

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
October 27, 2014

A meeting of the Planning Commission was held on October 27, 2014 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Bonnie Duffy, Becky Randall, Mark Rogen, and Bill Even.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning

NUMBER OF ATTENDEES: 13

The meeting was chaired by Mike Cypher.

**CONSENT AGENDA**

Item 5 was removed from the consent agenda and placed on the regular agenda.

A motion was made by Commissioner Rogen and seconded by Commissioner Duffy to **approve** the consent agenda. The motion passed unanimously.

**ITEM 1. Approval of Minutes – September 22, 2014**

A motion was made by Commissioner Rogen and seconded by Commissioner Randall to **approve** the meeting minutes from September 22, 2014. The motion passed unanimously.

**ITEM 2. CONDITIONAL USE PERMIT #14-45 to allow a medical waste transportation facility on the property legally described as Lot 4, Block 2, Green Valley Addition, NE1/4, Section 12-T102N-R50W in Benton Township.**

Petitioner: Stericycle, Inc. (Wade Van Zee)

Property Owner: Larry Haug

Location: 47172 Dominic St. approximately 1.5 miles east of Crooks

Staff Report: Kevin Hoekman

To allow a medical waste transportation facility.

**General Information:**

Legal Description – Lot 4, Block 2, Green Valley Addition, NE1/4, Section 12-T102N-R50W

Present Zoning – I-1 Light Industrial District

Existing Land Use – Vacant

Parcel Size – 1.39 Acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The site is located on a cul-de-sac (Dominic Street) within the industrial park on the northwest side of the Crooks Renner exit off Interstate 29. The site is surrounded by industrial zoning and the nearest residence is over ¼ mile away to the northwest. The industrial park is developing at a quick pace because of its accessibility to I-29 and the paved streets have been maintained in the industrial park.

The petitioner is requesting to operate a storage and transfer facility of regulated medical waste, non-hazardous waste pharmaceuticals, and regulated garbage. All medical waste containers are labeled and tracked from the source of generation, through the storage, and to the processing facility. The generator of medical waste is required to package the waste in a manner that prevents leaking and maintains the integrity of the packaging. These waste materials will be generated off site and transported to this location for temporary storage. The transfer between the generator of waste and the storage site will be made via enclosed route trucks. Once at the storage site, the waste material is transferred from the route truck to a 48 to 53 foot enclosed trailer that will store the material and be used for transfer of material to a processing facility. Once the trailer is full, it generally leaves the site within 48 hours. The waste materials will be transported away for treatment at an off-site processing facility. No processing of medical waste will happen on this site.

The operations on this site is requested for a 24 hour, 7 days a week. The 24 hour access allows transfers and truck exchanges to happen at any time. The primary working hours and office hours include 8:00 am to 5:00 pm Monday through Friday. Only authorized personnel will be allowed on site at any time and all doors and gates will be locked when personnel is not present.

The storage and transfer site will cover approximately 1/5<sup>th</sup> of an acre on the west side of the lot. Portions of the remaining lot will be used for staging and truck maneuvering. It is likely that the remainder of the site will be developed by the property owner at a later date. Two route trucks and three trailers will be located on the site at any given time. An approximately 10' x 10' "Job

Shack” will house office supplies and materials for the site. It will not have any facilities that require water and sewer.

Regulated medical waste transportation and storage is regulated by Federal and State agencies. The South Dakota DENR requires permitting for medical waste as well as the transport of medical waste. A representative noted that they have never issued a permit for a medical waste transport facility quite like this, but they do have the authority to do so if they see fit. Permitting at the state level will not be reviewed until local approval has been made. All employees will be trained upon hire and annually on all safety and procedures required for the handling and storage of regulated medical waste.

