

**MINUTES OF THE JOINT MEETING  
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS  
June 26, 2006**

A joint meeting of the County and City Planning Commissions was held on June 26, 2006 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Deb Bunde, Mike Cypher, Susie O'Hara, Mark Rogen, Don South, Wayne Steinhauer, and Jim Zweep.

CITY PLANNING COMMISSION MEMBERS PRESENT: Merdith Larson, Kent Metzger, Lynette Olson, and Jessie Schmidt.

STAFF PRESENT: Scott Anderson, Phil Kappen, and Pat Herman - County;  
Steve Randall – City

The City Planning Commission was chaired by Kent Metzger. County Planning Commission Chair Don South presided over the meeting.

**CONSTENT AGENDA**

There being no objections from the Planning Commission or the audience, a motion was made for the County by Rogen and seconded by O'Hara to approve the consent agenda. The motion passed unanimously. Same motion for the City by Schmidt and seconded by Olson. The motion passed unanimously.

**ITEM 1. MINUTES – May 22, 2006**

A motion for the County was made by Rogen and seconded by O'Hara to approve the minutes. The motion passed unanimously. Same motion for the City by Schmidt and seconded by Olson. The motion passed unanimously.

**ITEM 2. CONDITIONAL USE PERMIT #06-39 to allow an outdoor recreation facility.**

Legal Description – E1/2 NE1/4 of Section 19-T102N-R49W & W1/2 NW1/4 of  
Section 20-T102N-R49W

Location - 1 mile north of Sioux Falls on Kiwanis Ave.

Petitioner - Jean Pattison / Sandara K. Schoenbeck, Trustee

**General Information**

Present zoning - A-1 Agricultural

Existing Land Use - Agricultural

Parcel Size - 80 Acres

**Report by:** Pat Herman

**Staff Analysis**

The site is located one mile north of Interstate 90 on north Kiwanis Avenue. The Big Sioux River runs through the property. Land use in the area is agriculture with scattered rural acreages.

The application is to allow an outdoor recreation facility. For the past four years the petitioners have held the Spirit of the West Festival on this site. Each year an application has been submitted for a temporary use permit and the Planning Department notified area residents and land owners within 600 feet of the proposed festival as required by the Zoning Ordinance. The Planning Department never received any objections from those notified nor have there been any complaints filed with the office about any aspect of the festival. The festival has complied with all the conditions set by the temporary use permits. Due to the neighborhood's acceptance of the festival, the lack of complaints, the organization's compliance with County regulations, and the

success of the festival, the Planning Department contacted the applicant and suggested they apply for a conditional use permit for the festival as an annual event.

The written narrative presented by applicant explains that the Spirit of the West Festival is a 3-Day western festival with live entertainment, cowboy shooting competitions, cavalry re-enactments and old west re-enactments. There will also be vendors selling art, clothing, jewelry, leather goods and food. The festival runs for three days and the dates for this year's event are September 15-17.

**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.**

This is a temporary use, extending only over a three day period so no long lasting impacts on use or property values should occur. All existing residences will face temporary impacts with traffic services.

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

The proposed use, due to its temporary nature, should not impede the orderly development of the area.

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

Access to the site is from Kiwanis Ave. which is a paved road. There are two approaches onto Kiwanis Ave., one designated for entering the event the other for exiting. The distance between the entrance and exit is over a ½ mile, allowing for good traffic flow.

Sanitation facilities will be provided with 20 porta-potties and 8 sinks. This number of portable toilets appears to be sufficient. Receptacles will be provided for trash collection throughout the venue.

There will be six security persons at the site during the festival hours and three security persons there during the night. At a minimum, two first aid personal will be present during the festival. This area is in the Renner Fire District.

During the festival signs, banners and flags will be displayed. These should be erected no more than one week prior to the event and removed within one week of the last day of the festival.

There will be camping on the site. Space for twenty-five tents, fifteen campers and five RV's will be provided. Approximately 50 horses will be involved in the festival and they will be quartered in horse trailers or temporary stalls.

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

The applicant estimates the daily attendance at 5,000 people. While the zoning ordinance does not specifically address parking for outside recreation facilities, a recreation or amusement facility must provide one parking space for every three attendants. There are 1700 parking spaces available at the site which is sufficient for the estimated attendance. Parking is on the grass field so rain could pose a hindrance. The festival grounds themselves are almost a half mile from Kiwanis Ave. so parking on the paved highway should not be a problem.

**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.**

This event will generate noise and dust for its three day run. There will be 2 PA systems and a live music sound system. There is only one house within a ¼ mile of the site so the impact will

be minimal. The sound systems have been in place every year and the Planning Department has received no noise complaints about the event. The festival will run on Friday and Saturday from 10 a.m. to 7 p.m. and Sunday from 9 a.m. to 5 p.m.

