

THE MINNEHAHA COUNTY COMMISSION CONVENEED IN JOINT SESSION WITH THE SIOUX FALLS CITY COUNCIL AT 5:00 P.M., June 19, 2006, pursuant to adjournment on June 13, 2006. Commissioners present were: Kolbe, Twedt, and Zweep. Commissioner Hajek joined the meeting late. Commissioner Pekas was absent. Sandy Kinder, Deputy Auditor, was also present.

City Council Members present: Brown, Costello, Jamison, Kavanaugh, Knudson, and Mayor Munson. Council Member Staggers joined the meeting late. Council Members Beninga and Smith were absent.

Chairman Kolbe called the meeting to order.

HEARINGS

Pursuant to deferral on May 15th, Scott Anderson was present for the scheduled hearing to consider proposed amendments to the 2002 Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls which would require notification of property owners by 1st class mail by those seeking a conditional use permit and require that a "right to farm notice" be filed for all new houses constructed in the A-1 Agriculture District and the RC Recreation/Conservation District. He explained that the City and County Planning Commissions recommended an amendment that would require that CUP petitioners notify residents living within 500 feet of the subject property by 1st class mail and sign a certification that the mailing was completed. The list of residents and the notification letter would be given to the petitioner by the Planning Department. The item was deferred from the May meeting because there was some question as to why the Planning Department wasn't mailing the notification letter. Commissioners noted that the additional mailing fees would be costly as these requests are common and that the cost burden of the mailing shouldn't be placed on all taxpayers. Mike Cooper with the City of Sioux Falls Planning and Building Services reported on the City's fees and requirements related to the CUP application process. He noted that the City requires petitioners to post a sign on the property and sign an affidavit to certify that the sign was posted. Commissioner Twedt noted that the amendment would allow consistency within all areas of rural Minnehaha County. Mr. Anderson also explained that the proposed amendment would require that a right to farm notice be filed for all new houses constructed in the A-1 Agriculture and RC Recreation/ Conservation districts. The notice acknowledges the potential conflicts associated with rural living in agricultural areas. Both proposed amendments are efforts to make the public more aware and better informed of events that may affect them. MOTION by Zweep, seconded by Hajek to approve Ordinance MC30-11-06. 4 ayes. The City concurred.

ORDINANCE MC30-11-06

An ordinance amending ordinance MC30-02, the 2002 Revised Zoning Ordinance for Minnehaha County and the City of Sioux Falls related to Conditional Use Permits, and Right-to-Farm Notices.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC30-02, the 2002 Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls is hereby amended as follows:

Section 1: That Article 19.04 is hereby amended to read:

19.04 HEARING BY PLANNING COMMISSIONS. Upon the filing of an application for a conditional use permit, the Planning Director shall set a date for public hearing, at which time and place the County and City Planning Commissions shall jointly meet to consider the conditional use permit request.

- (a) NOTIFICATION. A good faith effort must be made by the applicant to notify all property owners (inclusive of Contract for Deed buyers) of land laying within five hundred feet (500) feet, inclusive

of right-of-way, of the outer boundaries of the property involved in the request. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department shall provide the applicant with "Notice of Hearing" forms for this purpose, and the notices are to be sent by the applicant to all parties on the aforementioned list by first class mail no less than one (1) week prior to the public hearing on the request held by the Planning Commission. The applicant shall sign an affidavit certifying that the required mailing was completed. The affidavit shall be provided to the Planning Department at least five (5) working days prior to the Planning Commission meeting.

- (b). SIGNS. A sign(s) to be provided by the Office of Planning and Zoning shall be posted on or near the property at least five days prior to the scheduled hearing.

(amended by MC30-04-03)

- (c). ACTION. 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 Article 19.06.

Section 2: That Article 3.02 is hereby amended to read:

3.02 PERMISSIVE USES. A building or premises shall be permitted to be used for the following purposes in the A-1 Agricultural District:

- (a). Agriculture.