Because of the inherent nature of regulated medical waste, clean-up of abandoned waste would be costly. A financial assurance requirement may be included for potential cost associated with an abandoned site. A surety bond should be sufficient to recover the cost of transportation and disposal. The transportation of waste to the listed disposal facility in St. Paul would require 550 miles round trip at a cost of \$3 per mile. Since the proposed transportation and storage facility has three trailers on site, this trip would be made three times. These three trips would cost a rounded \$5,000 for transportation based on the estimated cost and distance. It is estimated that each semi-truck trailer may hold a minimum of 20,000 pounds that requires disposal at an estimated cost of \$0.25 per pound. At these amounts, the disposal cost could add up to \$15,000. The final aspect in consideration of the bond total would be potential cost of labor associated with clean-up of an accident or emergency. Considering that the clean-up could involve substantial equipment and expertise, the cost associated should be at a minimum of \$10,000. The total estimated cost associated with the combined transportation, disposal, and cleanup of medical waste on the site would total near \$30,000. Any requirement for an assurance bond should take this total into consideration.

#### **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 day to day operations of this site would be similar to the operations of nearby properties. Trucks would move in and out of the property and the transfer of medical waste from the route trucks to the semi-truck trailers will be done on site. All equipment and doors should be locked when personnel are not present on site.

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

This site will be one the first lots developed along Dominic Street. The added traffic caused by the route trucks and transfer trucks is expected as the street continues to develop. There is the potential for a stigma about locating a business next to a facility that carries medical waste, but in an industrial development area there is a minimal chance this would dissuade most developers.

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

Access will be provided off of Dominic Street which is a paved road with a cul-de-sac. The site is small and drainage will unlikely be a problem. All the necessary facilities and utilities are available in the industrial park.

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

The site plan does not include any parking for employees or visitors; however it was noted in an email that employees would likely park alongside the job shack or the back of the site. These

parking spaces and the driveway extending to them will have to be hard surfaced according to section 15 of the 1990 Revised Zoning Ordinance for Minnehaha County. The remaining driveways and storage area will have to be gravel surfaced to avoid noxious dust and debris. No parking or loading shall take place in the Dominic Street Right of Way at any time.

**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.**

No offensive nuisances shall be permitted at any time during operation of the garden center and bulk materials. Limits to the hours of operation will be the best way to limit any offensive noises that may be present from the operations on site. The use of outdoor lighting should be directed downward on to the property in order to prevent light pollution off site.

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

The day to day operation of the proposed land use will have a minimal effect on the health, safety and general welfare of the public as long as stringent packaging and transportation rules are followed. To ensure that all safety requirements are met, state, county, and local safety officials shall be allowed to inspect the site as needed.

The Minnehaha County Office of Emergency Management suggests that provisions are necessary to prevent unauthorized access to the site for the safety of the public. These provisions shall include fencing around the perimeter and lighting requirements. A fence should surround the site or parcel at a height of 6 feet. Any gates must be locked when personnel are not present on site.

In the event of an emergency, natural disaster, or accident, the medical waste may become a health and safety concern. An emergency plan should be required and approved by the planning department in the event that emergency personnel may need to approach the site.

**Recommendation:**

Staff found that the proposed medical waste storage and transfer facility is a reasonable use of the land within an I1 Industrial zoning district. Staff recommended **approval** of Conditional Use Permit #14-45 with the following conditions:

- 1.) That all necessary State and Federal permits be obtained prior to the operation of the site as a storage and transfer facility.
- 2.) That all waste comply with all relevant requirements of SDCL 34A-6. These requirements include permits and Board of County Commissioners' approval.
- 3.) That the facility shall conform to the provided site plans and meet all setback and yard requirements of the I1 industrial zoning district.
- 4.) That there will be no storage of medical waste outside or within the route trucks. All storage of medical waste must be inside of enclosed semi-truck trailers.
- 5.) That a minimum of two security lights be provided to illuminate the site at night to allow for surveillance and to discourage trespassing.
- 6.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7.) That a six (6) feet tall fence is erected around the perimeter of the site, and that all gates shall be locked when personnel is not present on the premises.
- 8.) That 'no trespassing' signs indicating medical waste is located on the site shall be placed along each property line.

