

PLANNING AND ZONING AGENDA
TUESDAY, APRIL 11, 2023
CITY HALL - 7:00 P.M.

- 1) ROLL CALL
Mark Anderson, Tim Graham, Stacey Kutil, Michelle Kilbourn, Troy Jackson, Brad Miles, and Tony Randall

- 2) APPROVAL OF THE AGENDA

- 3) APPROVAL OF MINUTES
 - March 28, 2023 Meeting

- 4) PUBLIC COMMENTS
Action cannot be taken on items discussed unless specifically listed elsewhere on the agenda

- 5) HEARINGS/PETITIONS/APPLICATIONS
 - Conditional Use Permit for Temporary Asphalt Plant on Parcel #16015

- 6) UPDATES
 - Building Inspector Update – Paul Clarke
 - Building Inspector/Code Enforcer Update – Kyle Christensen
 - City Administrator Updates – Teresa Sidel

- 7) ADJOURNMENT

Next Planning & Zoning Meeting: April 25, 2023

Planning and Zoning Meeting – Regular Meeting March 28, 2023

Chairman Tony Randall called the meeting to order at 7:00pm at Hartford City Hall with the following planning and zoning members present: Tim Graham, Stacey Kutil, Michelle Kilbourn, Troy Jackson, and Brad Miles. Mark Anderson was absent with notice. City Administrator Teresa Sidel, Building Inspector Paul Clarke and Building Inspector/Code Enforcer Kyle Christensen were also present. There were 9 people from the public present.

Approve Agenda: A motion was made by Graham, second by Kutil to approve the agenda as set – all voted yes, motion carried.

Approval of the Minutes: The March 14, 2023, regular meeting minutes were reviewed. A motion was made by Kutil, second by Jackson to approve the March 14, 2023, regular meeting minutes – all voted yes, motion carried.

Hearings/Petitions/Applications:

7:05 Hearing – Conditional Use Permit for Temporary Asphalt Plant:

- The city received a conditional use application from Bituminous Paving Inc. The company would like to erect a temporary asphalt plant upon the Zacharias property located at 46543 HWY 38, Hartford, SD. This property has been annexed into the city and is zoned Heavy Industrial. An asphalt plant is allowed in heavy industrial zones but requires a conditional use permit. Applicants have noted that the plant will be temporary from September 2023 to November 2023, it will service the I90 road project, truck traffic will be 50 to 60 loads a day between the property and I90, they would like to operate from 5am to 8pm M-Sat, and that this is some smoke and odor associated with it. This plant did receive a CUP form the county in 2022 and was located on property east of Cemcast. When the applicant applied to the county again this year, opposition was received from 2 neighboring property owners complaining about the odor, smoke, and early start times. One property owner runs an Airbnb and the other is trying to sell their property – both claiming that the operation would result in a total revenue loss to them of \$400,000. The county deferred the CUP, and the applicant withdrew their application, not wanting to pay \$400,000 in extra costs to operate. This property is zoned heavy industrial and can support an operation of this type. The closest residents are in Hartford Heights, which sits to the north of the Zacharias property but not within city limits. The applicant should take steps to minimize any adverse effects on neighboring properties and staff recommended approval with various conditions upon days and hours of operation, lighting, access, and loading. Six residents of Hartford Heights attended the hearing. Kim Reese, Randy Reese, Wayne Wellman, and Phyllis McMartin all spoke of concerns with the operation. Concerns include proximity to housing development, debris and damage to Hwy 38, safety with traffic and visibility, smell, smoke, and hours of operation. Deanna Larson, resident in Hartford Heights, was not present but reached out to a board member with concern about the timeframe and close proximity to the housing development. Chris Brehmer with Bituminous Paving was present and acknowledged that the company wanted to do whatever possible to mitigate any issues or problems. He did note that the plant will be set up on the SW corner of the property to be as far from any residence as possible, they would broom the road as needed to remove any debris from the highway, and they can check with the state about direct access to the project from the south end of the property. There is nothing they can do about the smoke or smell but it was noted that it is not hazardous and the company must meet all state standards for air pollution in order to retain an air quality permit. After discussion, it was the boards suggested to have representative with the company meet with property owners in the Hartford Heights development to address any concerns. A motion was made by Kutil, second by Jackson, to table this agenda item until the next Board meeting on April 11th – all voted yes, motion carried.

