

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
April 28, 2014

A meeting of the Planning Commission was held on April 28, 2014 at 7:10 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Wayne Steinhauer, Mark Rogen, Jeff Barth, Becky Randall, and Bonnie Duffy.

STAFF PRESENT:

David Heinold, Deb Johnson, and Heidi Jerke - County Planning

The meeting was chaired by Wayne Steinhauer.

**CONSENT AGENDA**

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

**ITEM 1. Approval of Minutes – March 24, 2014**

A motion was made by Commissioner Rogen and seconded by Commissioner Barth to **approve** the meeting minutes from March 24, 2014. The motion passed unanimously.

**ITEM 2. CONDITIONAL USE PERMIT #14-17 to exceed 1,200 square feet – requesting 1,800 square feet on the property legally described as Lot 4B Block 6 Country Villa Estates in Section 26-T101N-R51W.**

Petitioner: Jonathan Raasch

Property Owner: same

Location: 46474 Country Lane approximately 4 miles west of Sioux Falls

Staff Report: Scott Anderson

**General Information**

Legal Description – Lot 4B, Block 6, Country Villa Estates Addition, Section 26, T101N, R51W

Present Zoning – Rural Residential

Existing Land Use – residential

Parcel Size – 1.54 acres

**Staff Report:** Scott Anderson

**Staff Analysis:** The property is located approximately four (4) miles west of Sioux Falls, on Country Lane in Country Villa Estates. The parcel is located in Wall Lake Township.

The petitioner would like to construct an accessory building on this site. In subdivisions or residential developments which exceed four lots in size, accessory building area is limited to 1200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner's requested size of 1,800 square feet is smaller than the largest existing accessory building in the area. The petitioner's request would be consistent with the other large accessory building in the area. The other large existing accessory building in the area is 2,280 square feet and is located at 46482 Inca Drive as shown on the map included with this report. Two conditional use permits have been issued for larger accessory structures near the subject property. CUP #03-24 for a 1,800 square foot building at 46482 Country Lane and CUP #02-40 for the 2,280 square foot detached accessory structure at 46482 Inca Drive.

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

Given the existence of the other larger accessory building in the area, the construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The building can only be used as an accessory structure to the established residential use and no commercial or business activities are allowed. The applicant has provided a statement indicating that the building will be used to store his camper, boat and trailers.

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

The applicant would be constructing a new approach to the building from Country Lane. Wall Lake Township would need to approve any new approach. As this is only an accessory structure, no other infrastructure is required.

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

There is ample area on the subject property for any parking as a result of residential activities. No on-street parking will be allowed. No commercial or business parking is allowed.

**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 offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property.

Staff finds that the requested conditional use is appropriate for this residential area. The recommended conditions of approval will help to ensure the over-sized building will be in character with the surrounding area. The Planning Department will perform a building inspection to measure the size of the structure. Measurements are taken of the outside perimeter.

**Recommendation:** Staff found that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended **approval** of conditional use permit #14-17 with the following conditions:

- 1) The total accessory building square footage shall not exceed 1,800 square feet.
- 2) The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
- 3) The accessory building shall not exceed one story in height.
- 4) A building inspection is required to determine that the building does not exceed 1,800 square feet measured from the outside perimeters.
- 5) A building permit is required
- 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 the accessory building 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.
- 8) That prior to applying for a building permit, the applicant shall obtain an approach permit from Wall Township for any new approach onto County Lane.

**ACTION**

A motion was made to **approve** Conditional Use Permit #14-17 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

**Conditional Use Permit #14-17 - Approved**

**ITEM 3. CONDITIONAL USE PERMIT #14-18 to exceed 1,200 square feet – requesting 2,772 square feet on the property legally described as N1/2 Tract 43A, Section 17-T101N-R50W.**

Petitioner: Ryan D. Meyer

Property Owner: same

Location: 46710 Chestnut St. approximately 4 miles west of Sioux Falls

Staff Report: Scott Anderson

**General Information**

Legal Description – Tract 43 and Tract 43A, West Acres, Section 17, T101N, R50W, Minnehaha County, South Dakota

Present Zoning – A-1 Agriculture

Existing Land Use – Residential

Parcel Size – .88 acres

**Staff Report:** Scott Anderson

**Staff Analysis:** The property is located approximately four (4) miles west of Sioux Falls, on Sage Street in West Acres Subdivision. The parcel is located in Wayne Township.

The petitioner would like to construct an accessory building on this site. In subdivisions or residential developments which exceed four lots in size, accessory building area is limited to 1200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner's requested size of 2,772 square feet is smaller than the largest existing accessory building in the area. The petitioner's request would be consistent with the other large accessory building in the area. The other large existing accessory buildings in the area is 4,050 square feet and is located at 46702 Snowberry Street and 46702 Sage Street as shown on the map included with this report. CUP #13-22 was issued for the larger detached accessory structure on Sage Street.

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

Given the existence of the other larger accessory building in the area, the construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The building can only be used as an accessory structure to the established residential use and no commercial or business activities are allowed. The applicant has provided a statement indicating that the building will be used to store his camper, boat and trailers.