- 9.) That a building permit is required prior to construction of the any building, structure, or sign.
- 10.) The driveway and employee parking shall be hard surfaced according to section 15 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 11.) A surety performance bond shall be filed with the Planning Department in the amount of \$30,000 to assure that funds are available to dispose of waste if the property is abandoned.
- 12.) The operator shall provide an emergency plan for the site to the Planning Department and train all site employees of the plan upon hire.
- 13.) That no more than two semi-truck trailers filled with waste are allowed on site at any time. Any filled semi-truck trailer must be transported to a processing facility for processing within 72 hours of filling the trailer.
- 14.) That the copies and manifests or waste tracking documentation, state inspection reports or waste monitoring reports shall be provided to the Planning Department upon request.
- 15.) The operator shall allow unrestricted entry upon demand during regular business hours for inspection by the state of South Dakota, Minnehaha County, and local fire department officials.

**Action**

A motion was made to **approve** Conditional Use Permit #14-45 by Commissioner Rogen and seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #14-45 – Approved**

**ITEM 3. CONDITIONAL USE PERMIT #14-46 to exceed 1,200 square feet of total accessory building area – requesting 2,180 square feet on the property legally described as Tract 1 & 2, Skyberg’s Addn., SW1/4 SE1/4, Section 14-T101N-R48W in Split Rock Township.**

Petitioner: Barbara A. Jurgens, co-owner

Property Owner: Janel K. Cole, co-owner

Location: 48258 265th St. approximately 3 miles southeast of Brandon

Staff Report: David Heinold

To allow 2,180 square feet of total accessory building area.

**General Information:**

Legal Description – Tracts 1 & 2, Skyberg’s Addn., SW1/4 SE1/4, Section 14-T101N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 19.17 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting to exceed 1,200 square feet of total accessory building area. The petitioner is requesting 2,180 square feet of total accessory building area. According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

- (1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

The petitioner is requesting to construct a 30’x30’ addition to an existing accessory building for personal storage. As shown on the attached site plan, the proposed addition will be located on the north side of the existing building. Currently, the petitioner has 1,280 square feet of total accessory building area and is requesting an additional 900 square feet.

The property owner immediately to the west, 48236 265th St., has a total accessory building area of 3,888 square feet. The property owner at 48228 265th St. has a relatively comparable sized, 1,944 square feet, total accessory building area. The property owner to the east, 48268 265th St., has a total accessory building area of 1,620 square feet.

On October 15, 2014, staff met with the petitioner at the subject property and determined that the requested size of the addition to the existing accessory building is comparable with other accessory buildings in the immediate vicinity.

**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.**

There are a few properties in the immediate vicinity that have a total accessory building area up to 3,888 square feet and the petitioner's requested size is roughly comparable to the other accessory buildings adjacent to the subject parcel, so there should be no impact on the property values of surrounding properties.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory structures in the immediate vicinity of the petitioner's property, a 2,180 sq. ft. accessory structure would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway to the west of the proposed addition. No further infrastructure will need to be provided.

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

**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.**

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

**Recommendation:**

Staff found that the requested total accessory building size is similar to the existing accessory buildings in the immediate vicinity. Staff recommended **approval** of Conditional Use Permit #14-46 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,180 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 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.
- 6.) That a building permit is required prior to construction of the accessory building.
- 7.) That a building inspection is required to determine that the proposed addition does not exceed 900 square feet.

**Action**

A motion was made to **approve** Conditional Use Permit #14-46 by Commissioner Rogen and seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #14-46 – Approved**

**ITEM 4. CONDITIONAL USE PERMIT #14-47 to exceed 1,200 square feet of total accessory building area – requesting 2,112 square feet on the property legally described as Tract 8 Walker’s Addn., N1/2 NW1/4, and Section 13-T102N-R50W in Benton Township.**

Petitioner: Ryan Carlson

Property Owner: same

Location: 25822 471st Ave. Approximately 1.5 miles southeast of Crooks

To allow 2,112 square feet of total accessory building area.

**General Information:**

Legal Description – Tract 8 Walker’s Addn., N1/2 NW1/4, Section 13-T102N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 1.50 Acres

**Staff Report:** Scott Anderson

**Staff Analysis:** This subject property is located in Section 13 of Benton Township. The petitioner has applied for a conditional use permit to exceed 1,200 square feet of accessory building area at 25822 471<sup>st</sup> Avenue. The property owner is requesting this conditional use permit for a total of 2,112 square feet of accessory building area. The property currently has an existing 24’ by 28’ detached accessory structure totaling 672 square feet. The applicant would like to construct an additional 30’ by 48’ accessory structure totaling 1,440 square feet. The combined total of both accessory structures would be 2,112 square feet.

A conditional use permit application is required by Section 12.07 (D) of the Minnehaha County Zoning Ordinance which states: *In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.*

Larger accessory building areas can be found within the general vicinity and range in size from 3,000 sq. ft. to 6,000 square feet. (See attached accessory building area map)

The property owner shall meet all regulations regarding accessory buildings. These regulations are found in *Article 12.07 Accessory Buildings and Uses*. Minimum setbacks required for accessory buildings in the A-1 Zoning District that are located within 10 feet of the main building are front yard 30’, side yard 7’, and rear yard 30’. Accessory building that are not considered part of the main building shall be no closer than three feet to the side and rear property lines. There is a minimum setback of 50’ from any section line road or major arterial street.

**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.**

There are larger accessory buildings located in the general vicinity of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure will not impact the neighboring properties. The construction of this accessory building should not impede on the enjoyment or use of the surrounding properties or affect property values.

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

The construction of the proposed accessory building should have no impact on further construction or development within the general area. The building will only be used for the owner's personal storage, residential related items, and no commercial or business activities will be allowed. This use will not affect the residential uses or agricultural land in the area.

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

Access to the proposed accessory building will be through a driveway located on 471st Avenue. This driveway also provides access to the residential dwelling unit on the property.

No other infrastructure improvements are required at this time.

**4. That the off-street parking and loading requirements of these Zoning Ordinances are met.**

The property has sufficient parking for all residential activities. Two (2) off-street parking spaces are required for each single family residence. Typically this is accomplished with an attached garage.

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

There should be no uses in the building which should constitute these types of nuisances. The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance.

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

The health, safety, general welfare of the public will not be impacted by the placement of a single family residence on the subject property. The intent of the Comprehensive Plan will be met, as density zoning will be followed.

**Recommendation:** Staff found that the proposed accessory building size conforms to the general sizes of other accessory building in the area and recommended **approval** of Conditional Use Permit #14-47 with the following conditions:

- 1) That the accessory building area shall not exceed 2,112 square feet on the property.
- 2) That a building inspection is required to measure the outside dimensions of the building.
- 3) That a building permit is required.
- 4) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 5) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed.
- 6) That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect accessory buildings at any time, after proper notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

**Action**

A motion was made to **approve** Conditional Use Permit #14-47 by Commissioner Rogen and seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #14-47 – Approved**

**ITEM 6. ZONING TEXT AMENDMENT #14-04 to allow the keeping of fowl in the RR Rural Residential District, Article 4.00 of the 1990 Revised Zoning Ordinance for Minnehaha County.**

Petitioner: Anthony Dreyer

Staff Report: David Heinold

To amend Article 4.00, 12.00, and 26.00 of the 1990 Revised Zoning Ordinance for Minnehaha County.

**Staff Report:** David Heinold

**Staff Analysis:**

The proposed amendment has been requested by Anthony Dreyer to allow the keeping of fowl in the RR Rural Residential District. Staff responded to a complaint about chickens, ducks, roosters, and a house trailer on the property located 8800 E. Hidden Valley Road. The main concern presented by the complaint was a disturbance of peace. Mr. & Mrs. Dreyer contacted staff about the complaint letter and I informed them that chickens, ducks, and roosters are not allowed in the RR District according to the 1990 Revised Zoning Ordinance for Minnehaha County. Staff worked with the Dreyer family, suggesting an Ordinance Amendment, which they submitted on September 29.

The proposed amendment is relatively comparable to the recently adopted revisions to the City of Sioux Falls Ordinances, which allows the keeping of fowl and then describes fowl as Galliformes gallus (heavy-bodied ground-feeding birds, which includes turkey, grouse, chicken, New and Old World quail, ptarmigan, partridge and pheasant), Gallinaceous (heavy-bodied largely terrestrial birds including the pheasants, turkeys, grouse, and the common domestic chicken), and Anseriformes (waterfowl).