Old Business:

- **Continue Review of the City’s 2017-2027 Comprehensive Plan:** In order to allow zoning, state law requires that the city adopt a comprehensive plan and file it with the county. The plan acts as a guide for future growth and planning. The city adopted our most recent plan in 2017 but it is reviewed every 5 years to keep it updated to ever changing development. Sean Hegyi with SECOG has been helping the city through this process. Hegyi was present to review chapter 8 and the city’s growth map. Chapter 8 is the city’s growth area analysis. Verbiage and content in chapter 8 were reviewed by the board. The board also reviewed the city’s current growth map and gave input on expansion to the east since the city limits have changed. Hegyi will take the comments from the Board and update Chapter 8 and the growth map. Hegyi will be back before the board in April for a full review of changes discussed over the past few months.

New Business:

- **Discuss Fee for Placement Permits:** Prior to 2010, the city did not require any permits to erect a fence or small shed (under 120 sf). Due to issues with improper placement, the city implemented a placement permit for fences in 2010 and then a placement permit for small sheds in 2012. By requiring a placement permit, it allowed the city staff to review the regulations with the property owner before erection of any structure and avoided issues with re-location when the placement was incorrect. Currently there is no charge for a placement permit but there are administrative costs to the city, such as paperwork and staff time, along with inspection cost for the staff to inspect the placement and construction. The city charges a flat fee of \$20 for flatwork, to be consistent, staff is suggesting charging a flat fee of \$20 for a fence permit and a flat fee of \$20 for a shed permit under 120 sf. A motion was made by Kutil, second by Jackson to recommend to city

council implementing a \$20 flat fee for a fence permit and a \$20 flat fee for a shed permit under 120 sf to cover associated costs – all voted yes, motion carried.

Updates:

- **Building Inspector Update:** Building Inspector Paul Clarke was present to provide an update on building projects to the Board. There are currently 9 open single-family homes in various stages of construction, and a final inspection on the open twin home was completed. Clarke also gave a recap of current commercial permits that are still open, including Maple Pass Development, Black Tie Components, and the Gage House renovation project.
- **Building Inspector/Code Enforcer Update:** Kyle Christensen was present and gave the Board an update on code enforcement issues that he is addressing within the city at this time. Recently, he has addressed 2 snow on sidewalk complaints, 1 barking dog, 1 dog at large, 2 parking on grass and 1 garbage/rubbish complaint.
- **City Administrator Update:**
 - 6th/Mundt St project - Project is substantially complete. There are several minor items that need to be addressed and seeding will be placed in the spring.
 - Water Tower Painting – This project is substantially completed. Maguire Iron plans to paint the new city logo on the water tower this June.
 - Hwy 38 Water Loop Project – ISG has completed plans for a water loop project that will run along Railroad Street and S Colton Road. The city is pursuing an SRF loan for this project, so bidding is planned for the summer.
 - Bike Trail – The city cannot obtain an easement on the NE side of the proposed trail. City engineers have revised the plan and it will go before the city council for approval at their next meeting.
 - Western Ave Expansion – ISG continues to work on plans and staff is reviewing.
 - WWTF – ISG is working on plans for the new WWTF, along with our new CMAR Rice Lake. Schedule for plans and bidding was provided to staff.
 - Future Agenda Items include codifying our zoning regulations into one document and reviewing the city’s sub-division regulations and design standards.

Adjournment: A motion was made by Kilbourn second by Kutil to adjourn at 8:24pm – all voted yes, motion carried.

Minutes recorded by City Administrator, Teresa Sidel.

I, the undersigned, Teresa Sidel, City Administrator, in and for the City of Hartford, South Dakota, do hereby certify that the above and foregoing is a true and correct copy of the minutes which is on file at Hartford City Hall.

Teresa Sidel, City Administrator



Agenda Item Staff Report

DATE: April 11, 2023

AGENDA ITEM: CUP Application for Temporary Asphalt Plant

PREPARED BY: Teresa Sidel, City Administrator

Staff Recommendation: Approval with conditions as stated below in the summary.