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

It appears from the site plan submitted by the applicant that a new approach will be constructed from Holland. Wayne Township would need to approve the new approach. As this is only an accessory structure, no other infrastructure is required.

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

There is ample area on the subject property for any parking as a result of residential activities. No on-street parking will be allowed. No commercial or business parking is allowed.

**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 offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property.

Staff finds that the requested conditional use is appropriate for this residential area. The recommended conditions of approval will help to ensure the over-sized building will be in character with the surrounding area. The Planning Department will perform a building inspection to measure the size of the structure. Measurements are taken of the outside perimeter.

**Recommendation:** Staff found that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended **approval** of conditional use permit #14-18 with the following conditions:

- 1) The total accessory building square footage shall not exceed 2,772 square feet.
- 2) The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
- 3) The accessory building shall not exceed one story in height.
- 4) A building inspection is required to determine that the building does not exceed 2,772 square feet measured from the outside perimeters.
- 5) A building permit is required
- 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 the accessory building 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.
- 8) That prior to applying for a building permit, the applicant shall obtain an approach permit from Wayne Township for any new approach onto Bluegrass Street or Holland Avenue.

**ACTION**

A motion was made to **approve** Conditional Use Permit #14-18 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

**Conditional Use Permit #14-18 - Approved**

**ITEM 4. CONDITIONAL USE PERMIT #14-19 to exceed 1,200 square feet – requesting 2,592 square feet on the property legally described as Tract 4 Bruns Addition, Section 15-T101N-R48W.**

Petitioner: Scott Vankeulen

Property Owner: same

Location: 26486 Bruns Pl. approximately 4 miles east of Sioux Falls

Staff Report: Scott Anderson

**General Information**

Legal Description – Tract 4, Bruns Addition, Section 15, T101N, R48W, Minnehaha County, South Dakota

Present Zoning – A-1 Agriculture

Existing Land Use – residential

Parcel Size – 17.64 acres

**Staff Report:** Scott Anderson

**Staff Analysis:** This subject property is located in Section 15 of Split Rock Township. The petitioner has applied for a conditional use permit to exceed 1,200 square feet of accessory building area at 26486 Bruns Place. The property owner is requesting this conditional use permit for 2,592 square feet of accessory building area. The owner would like to construct a 36' x 72' horse barn.

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 280 sq. ft. to 5,038 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.

**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 larger accessory building areas 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/or other necessary facilities are provided.**

Access to the proposed accessory building will be through a driveway located on Bruns Place. 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 are met.**

The property has sufficient parking for all residential activities.

**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.

**Recommendation**

Staff found that the proposed accessory building size conforms to the general sizes of other accessory building areas and recommended **approval** of Conditional Use Permit #14-19 with the following conditions:

- 1) That the accessory building area shall not exceed 2,592 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 #14-19 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

**Conditional Use Permit #14-19 - Approved**

**ITEM 6. CONDITIONAL USE PERMIT #14-21 to allow Indoor/Outdoor Equipment Storage on the property legally described as S1/2 NE1/4 (Ex H-1 & Ex Otterby's Addition & Ex Green Valley Addition), Section 12-T102N-R50W.**

Petitioner: TFR Leasing, LLC

Property Owner: same

Location: West End of Haylie St. northwest corner of the Crooks/Renner exit, I-29

Staff Report: David Heinold

**General Information**

Legal Description – S1/2 NE1/4 (Ex H-1 & Ex Otterby's Addn & Ex Green Valley Addn.), Section 12-T102N-R50W

Present Zoning – I-1 Light Industrial

Existing Land Use – Agricultural

Parcel Size – 5.5 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner, TFR Leasing, LLC, is requesting a conditional use permit to construct storage buildings with outdoor storage located at the northwest corner of the lot. Timothy Ramstad, Ramstad Construction, plans to utilize one of the storage buildings for his construction business. Currently, the business is operated out of the petitioner's home. The building, exact size not yet determined, will have space for a loading dock and office space as well as indoor/outdoor storage of construction equipment and materials. The other buildings, to be constructed at a later date, will be warehouses for future development purposes.

On April 10, 2014, staff met with the petitioner to discuss the layout of the proposed buildings. One of the buildings, size to be determined, will be constructed at the northwest corner of the lot with a fenced-in outdoor storage area north of the proposed building. The site plan indicates that three warehouse-type buildings, one of which is planned to be built with indoor/outdoor storage, will be constructed on the lot. The petitioner explained that the space for future buildings will be available for lease to prospective tenants, whom are required to submit a separate conditional use permit application for their proposed uses.

**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 industrial park at the northwest corner of the Crooks/Renner exit on Interstate 29 consists of similar uses ranging in scale from storage units to a transportation terminal, so there should not be any impacts beyond the uses already occupying the area. The proposed use of the property for indoor/outdoor storage should not have a detrimental impact on property values in the immediate vicinity due to the relative similarity of neighboring uses.