The proposed Ordinance Amendment would allow up to six (6) fowl with no roosters as a permitted special use provided the following conditions have been met:

- 1.) domestic, noncommercial use of poultry or fowl,
- 2.) poultry or fowl must be kept in a secure coop, pen, or enclosure from dusk until dawn,
- 3.) any pen, run, cage, hutch, enclosure, or coop serving to house or confine fowl shall maintain a distance of 10 feet from the property line and 30 feet from any adjacent residence.

The proposed number of fowl permitted is similar to established standards used by the City of Sioux Falls. Zoning Text Amendment #14-04 also creates a definition of "Fowl", which is also similar to the definition used by the City. The proposed amendment adds a definition for fowl enclosures that would allow a pen, run, cage, hutch, enclosure, or coop serving to house or confine fowl as an accessory building and use to the permitted uses in the district.

Most unincorporated county ordinances specify a range of four to fifteen poultry or fowl usually on parcels larger than a half-acre. A majority of these ordinance allow, at a minimum, a specific amount of fowl permitted, setbacks for enclosures, and domestic use of fowl only. Some county ordinances are a little more specific in identifying a maximum number of chickens allowed determined by lot sizes. This could be a potential option; however, it may be more difficult to determine a maximum amount of fowl with a wide variety of parcel sizes zoned RR.

The States Attorney has reviewed and approved of the proposed ordinance language included in the attached document.

**Recommendation:**

The proposed text amendment changes will allow residents the opportunity to be more self-sufficient and aim to mitigate the potential nuisances of keeping fowl within a rural residential subdivision. Staff recommended **approval** of Zoning Text Amendment #14-04.

**Action**

A motion was made to **recommend approval** by Commissioner Rogen and seconded by Commissioner Duffy. The motion passed unanimously.

**Zoning Text Amendment #14-04 – Approval Recommended**

**ITEM 7. CONDITIONAL USE PERMIT #14-50 to allow vehicle and equipment sales on the property legally described as Lot 17, Block 2, Brower 2<sup>nd</sup> Addn., SW1/4, Section 27-T102N-R51W in Hartford Township.**

Petitioner: MTT Sales, Angela Johnson

Property Owner: John Haensel

Location: approximately ¼ mile south of Hartford in the Brower Addition at the north end of Jessie Street and Kelsey Street intersection

Staff Report: Kevin Hoekman

To allow new and used vehicle and equipment sales.

**General Information:**

Legal Description – Lot 17, Block 2, Brower 2<sup>nd</sup> Addn., SW1/4, Section 27-T102N-R51W in Hartford Township

Present Zoning – I1- Industrial

Existing Land Use – Empty Lot with access to adjacent lot to the east

Parcel Size – 1 Acre

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The property is located approximately ¼ mile South of Hartford in the Brower's 2<sup>nd</sup> Addition. The site is located on the north side of the industrial park between Kelsey Drive and Interstate 90. The driveway of this site is located on the portion of Kelsey Drive that is paved. The site is currently a bare lot that is used as an access for the parcel to the east. Most of the existing lot has gravel base used for temporary storage and staging for the adjacent lot. Nearby land uses include storage facilities, repair shops, retail antique shops and contractor lots. In addition, there are still many empty lots that are still developable in the area.

The petitioner is requesting a Conditional Use Permit to allow new and used motor vehicle and equipment sales. The equipment sales may include miscellaneous items such as farm, construction, and commercial equipment. Only operational vehicles and equipment will be sold. The requested hours of operation is 9:00 am to 4:00 pm and evenings and weekends by appointment, but the surrounding land uses are conducive for additional hours of operation.

The proposed site plan includes a large parking area for the display of vehicles. This parking and driveway will be required to be hard surfaced in accordance with section 15.04 of the 1990 Revised Zoning Ordinance for Minnehaha County. This is required because the portion of Kelsey Drive is paved in front of the proposed site. The remaining display area will be allowed to have a gravel surface.

The proposed site plan also includes a 10' x 10' office building, a 2' x 2' sign in the front yard along Kelsey Drive, and a 4' x 12' sign in the back yard along Interstate 90. The building and signs shall conform to all regulations of the 1990 Revised Zoning Ordinance for Minnehaha

County. In addition the proposed sign located along Interstate 90 shall require South Dakota DOT approval.