(amended by MC30-05-04)

- (b). A single-family dwelling if the following provisions for building eligibility are met:
- 1). Each quarter-quarter section shall have one building eligibility when all the following conditions are met:
 - a). There are no other dwellings on the quarter-quarter section.
 - b). The building site shall be a minimum of one acre.
 - c). Approval has been granted by the appropriate governing entity for access onto a public road.
 - d). The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use.
 - e). Prior to any building permit being issued for any new single family residence located in the A-1 Agriculture District, a Right to Farm Covenant shall be filed on the parcel of land upon which the new structure will be located. Only the following shall constitute a Right to Farm Covenant: **"RIGHT TO FARM NOTICE COVENANT** You are hereby notified that the property on which you are constructing a structure is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. If you live near an

agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs, successors or assigns and because it is required pursuant to the issuance of a building permit, may not be removed from the record title without consent of the Sioux Falls and Minnehaha County Planning Commissions.”

- (c) Historical sites.
- (d) Church.
- (e) Neighborhood utilities.
- (f) Antenna support structure.

Section 3: That Article 13.02 is hereby amended to read:

13.02 PERMISSIVE USES. A building or premises shall be permitted to be used for the following purposes in the RC Recreation/Conservation District:

- (a) Agriculture.
- (b) Public park; forest preserve.
- (c) Public golf course.
- (d) Historic sites.

(amended by MC30-05-04)

- (e) A single-family dwelling if the following provisions for building eligibility are met:
 - (1) Each quarter-quarter section shall have one building eligibility when all the following conditions are met:
 - a) There are no other dwellings on the quarter-quarter section.
 - b) The building site is not in the 100-year flood plain as identified on the Flood Insurance Rate Map.
 - c) The building site shall be a minimum of one acre.
 - d) Approval has been granted by the appropriate governing entity for access onto a public road.
 - e) The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use.
 - f) Prior to any building permit being issued for any new single family residence located in the RC Recreation/Conservation District, a Right to Farm Covenant shall be filed on the parcel of land upon which the new structure will be located. Only the following shall constitute a Right to Farm Covenant: **“RIGHT TO FARM NOTICE COVENANT**
 You are hereby notified that the property on which you are constructing a structure is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation

water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs, successors or assigns and because it is required pursuant to the issuance of a building permit, may not be removed from the record title without consent of the Sioux Falls and Minnehaha County Planning Commissions.”

Adopted this 19th day of June, 2006.

MINNEHAHA COUNTY

Robert Kolbe, Chair, Board of County Commissioners

ATTEST:

Sandy Kinder, Deputy Auditor

The Commission held the scheduled hearing to consider an amendment to the 2002 Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls which would change the definition for a building and structure. Scott Anderson, Planning Director, noted that the change was requested by the State’s Attorney’s Office to provide a better legal standing. Both Planning Commissions recommended approval of the proposed definitions. MOTION by Hajek, seconded by Twedt to approve Ordinance MC30-12-06. 4 ayes.

ORDINANCE MC30-12-06

AN ORDINANCE AMENDING THE 2002 REVISED JOINT ZONING ORDINANCE FOR MINNEHAHA COUNTY AND THE CITY OF SIOUX FALLS BY REVISING THE TEXT PERTAINING TO THE DEFINITION OF A BUILDING.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC30-02, the 2002 Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls is hereby amended as follows:

Section 1: That Section 26.02 (110 & 685) is hereby amended to read:

110. BUILDING – Any structure, either temporary or permanent, forming an open, partially enclosed, or enclosed space constructed by a planned process of materials and components to be designated and used for the shelter or enclosure of any person, animal or property of any kind. For the purpose of these regulations, retaining walls, concrete slabs, utility poles and fences are not considered structures.
685. STRUCTURE. A combination of material(s) constructed, erected or placed on, above or below the surface of land or water for use, occupancy or ornamentation. For the purpose of these regulations, retaining walls, concrete slabs and utility poles are not considered structures.

Approved this 19^h day of June, 2006

BOARD OF COUNTY COMMISSIONERS

Robert Kolbe, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor

BRIEFING

Lynn DeYoung, Emergency Management Director, gave a briefing on Emergency Management activities within the County. He discussed the Presidential Disaster Declaration Process for the State of South Dakota, Homeland Security Grants, Unified Command System and Local National Incident Management training, and emergency planning. The briefing is required by the State. Members from area municipalities were also present as required to be eligible for Homeland Security grant funding.

MOTION by Zweep, seconded by Hajek to adjourn 9:00 a.m. on Tuesday, June 20, 2006. 4 ayes.

APPROVED BY THE COMMISSION:

Robert Kolbe, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor