage yard in 2008.

Scott Anderson, the County Planning Director, explained to the commission that a motor vehicle repair shop is a different use than a contractor's storage yard, and therefore the previous permit does not cover this updated use. Mr. Anderson also commented that conditional use permits expire if the allowed use ceases to be in operation for more than a one year.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

JANUARY 23rd, 2023

Commissioner Ralston stated that the petitioner has addressed the concerns from the original meeting, and that he does not see a problem with approving the request at this time.

Action

Commissioner Ralston made a motion to **approve** Conditional Use Permit #22-75 with the staff recommended conditions. The motion was seconded by Commissioner Ode. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-75 – Approved



Old Business

Scott Anderson, the County Planning Director, presented an updated overview of the proposed short term rental ordinance. The updates included defining the use as a “Vacation Home/Short Term Rental”, so that the definition could be as encompassing as possible. Additionally, a regulation was added to require contact information for the owner be provided to the Planning Department and to the guests, in the case of an emergency. Mr. Anderson then stated that each request that falls under this proposed definition would require a conditional use permit, which would allow for additional conditions to be added on a case by case basis. Finally, Scott explained the timeline for the proposed ordinance amendment, including that the minimum time it would take to approve the amendment would be ninety days.

Commissioner Randall thanked Scott for the hard work on this ordinance amendment and that she believes the update addresses many of the concerns from the previous meeting. Commissioner Randall then asked staff a series of questions including how the property will be taxed, if a state lodging license is required, and who would handle the complaints in the joint areas of the County. Scott Anderson explained to the commission that the County does not collect taxes, and that they do not have the authority to collect Business Improvement District (BID) taxes outside of a municipality. Additionally, Scott stated that requests for a “Vacation Home/Short Term Rental” would be required to register with the State, and that any sales tax would be addressed through the State license. Finally, Mr. Anderson explained that the enforcement of the conditional use permit and any violations would fall on the County Planning Department regardless of if it is within a joint jurisdiction, and that the permits could be recalled to the Planning Commission if violations persist.

Commissioner Kippley stated that the proposed ordinance is a good starting point that meets somewhere in the middle of all of the proposed options. Commissioner Kippley also commented that he does not want to delay the issue unnecessarily given that requests for these types of operations keep showing up. Finally, Commissioner Kippley asked staff how to move forward with the ordinance amendment, and staff briefly explained the process for the zoning text amendment.

Commissioner Kippley made a motion to add the proposed zoning text amendment to the agenda for the February 27, 2023 Planning Commission meeting. The motion was seconded by Ryan VanDerVliet. The motion **passed** unanimously with 5 votes in favor and 0 votes against the motion.

New Business

Scott Anderson explained to the commission that he has been in contact with several members of the public regarding the two proposed carbon dioxide pipelines within Minnehaha County, and that these citizens feel there needs to be a conversation on how to handle these new pipelines. Scott then introduced the presenters: Rick Bonander, Tony Ventura, & Paul Blackburn, and gave the citizens fifteen minutes to present their ideas to the commission.

First, Rick Bonander of 26268 486th Avenue, presented an overview of what they would like to see in regards to a pipeline ordinance. Their ideas included potential emergency response plans, proposed setbacks to structures & cities, as well as other land rights issues. Mr. Bonander also explained that they believe the proposed ordinance is not exclusionary zoning because the pipeline companies could request waivers from land owners to reduce the proposed setbacks. Finally, Rick



Bonander stated that he would also like to see some protections for developments and land owners in the case of a potential pipeline rupture.

Next, Don Johnson of 26243 485th Avenue, addressed the commission with his comments on the proposed carbon dioxide pipelines. Some of the comments made by Mr. Johnson included that the pipeline will be within 50 or 100 feet of houses in some areas, that the safety shut off valves are approximately twenty-two miles apart, and that he would like to see a warning system installed on the pipeline. Additionally, Mr. Johnson commented that he has not been able to find any safety requirements that the pipeline must follow that satisfy his concerns, and that the pipeline companies are trying to begin construction before the federal regulations are updated.

Paul Blackburn, an attorney from Bold Alliance, addressed the commission with his comments via telephone. Mr. Blackburn commented that the Inflation Reduction Act will provide additional tax credits to the pipeline companies, which will make the endeavor even more profitable. He also stated that the County currently regulates wind/solar energy, and that they should also have some form of regulation for pipelines. Additionally, Mr. Blackburn stated that the federal safety regulations do not apply to decommissioned pipelines, and that it is up to the County to protect landowners.

Joy Hohn & Dale Bonnema, of 46178 263rd Street & 5005 E 49th Street respectively, presented a video to the commission of a simulated carbon dioxide pipeline rupture. They stated that the video is evidence that safety setbacks are needed from the pipelines in order to insure public safety. Finally, they explained to the commission the harmful impacts of carbon dioxide, and why these pipelines are more dangerous than oil and natural gas pipelines.

Scott Anderson explained to the commission that the best next step would be to allow time for the commission to think about this issue before making any decision on how to move forward. Mr. Anderson also explained that the item could be discussed at later meetings if the commission decides they would like to have further discussion.

Alfred Slaathaug, of 48198 Kim Circle, made a comment to the commission that as of now there has not been any deaths caused by carbon dioxide pipeline ruptures in the United States, but that carbon dioxide is dangerous and the safety setbacks should be considered.

Adjourn

A motion was made to **adjourn** by Commissioner VanDerVliet and seconded by Commissioner Ode. The motion was approved unanimously. The meeting was adjourned at 10:22 p.m.