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



The 1998 Comprehensive Development Plan for Minnehaha County encourages commercial and industrial development similar but not limited to the aforementioned use to locate at the intersection of two major roads; therefore, the proposed use should have a positive impact on 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 for the proposed building, storage yard, and parking area via a new driveway off at the terminus of Haylie St. No further utilities will be need to be provided.

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

The parking area should provide a large enough area with adequate space for trucks to maneuver in-and-out of the driveway.

**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.**

Staff does not foresee any issues with the proposed use for indoor/outdoor storage to be located in the industrial park at the northwest corner of the Crooks/Renner exit of I-29 that would otherwise constitute a nuisance for neighboring property owners and tenants. Any lighting on the property should be shoe-box style and direct light downward onto the property in order to prevent light pollution.

**Recommendation:**

Staff found the proposed use, Indoor/Outdoor Equipment Storage, to be an appropriate use for the I-1 Light Industrial District. Since the location for the proposed business is in an area of the county where commercial and industrial uses are encouraged to locate, there should be no nuisances caused by the proposed use. Staff recommended **approval** of Conditional Use Permit #14-21 with the following conditions:

- 1.) That CUP #14-21 shall allow the use of the property for Indoor/Outdoor Equipment Storage.
- 2.) That all outdoor storage areas be screened with a minimum 90% opacity fence.
- 3.) That no materials, parts, tires, etc. shall be allowed outside of the fenced area.
- 4.) That a building permit is required prior to the construction of all storage buildings and for the installation of any signage.
- 5.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 6.) That all driveways, parking lots, and outdoor storage areas shall be in conformance with the requirements of Article 15.00 of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the trucking business 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.

9.) That future tenants will be required to submit a conditional use permit application for future business operations not associated with Ramstad Construction.

**ACTION**

A motion was made to **approve** Conditional Use Permit #14-21 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

**Conditional Use Permit #14-21 - Approved**

**ITEM 7. REZONING #14-04 to rezone from the A-1 Agricultural District to the I-1 Light Industrial on the property legally described as Tract 2 Wold Tract NW1/4 NW1/4, Section 27-T103N-R49W.**

Petitioner: Bruce Vollan

Property Owner: Mark J. Ault

Location: 25404 475<sup>th</sup> Ave. approximately 4 miles south of Baltic

Staff Report: Scott Anderson

**General Information**

Legal Description – The east 120 feet of Tract 2 of Wold Tract in the NW ¼ NW ¼ of Section 17, T103N, R49W of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota.

Present Zoning – A-1

Existing Land Use – residential

Parcel Size – .29 acres

**Staff Report:** Scott Anderson

**Staff Analysis:** On March 7, staff conducted a site visit to the subject property. There is existing commercially zoned property located to the north and east of the subject property at what is commonly called the “Midway Corner”. The subject property is located at the southeast quadrant of the intersection. The Midway Gas Station is located directly to the north, while the Raven test facility and offices are located to the east. The applicant has indicated that the area proposed for the rezoning would be used to expand the automobile servicing business currently operated at the Midway Gas Station.

The Minnehaha County Comprehensive Plan, adopted in 1998, has identified areas of future growth. Commercial and industrial growth areas are called “Rural Service Areas”. The subject property is located within an area that meets the intent of a rural service area. The site is at the intersection of a paved state and county highway. The concept behind the rural service areas is to promote good planning ahead of commercial growth in the county.

The rezoning proposal meets the policies and objectives of the Comprehensive Plan. The site is located adjacent to an existing industrial park complex. Staff can support this rezoning request as it meets the criteria and development concepts of the Comprehensive Plan.

**Recommendation:** Staff recommended **approval** of Rezoning #14-04 to rezone the subject property from A-1 Agriculture District to C Commercial District.

**ACTION**

A motion was made to **approve** Rezoning #14-04 by Commissioner Rogen and seconded by Commissioner Barth. The motion passed unanimously.

**Rezoning #14-04 - Approved**

**Regular Agenda**

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

**ITEM 5. CONDITIONAL USE PERMIT #14-20 to exceed 1,200 square feet – requesting 2,352 square feet on the property legally described as Tract 22 & N1/2 of Tract 23 Bowman’s Addition, Section 21-T101N-R51W.**

Petitioner: Les Feiock

Property Owner: same

Location: 46269 Park Pl. East shore of Wall Lake

Staff Report: David Heinold

**General Information**

Legal Description – Tract 29 (Ex Lot B Benson’s Sub & Ex E740’), Section 21-T101N-R51W

Present Zoning – RR Rural Residential District

Existing Land Use – Residential

Parcel Size – 0.62 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting to construct a 42’x56’ detached accessory structure for personal storage of boats and automobiles. 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 proposed building will have a 10 foot overhead door with 12 to 13 foot sidewalls. The building will be located on a 0.62 acre parcel northwest and immediately adjacent to the petitioner’s property. Mr. Feiock plans to remove an existing 2-stall garage that is currently on this parcel of land.

There are a few accessory building sizes on similar lot compositions in comparison to the subject property. In 1991, the property at 26566 East Shore Place built a 2,560 square foot accessory structure. The property owner north of this lot constructed a 2,400 square foot accessory structure on a similar sized lot. In 2002, the property owner at 46274 Park Place applied for Conditional Use Permit #02-64 and was approved to allow 2,248 square feet of total accessory building area; however, only 2,032 of the total accessory structure square footage have been constructed.

**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 similar accessory building sizes in the immediate area that have a total accessory building area up to 2,560 square feet. The petitioner will only be using the proposed structure for personal storage of boats and automobiles not for commercial use or business activities. Thus, the requested building size should not significantly affect residential properties or property values.

**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 subject property, a 2,352 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 a new driveway off of Park Place. No further utilities 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 the 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 proposed building size would be relatively comparable with the size of the existing residential accessory structures in the area. Staff recommended **approval** of Conditional Use Permit #14-20 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,352 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That a building inspection is required to determine that the building does not exceed 2,352 square feet measured from the outside perimeter.
- 4.) That the existing garden shed shall be removed from the property prior to construction of the proposed accessory building.
- 5.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 6.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 8.) That a building permit is required prior to construction of the accessory building.
- 9.) 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.

### **PUBLIC TESTIMONY**

Staff presented a brief summary of the staff report for Conditional Use Permit #14-20. The petitioner, Les Feiock, purchased the property in 2008 and stated that he is requesting to construct the proposed building for personal storage of a boat, tractor, and cars. Currently, Mr. Feiock has constructed a new house immediately to the southwest of the subject property.

Duane Boice, 26575 East Shore Place, mentioned that there has been concerns over why Park Place and East Shore Place do not connect. Mr. Boice commended the petitioner on the addition of a new house in the neighborhood. He proceeded to mention that he understands the need for a decent-sized building, but the reason he is speaking to this item is because of the vacated street on the subject property.

He added that he lives on East Shore Place and explained that a recurring problem has been that when the narrow road is blocked it becomes bottlenecked because there is only one access point. He noted that the road blockages on East Shore Place or Park Place may cause potential hazards for emergency responders, whom might not be able to reach the intended property in times of need.

Mr. Boice would like for there to be a consideration about reopening the vacated street to connect Park Place and East Shore Place for the general safety of the neighborhood as well as the people that live on the east shore of Wall Lake.

Commissioner Steinhauer concurred because he lives in the neighborhood and agrees that there are narrow roads. He continued to mention that the road was vacated and would also like staff to look into the street vacation issue.

Commissioner Barth indicated that a potential problem of fire trucks getting stuck could arise from the issue of two dead end, narrow roads. Commissioner Steinhauer agreed and explained that the vehicles would be cutting across neighbors' lawns in order to turnaround.

### **ACTION**

A motion was made to **approve** Conditional Use Permit #14-20 with the conditions as stated by Commissioner Rogen and seconded by Commissioner Duffy. The motion passed unanimously.

**Conditional Use Permit #14-20 - Approved**

**ITEM 8. CONDITIONAL USE PERMIT #14-04 to allow bulk fuel storage on the property legally described as Lot 1 Brower's 2<sup>nd</sup> Addition, SW1/4, Section 27-T102N-R51W.**

Petitioner: Hartford Farmers Elevator

Property Owner: same

Location: 46339 Jeffery St. approximately 0.5 mile south of Hartford

Staff Report: Scott Anderson

**General Information**

Legal Description – Lot 1, Block 2 of Brower's 2<sup>nd</sup> Addition, Section 27, T102N, R51W, Minnehaha County, SD

Present Zoning – I-1 Light Industrial

Existing Land Use – vacant

Parcel Size – 1.00 acre

**Staff Report:** Scott Anderson

**Staff Analysis:** The applicant is requesting a conditional use permit to allow the bulk storage and distribution of fuel. The applicant has partially constructed the site without prior Planning Commission approval or without securing building permits. A site inspection on January 13th found that all five proposed tanks have been constructed. Tank #1 is 12,000 gallons and will contain dyed diesel, tank #2 is 6,000 gallons and will contain dyed diesel #1, tank #3 is 6,000 gallons and will contain gasoline, tank #4 is 12,000 gallons and will contain diesel #2, and tank #5 is 12,000 gallons and will contain clear diesel. The site plan also shows a 18' by 75' loading dock located on the west side of the tanks. This portion of the facility had not been constructed. The site plan does not indicate that any security fencing will be installed on the site.

The site plan submitted with the application does not indicate any screening, landscaping, security fencing or lighting. No driveway, roadways or parking areas are shown. The applicant provided a letter from the State Fire Marshal's Office indicating that they had reviewed and approved the plans and provided the approval to the Hartford Fire and Rescue and SD DENR for their files. The Minnehaha County Office of Emergency Management reviewed the conditional use permit application and did not have any comments on the proposed use. If approved, staff would typically require the applicant to register the types and amounts of materials stored on the site with the County Emergency Management Office.

The area consists of many industrial and commercial businesses. The site to the east is the location of a portable toilet and sanitation business. The property to the west is the location of a commercial business that works with highway resurfacing. The area to the south is agricultural land. The area to the north is the balance of the Brower Addition and has many businesses.

Staff has received many complaints over the past 10 years on the condition of the subdivision roads located within the Brower Addition. Most specifically Jeffery Street leading into the subdivision typically is very rutted and soft during the spring and wet periods during the summer. Jeffery Street is a gravel road for the first 1,000 feet coming off of 463<sup>rd</sup>. There have been maintenance issues with regard to the subdivision roads within the development. The applicant's request will

now place additional heavy truck traffic onto roads with issues. Staff has serious concerns that the current road system is not capable of handling additional heavy truck traffic and that the additional truck traffic will cause additional damage to the roads during the spring and wet periods. The additional truck traffic will also lead to more dust.

On January 14, 2014, the City of Hartford reviewed this development request. The Hartford City Planning Commission expressed concerns over the existing roadway. They also noted that the roads in the Brower addition are gravel. Spring thawing often leads to frost boils and very soft road conditions. They wondered how additional heavy truck traffic would damage the roads. Their other concerns focused on safety issues such as traffic safety at the intersection of the County Highway, Jeffery Street and the Interstate 90 interchange. They wondered if any measures would be required for spill containment.

**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.**

Staff has received a call from a concerned property owner adjacent to the subject property. The property owner stated his concerns over the potential fire danger. The adjacent property owner stores a significant amount of round hay bales on this property nearest to the area of the fuel storage tank. The caller indicated that his insurance would increase due to the safety issue.

The area is in a industrial complex. There are many commercial and industrial businesses located within the Brower Addition. There is 5 bulk storage tanks. These tanks and the use of the tanks in the future could have an impact on the use of the property in the area.

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

The proposed site is located between two existing businesses, so there has already been development in the area. The location of bulk fuel storage containing up to 48,000 gallons of fuel may impact the orderly growth and development of the area. Future businesses may not want to be located next to this use.

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

Water and electricity are provided to the site. The applicant has not indicated that the proposed use would require wastewater disposal. In 2008, On-site Wastewater Permit #08-010 was approved for five (5) 2,000 gallon in ground holding tanks, constructed and inspected. This septic design was approved by SD DENR on March 31, 2008. The most significant issues, which has already been identified, are the road network and infrastructure. The roads within Brower's 2<sup>nd</sup> Addition have been paved, but only the road leading into the development from 463<sup>rd</sup> is gravel for approximately 1,000 feet. This portion of Jeffery Street has been prone to road damage in the past. Staff has received several complaints, primarily in the spring, about the condition of the roads within the Brower Addition. Staff does not support allowing additional heavy truck traffic without some significant road improvements being done on Jeffery Street.



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

Article 15 regulates off-street parking for this area. The subject parcel is located on a paved section of Jeffery Street. All driveways into the site and any employee parking must be hard surfaced. Staff recommends that if the conditional use is approved, the applicant follows the minimum improvement and maintenance standards for driveways, parking lots and loading/unloading areas as outlined in Article 15.04 of the Minnehaha County Zoning Ordinance.

**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.**

Typically, the applicant would be required to install lighting that attempts to control light pollution and directs the lighting downward. Should the conditional use permit be approved, this condition should be added. It is likely that the bulk fuel storage facility will have fumes associated with its use. These fumes may be able to be smelled by adjacent properties. Additional heavy truck traffic will cause additional dust on Jeffery Street. The SD Department of Environment and Natural Resources required containment berms to be constructed around all fuel storage tanks within the state.

The Planning Commission heard this item at the January 27, 2014 meeting and continued it for three (3) months to allow all parties to address the condition of the subdivision roads. On April 14, 2014, staff discussed the road with the applicant and it was indicated that no progress has been made in resolving the condition of the road or identifying any future improvements.

With no progress in resolving the road issues, staff finds that the proposed use is not appropriate to this location. The proposed use will increase heavy truck traffic on sub-standard roads which will likely cause further deterioration and dust. There is also a potential for the fumes to impact the neighboring properties. The proposed use may impact the use of the surrounding properties due to the fire potential.

**Recommendation:** Staff recommended **denial** of Conditional Use Permit #14-04 to allow a bulk fuel storage facility.

**PUBLIC TESTIMONY**

Staff presented a brief summary of the staff report. Commissioner Steinhauer asked staff if the applicant was required to submit a conditional use permit request because it is bulk storage and that there are certain uses in this zoning district that are allowed without a conditional use permit. Staff clarified that the proposed use of the property is classified as a use for storage or handling of a regulated substance, which is permitted in the I-1 Light Industrial District upon approval of a conditional use permit by the planning commission.

Commissioner Duffy asked staff if the issues with the road have been addressed amongst the property owners in Brower's Addition and staff explained that the issue has not been fully addressed to the point that would allow approval of the conditional use permit request.

Monte Schraeder, Manager of Hartford Farmers Elevator, mentioned that Jeffrey Street gets heavy truck traffic already and he doesn't see how 1 or 2 more trucks per day would affect it beyond

what vehicles already travel on Jeffrey St. Mr. Schraeder foresees 5-7 semi-truck trips per month and about 20 trips per month for single-axle trucks used by Hartford Farmers Elevator. The impact of the additional truck traffic should be minimal compared to existing businesses that utilize semi-truck transportation in their daily operations.

Commissioner Barth asked the petitioner if the property owners had any meetings to discuss what will be done with the roads in the Brower Addition and he mentioned that the issue has been discussed among a few property owners. Mr. Schraeder proceeded to mention that the problem with Jeffrey St. is that there is no drainage ditch on the south side of the road and there are no culverts that drain water from the north side of the road to the south side from County Highway 151 to Brower's Circle.

Commissioner Barth asked if the culvert under County Highway 151 was operational and Mr. Schraeder clarified that there is no culvert there. Commissioner Barth also asked if there was a culvert there, then would that make a difference with drainage. Mr. Schraeder indicated that there is no culvert there, but it would have to be about halfway between County Highway 151 and Brower Circle since the lowest point would be in this general area. Commissioner Barth pointed out that the topography of the area drops off to the south and asked the petitioner why there wasn't a culvert installed in that area. The petitioner mentioned that he was told prior to his interest in the Brower Addition that there was a culvert in this location, but it was pushed out in the spring by the frost and never replaced.

Commissioner Steinhauer asked the petitioner what his plans were regarding screening or landscaping. Mr. Schraeder noted that there will be a fence for security purposes on the north side as required by the insurance company, trees on the west edge of the property, and a concrete approach and loading/unloading pad.

Commissioner Steinhauer asked the petitioner to clarify why the storage tanks were located on the property prior to the approval of a conditional use permit. The petitioner explained that the delivery company for the tanks could not hold them, so Hartford Farmers Elevator placed the tanks on the subject property. The tanks were placed in the containment so that they wouldn't roll around in the wind.

Commissioner Steinhauer asked if the Road District that was mentioned covered all of the road or only part of the road and Mr. Schraeder believes that the subject property is part of the Road District.

Commissioner Randall asked the petitioner where the locations of the driveways would be and he mentioned that there will be an ingress on the east side and an egress on the west side. The petitioner added that the access to the tanks will be a horseshoe-type driveway.

Matt Maras, 26066 Jesse St., was elected President of the Road Association and owns property in Brower's 2<sup>nd</sup> Addition. He proceeded to mention that the road in Brower's Addition is maintained by the Road Association and the road in Brower's 2<sup>nd</sup> Addition is maintained by the Road District, both of which are two separate entities. Four years ago, the Road Association tried to do improvements but some property owners brought a lawsuit because they felt that the road wasn't

being maintained in the proper way. Recently, the judge ruled that Hartford Township is a necessary party in the lawsuit. Mr. Maras added that there has been no outcome so far, but he believes that there is an end in sight to the road issue. He explained that the process has been slow because issues like this take much more time to resolve.

Commissioner Barth asked for clarification that Jeffrey St. from County Highway 151 to the subject property has not been upgraded. Mr. Maras stated that crushed rock was laid about 4 years ago, but cited that the road has not been maintained properly since then because of the lawsuit. The only maintenance that has been done so far was blading about twice per year. Commissioner Barth pointed out that the county has been receiving numerous complaints about the condition of the road that most of the property owners were taking the matter into their own hands and dragging iron to level the road. Mr. Maras clarified that the road will be maintained, but the question as to who will be responsible for maintenance remains. Hartford Township already noted that they are not going to take care of the road, so the maintenance of the road is dependent upon the outcome of the lawsuit.

Mr. Maras is concerned that if we are going to stop one business, then we should look at all properties and set conditions based upon the nature of their businesses. He proceeded to mention that it is not fair to single out one business when existing businesses with similar transportation methods are contributing to the same problem. He added that this would not be a fair use of the public right of way for all property owners. Commissioner Barth noted that Jeffrey St. is not a public road, it is a private development road. Mr. Maras clarified that all of the property owners have access to the public right of way.

Mike Volken, 46304 Jeffrey St., mentioned that the work that was completed within the past four years was a temporary fix, not engineered, and only made conditions worse than before. Mr. Volken concurred with Commissioner Barth that there was no culvert under the highway and noted that runoff from the Interstate pools in his front yard where Jeffrey St. gets wider because the road has become so soft that people are driving around the flooded area into peoples' lawns.

Mr. Volken added that the township hired a contractor to fix a few of the sinkholes on Brower Circle, but the culvert was pushed out because there was lack of grading to the north of his property at the intersection of Jeffrey St. and Brower Circle. He stated that the lack of grading caused the water from the Interstate to pool in his front yard and the road eventually disintegrated, which necessitated the removal of the culvert. Once the culvert was removed the water did not have anywhere to go but to create a lake on the property to the north.

He explained that when the road was temporarily fixed the ditches were dug down about one foot deeper than they should have been to attempt to drain the property to north that was part of the grade. He also mentioned that the property owners cannot mow their ditches because they were dug down so deep that they have become holding ponds. He explained that this problem has made it difficult to maintain the same great appearance that the industrial park used to have.

Mr. Volken explained that the property owners that have continually expressed concern about the road would like to see somebody take ownership of the problem. The property owners' intention

is not to prevent another business from coming in, only to ensure that the road gets fixed the proper way with adequate drainage.

Currently, he is part of a group in the 4<sup>th</sup> year of a lawsuit with the Road Association. According to Mr. Volken, there was nothing legitimately done when the Road Association decided to complete the initial work. The property owners on Jeffrey St. were each sent an invoice for \$5,000 to have our roads torn up, which nothing was sent to the property owners prior to the work being done. He indicated that the work was not approved by a professional engineer.

Bob Schulte, owner of a storage unit facility at 46315 Jeffrey St., stated that the road is nearly impassable to the point where any more semi-truck traffic would require a bridge over it. He added that the road is currently sinking into the mud with bumps in the road because there is no base. Mr. Schulte explained that part of the problem is that some of the property owners were not required by contract to be a part of the Road Association. He indicated that the current argument revolves around who is responsible for maintenance of the road. He explained that the road was never put in correctly for the people who bought land long before this argument started.

Mr. Schulte believes that the property owner who put the road in to begin with should refinish the project with the necessary upgrades. He indicated that the road has no drainage, water sits on top of the road, and may become impassable in the spring due to additional heavy truck traffic. He proceeded to mention that there was discussion about not issuing building permits until the road was brought up to engineered road standards for property owners to have adequate access to their property. He believes that continuing to issue building permits will only be a detriment to the road and hopes that no more permits will be issued until the road is designed to support the traffic that the area generates.

Commissioner Steinhauer asked Mr. Schulte for clarification that he is opposed to the conditional use permit and he concurred that he does not want the conditional use approved for a bulk fuel storage facility.

Commissioner Barth asked Mr. Schulte if he could recall the last time a building permit was approved or was constructed in the area. Mr. Schulte noted that he does not recall the last time a building was built, but there are many trucks on the road already and you would be surprised by the number of trucks that the use road every day. He believes that the road should be fixed by the property owner whom the problem originated from. He added that the road is not wide enough for semi-trucks to turnaround, which led to a damaged culvert and drainage problems in prior years.

Mr. Schraeder indicated that a building was built last fall in Brower's 2<sup>nd</sup> Addition and is still under construction. Commissioner Barth asked Mr. Schraeder if the roads are well maintained in that area and he agreed that the roads are in better condition.

Stacy Brower, 46304 Kelsey Dr., operates three businesses in the area and works 7 days per week. Ms. Brower mentioned that she has plenty of everyday traffic at each of her businesses. She explained that the development began around 1978 and at that time there had to be at least five lots in order to begin road operations. She added that Jeffrey St. was the first road and has been in existence for about thirty years. She stated that the area has seen a lot of growth over the past

ten years, so naturally there will be more traffic. Ms. Brower explained that most days the road is good. There are problems in the spring when the frost settles, but that happens everywhere. She mentioned that the problem with the lawsuit is that everyone wants the road fixed, but they are not willing to pay their fair share. She stated that lots are still being sold in the area, which is a major part of the recent growth and that the roads will have to be maintained along with it.

Jeffery Wehrkamp, 46324 Jeffrey St., owns a storage unit facility for recreational vehicles and indicated that there was never a problem with the road until the 2<sup>nd</sup> Addition was built. Since the road in the 2<sup>nd</sup> Addn. was added, eight property owners have put a business in this area and they formed a separate Road District. Mr. Wehrkamp explained that the property owner who created the development and formed a Road Association that may not be a legal entity has been charging annual dues, but has never had an annual meeting for its' members. He mentioned that the City of Hartford did perform maintenance of the road at one time.

Mr. Wehrkamp indicated that it was about 12 property owners who decided to pay for the temporary fix of the road when sent the bill for road maintenance because they did not want the hassle of going through a lawsuit. The 12 property owners were concerned that the road was not properly surveyed and engineered when it was fixed by the Road Association, so they challenged the legality of the Road Association. He indicated that the County Commission highly suggested that the proper surface treatment be applied to the road prior to any new development being added, but the work was never completed since then.

He stated that the approval of another business in the area would be just another fleet of trucks driving on a road that has not been designed to support the traffic that it carries. He also questioned the fact why a dozen property owners have to pay for road maintenance when a total of about 40 property owners are utilizing the road. Jeffrey St. is the main artery, or access, into the development. He believes that the developer should have to pay for the road to be properly designed and engineered, not the property owners.

Commissioner Steinhauer asked for guidance on why we are hearing about a private road. Commissioner Barth indicated that he has been in contact with the Minnehaha County Economic Development Authority to attempt to figure out a solution, but there has been no positive result. Commissioner Barth believes that once all of the involved parties can come to an agreement on who should perform maintenance of the road, then we should be able to be back in business again.