The Petitioner currently operates her vehicle and equipment sale on a property approximately 1 mile east of this now proposed site. Her conditional use permit for that location was approved without public comment.

**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.**

There is little conflict between the use of the property for vehicle and equipment sales with the surrounding uses. Neighboring uses include retail sales, storage facilities, and various repair shops and contractor yards.

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

The site is located in an established industrial park to the south of Hartford. The land use of vehicle and equipment sales has little to no adverse effects on the use and development of nearby properties. The Brower Addition and Brower's 2<sup>nd</sup> Addition have a history of disputes over road conditions. The proposed land use will presumably increase the traffic that will travel on deteriorating roads. It has been noted in recent past public hearings that road conditions in this development is the responsibility of the road districts. The applicant should be aware of the potential conflict of added traffic to and from the sales lot.

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

Access will be provided off of Kelsey Drive via the existing driveway on the southeast side of the site. No other extra utilities will be required for this site to develop.

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

The site plan includes parking spots for the display of vehicles and equipment as well as customers and employees. The petitioner noted that there may be 1 to 2 employees. There shall be a minimum of three parking spaces for customers and one spot for each employee. No parking or display is allowed on Kelsey Drive at any time. As required, the parking shall meet all setback regulations and hard surfacing requirements because that portion of Kelsey Drive is paved.

**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.**

No offensive nuisances shall be permitted at any time during operation of vehicle and equipment sales. The use of outdoor lighting should be directed downward on to the property in order to prevent light pollution off site.

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

The operation of the proposed land use will have a minimal effect on the health, safety and general welfare of the public. The area of this proposed land use is an existing industrial zoned district that is expected to develop as a part of the comprehensive plan.

**Recommendation:**

Staff found that the proposed vehicle and equipment sales conforms to the surrounding land uses and future development. Staff recommended **approval** of Conditional Use Permit #14-50 with the following conditions:

- 1.) That the facility shall conform to the provided site plans.
- 2.) That a building permit is required for the erection of any on premise signs and that the signs conform to the 1990 Revised Zoning Ordinance for Minnehaha County.
- 3.) That the driveway and required parking be hard surfaced in accordance with section 15.04 of the 1990 Revised Zoning Ordinance for Minnehaha County. This hard surfacing shall be applied before November 1, 2015. All other display area shall have a minimum of gravel surfacing.
- 4.) That approval from the SD DOT is required for the sign that is readable from Interstate 90. This approval is in addition to any County sign requirements.
- 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.
- 6.) That a building permit is required prior to construction of the any building, structure, or sign.
- 7.) That all vehicles and equipment for sale shall be fully operational.
- 8.) No parking or display shall be allowed on the Kelsey Drive Right of Way at any time.
- 9.) That the Planning & Zoning Department reserves the right to enter and inspect the premises, 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**

A motion was made to **approve** Conditional Use Permit #14-50 by Commissioner Rogen and seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #14-50 – Approved**

**Regular Agenda**

A motion was made by Commissioner Even and seconded by Commissioner Randall to **approve** the regular agenda. The motion passed unanimously.

**ITEM 5. CONDITIONAL USE PERMIT #14-48 to allow a daytime dog training facility on the property legally described as Lot 1, Tract 3, Skyberg's Addn., SE1/4, Section 14-T101N-R48W in Split Rock Township.**

Petitioner: Ryan A. Jordan

Property Owner: Darla J. Paulson

Location: 48268 265th St. approximately 3 miles southeast of Brandon

Staff Report: David Heinold

To allow a daytime dog training facility.

**General Information:**

Legal Description – Lot, Tract 3, Skyberg's Addn., SE1/4, Section 14-T101N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 2 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

Angelee and Ryan Jordan, founders of Flight Dogs, are requesting a conditional use permit for a daytime dog training facility. As shown on the attached site plan, there will be a 40'x6' outdoor dock with a non-slip outdoor carpet and a 4 foot wide ramp to help dogs out of the 4 foot deep, 33'x18' above-ground pool. The site plan also indicates that a fenced-in area for holding will be constructed at a later date. The dock also has a vertical rig for vertical training and is set up for speed retrieve training. Dogs that jump at or over 23 feet can still use the pool, although they are required to jump at the 30 foot mark for safety. Specifically, the pool is a training pool where dogs can learn technique that will aid them in competition.