Background/Summary: The city received a conditional use application from Bituminous Paving Inc. They would like to erect a temporary asphalt plant upon the Zacharias property, which is located on the north side of the interstate at exit 390 – just past Hartford Heights on the south side of Hwy 38. This property has been annexed into the city and is zoned Heavy Industrial. An asphalt plant is allowed in heavy industrial zones but requires a conditional use permit.

Items the application has noted to staff:

- Plant will be temporary – Timeframe is Labor Day until mid to late November 2023
- Plant is supplying asphalt for the I90 project
- Truck Traffic will be 50 to 60 loads daily with the haul route being Hwy 38 east to I90
- Hours of Operation planned is 5am to 8pm Monday through Saturday
- Odor – there is some odor associated with an asphalt plant due to the drying of the material as it goes into the plant.

This plant was in operation in 2022 and received a conditional use permit from the county. It was placed on the property just to the east of Cemcast. When the applicant applied to the county again this year, some opposition was received from the 2 closest property owners – mainly complaining about the bad smell of smoke and early morning start times. The county planning commission reviewed the CUP on January 23rd but it was deferred. After the deferral, the applicant withdrew their application with the county. I have enclosed the staff report and meeting notes from the county in your packet for reference.

This property is zoned heavy industrial and can support an operation of this type. The closest residents are in Hartford Heights, which is a development to the north of the Zacharias property but not within city limits. Applicant should take steps to minimize any adverse effects on neighboring properties. An operation of this type is allowed within our zoning regulations, so I recommend approval with the following conditions:

1. Operation of the plant is only allowed from September 5, 2023, to November 30, 2023.
2. Hours of operation shall be limited to daylight hours from sunrise to sunset, but cannot start before 6am and must be finished by 8pm (6am follows the city's noise regulations).
3. Any temporary lights, shall be directed away from any residential dwelling or SD Hwy 38.

4. It is the city's understanding that the state is allowing access from the south between the Zacharias property and the work site when the traffic on I90 is switched to head to head in the eastbound lane – this will cut down any truck traffic. If there is any truck traffic that will be using the access off of Highway 38, it is recommended that tracking control measures be put into place to control the debris that will come onto the highway and the highway be swept as needed.
5. All loading and unloading shall be on site.

Prior Council/Board Action: None

Possible Action:

- Approval without conditions.
- Approval with Conditions – Recommended
- Do not approve.

Fiscal Impact: Materials delivered to this operation should generate some sales tax for Hartford – It is hard to quantify.

Attachments:

- Conditional Use Regulations
- CUP Application
- Owners Consent to use property
- Aerial Map of Property
- Minnehaha County Staff Report

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CONDITIONAL USE PERMITS

Section

E. Review and Public Hearing Procedure

Prior to the approval of a Conditional Use Permit, the Zoning Administrator shall meet with the applicant to review the application. After review of the application, the Zoning Administrator shall make a recommendation to the Planning Commission to either approve or not approve said application. The Zoning Administrator's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.

The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Planning Commission. The Zoning Administrator shall notify the landowner by mail, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Conditional Use Permit no less than ten (10) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the City.

The following procedure shall be followed by the Planning Commission in considering the recommendation of the Zoning Administrator:

1. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
2. Before any Conditional Use Permit shall be granted, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - a. Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - b. Off-street parking and loading areas where required;

- c. Refuse and service areas, with particular reference to (a) and (b) above;
- d. Utilities, with reference to locations, availability, and compatibility;
- e. Screening and buffering with reference to type, dimensions and character;
- f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district;
- g. Required yards and other open space;
- h. General compatibility with adjoining properties and other property in the zoning district in which such use is to be located;
- i. The goals and objectives of the most recently adopted Comprehensive Plan.

The Planning Commission shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Chapter 19.01 (F).

F. Appeal of Planning Commission Decision

The decision rendered by the Planning Commission on a conditional use permit may be appealed to the City Council. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Zoning Administrator within five working days of the Planning Commission decision. When an appeal is filed, the Zoning Administrator shall present the Planning Commission's decision to the City Council for review. Notice of the meeting shall be given as required by Chapter 19.01 (E). The City Council shall vote to either uphold, overrule or amend the decision of the Planning Commission.

G. Expiration

A conditional use permit shall expire one year from the date upon which it becomes effective if no work has commenced. Upon written request to the Zoning Administrator and prior to the conditional use permit expiration date, a one-year time extension for the conditional use permit may be granted by the Zoning Administrator, subject to the following conditions:

1. There was no public objection presented during the public hearing process for the original conditional use permit;
2. The land uses for the surrounding properties have not significantly been altered since the original approval date for the conditional use permit;

3. Due to other on-going permitting processes or necessary engineering/planning studies relating to the specific project for the conditional use permit that may impact the one-year schedule for project completion.

A conditional use permit approved in accordance with Chapter 19 shall expire one year after the use discontinues on the premises, or the use is changed to another permitted use in the underlying district.

**APPLICATION FOR CONDITIONAL USE PERMIT
HARTFORD, SOUTH DAKOTA**

APPLICATION NUMBER: 2023-3-13 FEE \$100.00: X Check Cash PayGov # 111680

APPLICANT (Owner of Property): Bituminous Paving Inc Phone: 320-273-2113

APPLICANT ADDRESS: 43153 680th Ave Odessa MN 56276

Email: chrisb@bpimn.com

LEGAL DESCRIPTION: NW1/4 Sec 25 T102N R51W

CONDITIONAL USE ADDRESS: 46543 SD-38 Hartford SD 57033

ZONING DISTRICT: HI

DESCRIPTION OF CONDITIONAL USE REQUEST: Temporary Asphalt Plant

I (we) hereby certify that the information given is correct and true and furthermore, I (we) agree to comply with any and all conditions concerning approval of this application and other zoning requirements of the City of Hartford. I (we) understand that if granted, the conditional use permit is subject to all regulations imposed by the City of Hartford.

Brehmer 3/7/2023
Signature of Applicant (s) Date

Jensen D.D. 3-13-23
Authorized Official Date

***Site Plan required unless waived by Authorized Official

For Office Use Only:

The Planning and Zoning Board shall hear and decide all conditional use permits. A conditional use permit shall not be allowed to vary the use regulations.

Date of Public Hearing held by the Planning & Zoning Board: March 28, 23 Time: 7:05

Granted Denied

(signature of Chairman, Planning & Zoning Board or city official)

If not granted, state reasons: _____

Notice sent to Official Newspaper for P&Z Hearing (Not less than 10 days Prior to Hearing): Sent 3/13 Pub 3/17
Notice posted on Property for P&Z Hearing (10 days prior to Hearing): 3-17-23
Public Hearing by Planning and Zoning: 3-20-23

Bituminous Paving, Inc.

An Equal Opportunity Employer/Contractor


P.O. Box 6 County Road 21 Ortonville, MN 56278
Phone: (320) 273-2113 Fax: (320) 273-2120

PLANT SITE AGREEMENT

I, TripleJDA LLC hereby agree to lease a portion of the following property:


NW ¼ SEC 25 T102N R51W MINNEHAHA COUNTY
(legal pit description)

For the purpose of **Temporary Asphalt Plant** to Bituminous Paving, Inc.
until **12/15/2023** for various projects in the area for the sum of **\$ 10,000.00**.



Bituminous Paving, Inc.

3/6/2023
Date

TripleJDA LLC 

Owner
3-24-23

Date

Address: 5401 west 23rd Street
Sioux Falls SD, 57106

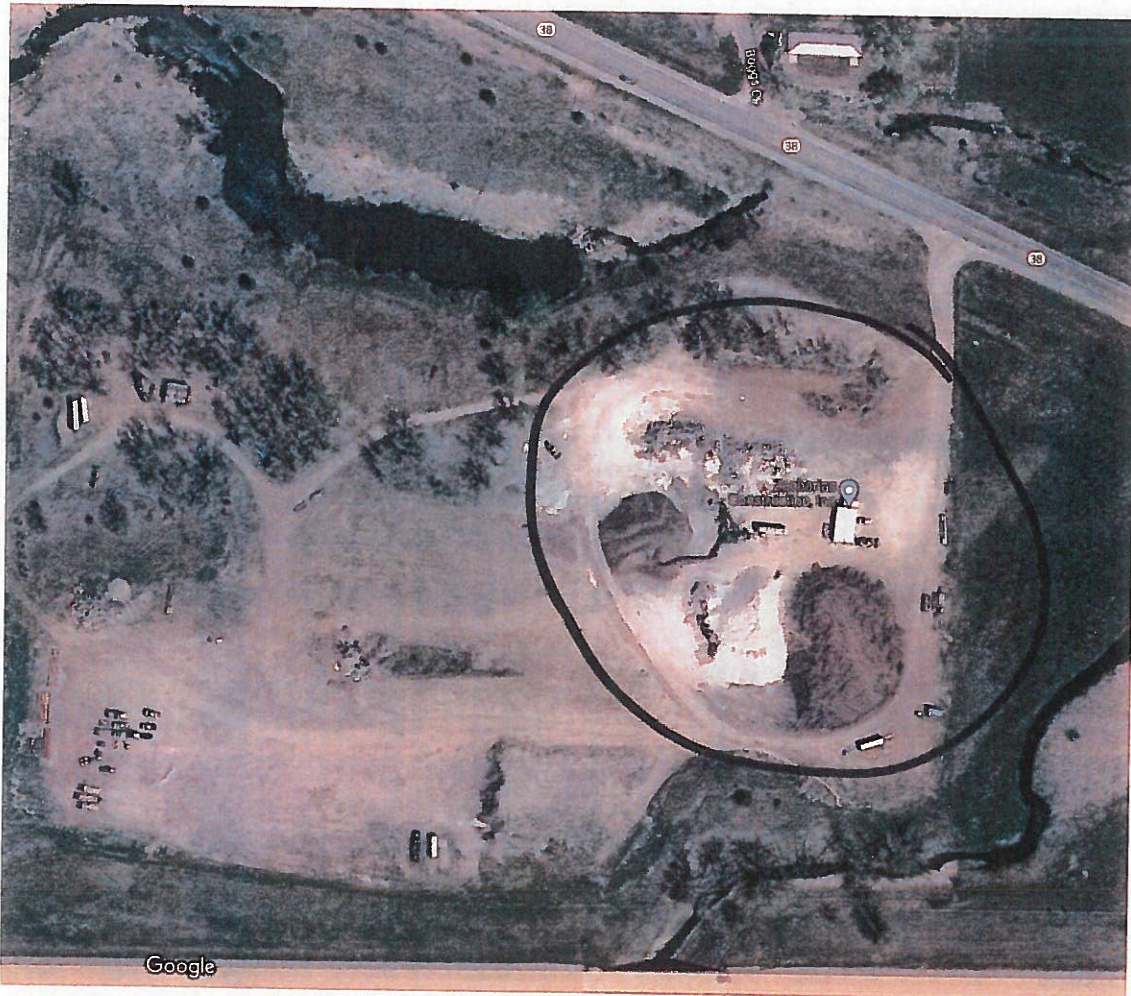
Telephone: 605 321 6398

SSN or Tax ID # 88-2898619

- All liabilities from this activity will be covered by Bituminous Paving Inc. (permits, dust control, insurance, etc.)
- Triple JDA LLC has zero responsibilities or liabilities from this activity.

Hartford SD Conditional Use Permit Application

- Type of Work – Temporary Asphalt Plant for work on I-90
- Timeframe – Labor Day until mid to late November 2023
- Truck Traffic – 50 to 60 loads daily
- Hours of Operation – 5am to 8pm Monday through Saturday





Regular Agenda

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

Petitioner: Bituminous Paving Inc.

Land Owner: White Buffalo Ridge LLC

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

Staff Report: Kevin Hoekman

General Information:

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

Present Zoning: I1 Light Industrial

Existing Land Use: Vacant lot

Parcel Size – 13.28 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

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

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

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

Standards for Review:

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



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

Public Testimony & Discussion

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

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

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



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

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

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

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

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



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

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

Action

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

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

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

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

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

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

March 2023 Building Inspection Report

<u>Date</u>	<u>Address</u>	<u>Permit #</u>	<u>Type</u>	<u>Status</u>	<u>Comments</u>
3/2/2023	805 Turtle Creek Ci	2022-108	bld	Status	checked on final items in new house
3/3/2023	310 N. Maple Avenue	2022-154	bld	Status	checkd on garage progress
3/4/2023	800 W. Opal Lane	2022-36	bld	framing	approved rough framing
3/4/2023	900 Ruud Lane	2022-188	bld	Status	checked on progress
3/4/2023	200 Duck Trail	2022-193	bld	Status	checked on progress
3/4/2023	507 Sagehorn	2022-202	bld	Status	checked on progress
3/8/2023	207/209 Duck Trail	2022-91	bld	prefinal	reviewed twin homes
3/11/2023	804 Turtle Creek	2022-114	bld	Status	new house review
3/11/2023	314 Maple Ave	2022-157	bld	Status	checked progress
3/11/2023	511 N. Mundt ave	2022-181	bld	Status	garage job
3/11/2023	302 W. 3rd street	2022-187	bld	Status	reside job
3/13/2023	405 Mulligan Circle	2022-84	bld	Status	checked on job site
3/17/2023	805 W. Opal Lane	2022-146	bld	framing	approved rough framing
3/18/2023	207/209 Duck TRail	2022-91	bld	final	closed out twin home set up
3/18/2023	404 N. Mundt ave	2022-44	bld	Status	detached garage
3/18/2023	800 W. Opal Lane	2022-36	bld	Status	insulation being set
3/18/2023	1182 Ruud Trail	2022-21	bld	Status	finish items being worked on
3/20/2023	314 Maple Ave	2022-137	bld	Status	checked on framing
3/21/2023	1820 N. Western ave	2022-182	bld	framing	approved office rough framing
3/24/2023	804 Turtle Creek	2022-114	bld	prefinal	reviewed final outstanding items
3/25/2023	2010 Western ave	2023-1	bld	Status	checked on soil conditions
3/25/2023	1182 Ruud Trail	2022-200	bld	Status	checked on lower level finishes
3/25/2023	200 Duck Trail	2022-193	bld	Status	checked on progress
3/25/2023	705 E. 2nd street	2022-172	bld	Status	checked on progress
3/29/2023	603 Cressman Trail	2023-8	bld	framing	lower level
3/29/2023	903 Tortuga Ave	2021-72	bld	final	reviewed last items
3/29/2023	905 Tortuga Ave	2021-73	bld	final	reviewed last items

MARCH 2023 CODE REPORT

ADDRESS	DATE	DEADLINE/FOLLOWUP	CODE TYPE	REASON	SOURCE	CLOSED?	COMMENTS
511 S Eastern Ave	3/7/2023	3/14/2023	Municipal	Snow on Sidewalks	S	No	Letter sent on 3/7 about snow removal on all sidewalks (corner lot). Letter with \$50 fine sent on 3/14 for failure to remove snow from sidewalk.
301 W 4th St	3/9/2023	3/21/2023	Municipal	Barking/No Pet License	R	Yes	Letter sent on 3/9 about neighbor complaint about dogs barking constantly. Also sent notice about no pet licenses for the address.
913 Trojan Ave	3/14/2023	3/23/2023 4/6/2023	Municipal	No Pet License	S	Yes	Letter sent on 3/14 for no pet licenses. Letter with \$50 fine sent on 3/28 for failure to license pets. 4/3 Update: Received call from owner (truck driver) and he just got his mail. Dog that was previously licensed passed away recently, but has two puppies that are under the (6) month age for licensing. Reminded them to please license them when they turn 6 months old.
102 N Oaks Ave	3/21/2023	4/4/2023	Municipal	Barking/Running at Large	R	Yes	Letter sent on 3/21 for barking dog complaint and running at large.
508 N Main Ave	3/21/2023	4/6/2023	Municipal	Parking on Grass	S	Yes	Letter sent on 3/21 for truck parked on the grass.
403 Ironwood Dr	3/23/2023	3/30/2023	Municipal	Snow on Sidewalks	S	Yes	Letter sent on 3/23 for snow on their sidewalk.
511 S Tessa Ave	3/23/2023	3/30/2023	Municipal	Snow on Sidewalks	S	Yes	Letter sent on 3/23 for snow on their sidewalk.
203 E 5th, Apt 104	3/23/2023	4/4/2023	Municipal	No Pet License	S	No	Letter sent on 3/23 for no pet license on file.
203 E 5th, Apt 203	3/23/2023	4/4/2023	Municipal	No Pet License	S	No	Letter sent on 3/23 for no pet license on file.
510 N Main Ave	3/28/2023	4/12/2023	Municipal	Parking on Grass/Rubbish/Garbage	S	No	Letter sent on 3/28 for rubbish/garbage on front deck and parking on the grass, next to driveway.
920 Trojan Ave	3/30/2023	4/14/2023	Municipal	Parking on Grass	S	No	Letter sent on 3/30 for two trailers parked on the grass.
921 Trojan Ave	3/30/2023	4/14/2023	Municipal	Parking on Grass	S	No	Letter sent on 3/30 for a minivan parked on the grass.
813 Trojan Ave	3/30/2023	4/7/2023	Municipal	No Pet License/Running at Large	S	No	Letter sent on 3/30 for expired pet license and dog running at large.

R=RESIDENT
S=STAFF

City Administrator Update

April 11, 2023

Updates:

- **City Project Update (updates in red)**
 - Bike Trail –The initial layout for the new trail between Main Ave and Feyder Ave shows the area between the creek and the city’s property line is pretty narrow along the NE portion of the trail. Staff tried to secure an easement through this area, but the property owner has denied it. I contacted our grant sponsor, SD Game, Fish & Parks, to see what our options are for moving forward. They have indicated that if we alter the path to go on the south side of the creek, it will require another application. They did note that we can possibly reduce the width of the path to some degree but want us to keep it as wide as possible. ISG has presented a preliminary redesign for the 10 foot that narrows to 8 feet on the east side – this would require a couple of retaining walls but looks like it is possible if they can get confirm data from FEMA that there will be a no-rise in the floodplain. Because of the higher estimated cost, I have asked ISG for a cost estimate that would incorporate an 8 foot width the entire length of the trail verses just the east end. **After review of the cost estimates and layout by both the Park & Rec Board and the City Council, it was decided to place an 8’ trail the entire length between Main Ave and Feyder Ave. This new layout was sent to the GFP, and it was approved. ISG will finalize plan designs and the city will move forward with bidding asap.**
 - 6th & Mundt Street (no change)– Project is substantially complete, with a few punch list items and some seeding, restoration and painting to be done in the spring. **ISG and the city plan to do a walk trough of the project to update the punch list items so the contractor can address those items this spring.**
 - Water Tower Painting (no change) – Contractor has completed the project but will return in the spring (June) to paint the logo on the tower (cost approx. \$13,800).
 - Hwy 38 Water Main Extension – The city council previously approved plans to have ISG work on a design for a water extension that will run along Railroad Street & S Colton Road. The plans were reviewed by staff and city council approved the project on 1/3. Financing was discussed and approved on 2/21, with part of the project being funded with water fund reserves and part with an SRF loan. Since the city is applying for an SRF loan, we are currently working with SECOG to submit that application. Bidding is anticipated for this summer after loan approval in June.
 - Western Avenue Expansion - ISG continues to work on plans. **Plans need to be submitted to the DOT by the end of this year so it can be vetted by the state next year for construction in 2025.**
 - WRRF – Staff continues to meet with ISG and Rice Lake on the WRRF. ISG has submitted 90% plans to DANR. **An update on design and cost estimate was provided to the city council at their 4/4 council meeting.**
- **Stockwell Projects (no change – expect both projects to be closed out this spring):**
 - 9th Street – 2 items still need to be addressed by the contractor – Zacharias Construction. They have been notified and said they will be completed before the year end. Then we can close out this project.
 - Western Sewer Project: A walk through was conducted on 7/20 with staff, Stockwells, and the state. A second walk through was conducted about 3 weeks ago. A list of punch list items was sent to the contractor to be addressed. Final payment will not be granted until all punch list items are completed to the city’s satisfaction. (We were notified that the township building was repaired)
- **Placement Permits:** The city council approved your recommendation to place a \$20.00 fee on all fence and small shed placement permits. This will be effective immediately.
- **Future Agendas:**
 - The city received an annexation petition from Picket Fence Investments to annex land between the Colton Road and the Maple Pass Addition. This annexation will come before the P&Z Board at your next meeting.

- After our review of the comp plan, I will work with SECOG to codify our zoning regulations into one document.
- Also after our review of the comp plan, we will start reviewing our sub-division regulations and our design standards.

City Election is Tuesday, March 11th – if you live in Ward 2 come down early and Vote!

Please call if you have any Question: 528-6187 or 605-261-3995