Commissioner Barth pointed out that this area, right off I-90 and south of Hartford, is a great location for commercial and industrial uses to locate; he doesn't fully understand why we have to let this issue drag on for years. He stated that he is willing to work on finding solutions to this issue, but to his knowledge there has not been any significant progress towards achieving that goal with the complexity of the lawsuit and property owners' rights. Commissioner Barth mentioned the fact that township supervisors have some difficulty in taking ownership of a private road and performing maintenance on a road beyond their jurisdiction. He also indicated that he is waiting to hear back from the County Highway Department about the culvert under the highway because there needs to be something done about the runoff from the Interstate.

Commissioner Steinhauer mentioned that the proposed business is consistent with the surrounding land uses and the impact on the roads has a miniscule effect on the decision of the planning commission to decide if the use of the land is appropriate for the area.

Commissioner Steinhauer called for any new comments or concerns that have not been mentioned already.

Stacy Brower suggested that the allowance of the Hartford Farmers Elevator to use their property for bulk fuel storage will be good for both Minnehaha County and the City of Hartford.

Bob Schulte asked if there any regulations or guidelines for developers on building roads. Staff noted that the development would have to submit a subdivision plan with the roads and lots laid out that shows areas for proper drainage and adequate right of way for new development. Mr. Schulte asked if the road in this area was laid out correctly when it began and staff mentioned that we can follow up with an answer to his question. He explained that the road was never laid out according to the subdivision rules and regulations from around the 1990s when the road was first developed.

Commissioner Barth stated that the guidelines for subdivision development have changed and that we no longer allow residential subdivisions to exist without a road district in place. Commissioner Barth mentioned that there was a residential subdivision where they were going to build 8 houses, but they were only going to build 2 to start. They wanted them to pave the whole road and they said they wanted to do it later because they were only building 2 houses right now. Eventually, there were 9 houses built and they asked the County Commission when they were going to pave their road. This is a prime example of what happens when you do not have any regulations in place that keep these issues from happening.

Commissioner Duffy, Split Rock Township Supervisor, mentioned that they have taken in some new developments from developers and they have certain requirements that they must meet. She added that there must be 66 foot roadways, proper ditches for drainage, and culverts. The township has taken development requests, similar to this development, which has led to many of the same problems. She noted that there are subdivision developments in the township that have formed road districts, but the proper way to form a road district is to divide up the cost of the road right of way maintenance equally for all property owners. It is important for residents to understand that you live where you choose to live and sometimes that may come at the cost of dealing with the certain abnormalities of living in a rural subdivision.

Commissioner Duffy does not doubt that the Hartford Farmers Elevator is a prime candidate for this location, but with the present road conditions it will just cause more problems for the people who already have businesses in the area. She added that it will take a cohesive network of people to figure out who is going to pay for the needed repairs to the road right of way.

Commissioner Randall stated that she is disappointed that there has not been much progress since the last public hearing in January, but we should not hold the Hartford Farmers Elevator hostage because of something that was put into place over 20 years ago.

Michael Johnson, 46310 261<sup>st</sup> St., lives to the south of the subject property and he stated nobody cleaned out the culvert out. He proceeded to mention that he thought someone's water line broke, but he found out that somebody decided to clean out the culvert. Mr. Johnson believes that people should help themselves once in awhile instead of asking someone else to do their work for them. He added that it is big problem when water sits for an extended period of time the road will become soft.

Commissioner Barth asked Mr. Johnson if he lived in the farm house to the south. Mr. Johnson stated that he does live directly to the south and he sees the semi trucks as well as garbage trucks driving in-and-out. He also mentioned that it is not like there is only one truck, there many different trucks that have an impact on the roads in this development.

Commissioner Barth asked Mr. Johnson if having 48,000 gallons of bulk fuel next door worries him at all and he mentioned that it would not. Mr. Johnson added that he would rather have the bulk fuel storage tanks in this location than right next door to an apartment building in Hartford. He believes that the proposed location for the tanks is a great location for Hartford Farmers Elevator.

Commissioner Steinhauer closed the floor to public testimony.

### **DISCUSSION**

Commissioner Barth indicated that he doesn't want to say no, but he can't say yes with the current condition of the road. He mentioned that Nick Fosheim, Minnehaha County Economic Development Authority, will be speaking to the County Commission and he would be glad to bring up the issue to see if somebody can help the property owners out with the improvement of the road. Commissioner Barth believes that another deferral would be a good option to consider.

Commissioner Steinhauer asked the petitioner what a deferral would do to the Hartford Farmers Elevator's plans for the bulk fuel storage facility and Mr. Schraeder stated that he will take it somewhere else.

Commissioner Rogen believe that the planning commission should review this issue only as land use debate, regardless of the condition of the infrastructure.

### **ACTION**

A motion was made to **approve** Conditional Use Permit #14-04 with stipulations by Commissioner Rogen and seconded by Commissioner Randall. The motion passed with 3 ayes, 1 nay.

**Conditional Use Permit #14-04 - Approved**

**Old Business**

None.

**New Business**

None.

**Adjourn**

A motion was made by Commissioner Barth and seconded by Commissioner Rogen to adjourn.  
The motion passed unanimously.