The Flight Dog Training Facility will be open from April to September. Flight Dog Club members can use the Flight Dogs Training Dock and Pool, which is located just outside Brandon, South Dakota. Classes will be held once a week for four months of the year. A four week session, Introduction to Dock Diving, will be held on Thursdays in May, June, and August. Another four week session, Advance Big Air/Vertical/Speed Retrieve will be held on Thursdays in July. Both of these sessions will be limited to 6 total dogs. The petitioners have included a narrative attached along with the request for daytime dog training facility.

On October 15, 2014, staff met with the petitioner at the subject property and determined that the proposed use will be an appropriate accessory use to the residential lot.

**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 addition of a dock, above ground pool, and fenced-in area for holding should not have a significant impact on the use and enjoyment of other property nor on property values in the immediate vicinity.

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

The general area is primarily agricultural with a few acreages in the immediate vicinity. The proposed additions to the property should not negatively affect the normal and orderly development of surrounding vacant property for uses predominant in the area.

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

Access will be provided via the property owner's driveway. No further infrastructure will need to be provided.

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

The petitioner plans to utilize an area to the east of the driveway that will consist of 6 automobile parking spaces at the most.

**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.**

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The dogs will be kept under supervision by the owners who are expected to assume full responsibility for their pets and children. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

**Recommendation:**

Staff found that the proposed Flight Dogs Training Dock and Pool is an adequate accessory use to this residential lot. Staff recommended **approval** of Conditional Use Permit #14-48 with the following conditions:

- 1.) That Conditional Use Permit #14-048 shall permit a Daytime Dog Training Facility.
- 2.) That the hours of operation shall be open to the public from 8:00 am to 9:00 pm.
- 3.) That the proposed use shall adhere to the submitted site plan dated 9-25-2014.
- 4.) All waste shall be disposed of in conformance with the Solid Waste Ordinance.
- 5.) That all lighting shall be of a full cutoff and fully-shielded design directed downward to prevent light pollution off of the property.
- 6.) That six (6) parking spaces be provided in conformance with Article 15.00 and parking shall not be permitted on 265th St. at any time.
- 7.) That a building permit is required for the training dock and above-ground pool.
- 8.) That a building inspection is required prior to the commencement of operations.

**Public Testimony**

Staff presented a brief overview and analysis of the conditional use permit request. Commissioner Cypher questioned if there should be a condition included in the permit to ensure that the petitioner is not running a boarding facility.

Ryan Jordan, 1417 Creekside Circle, indicated that they agree with the stated conditions of approval and explained that they do not want to run a boarding facility because they didn't want to have to deal with noise concerns. Mr. Jordan mentioned that they are only requesting a conditional use permit to conduct the business in the early mornings and late evenings because of other work commitments during the day.

Rocky Loosbrock, 26493 483rd Ave., indicated that he lives to the northeast pretty close to the proposed area for the dock diving facility. Mr. Loosbrock added that there is a valley between his property and the petitioner's so the potential for noise disturbances could be very high. He mentioned that if there are 6 dogs that will be on the property at one time, then 5 of the dogs could be barking and the neighbors dogs will join in as well. He pointed out the fact that the petitioner doesn't even live at the property. Mr. Loosbrock believes that the approval of this conditional use permit would be straying away from the intention of home-based business along with the potential effect that it would have on other people.

Commissioner Cypher asked if there was a residence on the property. Mr. Jordan indicated that his parents' house is on the subject property.

Josh Jurgens, 429 S. Willow Ave., agrees with Mr. Loosbrock but questions how the facility will be built because it will be the first thing you would see from the neighboring house to the west. Mr. Jurgens stated concerns over the amount of potential noise to be generated from the use as well as the impact additional traffic will have on safety.

Commissioner Cypher asked for clarification that Mr. Jurgens' mother's house is directly to the west of the subject property. Mr. Jurgens explained that her house is immediately adjacent to the petitioner's property. He believes that the deck structure that the petitioner currently has would need a higher fence in order to screen the proposed use from the western view.

Commissioner Cypher asked if there were trees already on the property and Mr. Jurgens noted that the trees along the property are only about four feet tall. Mr. Jurgens reiterated the importance to take the noise concern into major consideration when deciding on the conditional use permit application.

Mr. Jordan asked if he could address some of the questions and concerns he heard and the commission accepted to hear his statements. He indicated that they are only planning on being at the property from 6:30 pm to 8:00 pm, or in the evening hours at most. He explained that they have strict rules in place that help mitigate some of the concerns neighbors have when noise and control issues present themselves; dog owners will be specifically asked to keep their pets under control or be asked to leave. Mr. Jordan stated that the trees will continue to grow and should help provide necessary screening from the adjacent property to the west. He feels that traffic

should not become an issue because the cars will be slowing down before they reach the petitioner's driveway.

Commissioner Cypher asked how deep the pool will be and Mr. Jordan added that pool is four feet deep.

Commissioner Randall asked if the dogs will be trained prior to enrollment as far as the barking and overstimulation issues. Mr. Jordan indicated that they are not necessarily trained, but their members are part of the American Kennel Club (AKC) and will have general obedience training. He reiterated that if the dogs are not under proper control, then they will be asked to leave and come back to try another day.

Angelee Jordan, 1417 Creekside Circle, indicated that they will be using the pool for their own personal dogs. Commissioner Cypher asked how often the petitioner anticipates visitors or clients and Mrs. Jordan feels that there will not be a lot of people over the few months out of the year that they will be conducting the use. They do not have a lot of members and do not expect to gain many more than they currently have. Mrs. Jordan indicated that will maintain a controlled atmosphere while keeping the number of dogs allowed on the site to a minimum. She added that they could split dogs into two or more groups to attempt to limit the barking to a small amount, or none.

Mr. Jurgens asked how big the pool was and the petitioner indicated that it would 17 feet by 30 feet.

Commissioner Even asked if there was anything that would allow either staff or the commission to address the noise concern. Staff explained that it would be difficult to impose a regulation because typical enforcement for noise concerns is after 11:00 pm. Staff also mentioned that if the commission wanted to address the noise concern with this particular conditional use permit, then they would have to be very specific in crafting a condition that wouldn't be too limiting on property owners.

Commissioner Even asked for clarification that the planning commission cannot legally permit a nuisance. Staff pointed out that it would be difficult to determine what classifies a nuisance.

Staff mentioned that the best way to mitigate the noise concerns would be to limit the hours of operation. Commissioner Cypher agreed and asked what kind of a time limit would be adequate for the proposed use. Mr. Jordan indicated that he would prefer to have the hours of operation for weekdays from 5:00 pm to 9:00 pm and on Saturday from noon to 6:00 pm.

Mr. Loosbrock disagrees with the stated condition to allow the dog training facility to be in operation until 9:00 pm at night when everyone is home outside. He doesn't feel that this is acceptable for the area that the proposed use is located in.

Commissioner Cypher closed the floor to public testimony.

**Action**

A motion was made to **approve** Conditional Use Permit #14-48 with an amendment to condition #2 that the hours of operation shall be from 5:00 pm to 9:00 pm on weekdays, noon to 8:00 pm on Saturdays, and no Sundays by Commissioner Rogen and seconded by Commissioner Randall. The motion passed with four ayes, Commissioner Even voted nay (4-1).

**Conditional Use Permit #14-48 – Approved**

**Old Business**

Staff provided the planning commission with an update on Conditional Use Permit #14-05 that the fence for the outdoor storage has been installed.

Staff gave a briefing on the result of the public workshop and that video from the meeting is available on the planning department, Envision 2035, webpage for viewing by members of the public.

Staff provided an update on the decision of the county commission meeting to consider Agricultural Tourism permit #14-01.

**New Business**

Staff announced that the next Task Force meeting to discuss the chapter on Environmental Stewardship will be held on Thursday, December 4, 2014 at 3:30 pm in the Commission Meeting Room.

**Adjourn**

A motion was made by Commission Rogen and seconded by Commissioner Randall to **adjourn**. The motion passed unanimously.