### **Recommendation**

The Planning Departments recommended approval of Conditional Use Permit #06-39 with the following conditions:

- 1) Conditional Use Permit #06-39 shall only allow the Sprit of the West Festival. No other festivals or outdoor recreation activities are allowed.
- 2) The Planning Department shall be notified a minimum of one month in advance of the dates for the current year's festival and hours of operation.
- 3) That at no time shall the hours of operation extend past 10 p.m. on a Friday or Saturday nor 8 p.m. on a Sunday.
- 4) All signs, banners, and flags for the festival shall be temporary and shall not be erected until one week prior to the festival and shall be removed within one week after the last day of the festival.
- 5) That a minimum of 20 porta-potties and 8 sinks shall be provided each day of the event.
- 6) That security personal shall be on site for the entire festival, including the night hours, and that at a minimum two first aid personnel shall be on site during the hours the festival is open to the public.
- 7) That there shall be no more than 50 camp sites.
- 8) That each vendor shall obtain the necessary state sales tax license and food handling permits for the State of South Dakota.
- 9) That within a month after the last day of each year's festival, an attendance count be provided to the County Planning Department.
- 10) That the Sioux Falls and Minnehaha County Planning Departments be allowed access to the site for inspection purposes during the festival.
- 11) That the Planning Commissions may review Conditional Use Permit 06-39 in a public hearing after each year's festival.

Based on the staff report a motion for the County was made by Rogen and seconded by O'Hara to approve Conditional Use Permit #06-39 with the stated conditions. The motion passed unanimously. Same motion for the City by Schmidt and seconded by Olson. The motion passed unanimously.

### **REGULAR AGENDA**

A motion was made for the County by O'Hara and seconded by Zweep to approve the regular agenda. The motion passed unanimously. Same motion for the City by Larson and seconded by Schmidt. The motion passed unanimously.

Item 3 was deferred from the May 22, 2006 meeting.

#### **ITEM 3. CONDITIONAL USE PERMIT #06-35 – to exceed 1200 sq. ft. of accessory building area – 2000 sq. ft. requested.**

Legal Description – Tract 2 O'Hanlons Addition in Section 26-T101N-R48W  
Location - 2601 S. River Bluff Rd., 2 miles east of Sioux Falls  
Petitioner - Alex Sazonov

### **General Information**

Present zoning - A-1 Agricultural  
Existing Land Use - Residential  
Parcel Size - 1.04 Acres

**Report by:** Phil Kappen

**Staff Analysis**

The subject property is located in O'Hanlon's Addition, a residential subdivision along River Bluff Road 2 miles east of Sioux Falls. The properties to the east, north and west are residential properties. To the south is agricultural land. The city's 2015 plan shows that this area is to be future single-family residential. The petitioner proposes to construct a 2000 sq.ft. accessory building on his property. As this is larger than the permissive size of 1200 sq.ft., a conditional use permit is required.

**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 currently no accessory buildings in O'Hanlon's Addition. There are, however, accessory buildings in the abutting residential developments to the north, northwest and southeast. The two lots immediately northwest of the subject property (across River Bluff Road) have buildings of 1480 sq.ft. and 2400 sq.ft. respectively on the two lots. The lot to the north of those lots has accessory buildings totaling 3456 sq.ft. Two other lots, to the north northwest of O'Hanlon's Addition have accessory buildings of 1450 and 1540 sq.ft. respectively.

The homes in the addition are all upscale in appearance. Should this conditional use permit be approved, a condition could be placed on the permit relative to the appearance of the proposed accessory building. The petitioner should be prepared to address the appearance of the building.

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

The petitioner must be made aware that the building can be used strictly for his personal storage of residential related items and no commercial or business activities or storage is allowed.

The city has a requirement that a detached accessory building cannot exceed the footprint size of the primary residence. The first floor of the home on the subject property is 1369 sq.ft. (the second floor is 1111 sq.ft.) and the attached garage is 711 sq.ft. The footprint of the residential structure, therefore, is 2080 sq.ft.

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

Access to the property is via River Bluff Road, a township road. The road has many turns and visibility in some areas has been a problem. No additional accesses onto the road should be allowed.

**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. No other types of uses are allowed.

**Recommendation**

Staff finds that the proposed building size conforms with the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #06-35 with the following conditions:

1. The existing driveway onto the property shall be used for access to the building. No

- additional driveway access shall be allowed onto River Bluff Road.
2. The building shall not exceed 2000 square feet in size as measured to the exterior of the walls.
  3. The building shall be used only for the petitioner's personal residential storage. No commercial or business uses, commercial storage, or the storage of any business equipment or materials shall be allowed.
  4. The building shall be constructed in a manner and of materials that are similar to the main building on the property.
  5. The building shall not exceed one story in height.

**Public Testimony**

The petitioner, Alex Sazonov, explained that he rents a shop in Sioux Falls for his business. He has no employees. He does own two vans and now that he is aware that the neighbors don't like them they are being kept at the shop. Mr. Sazonov stated that he has no business in the residential area. He presented the Planning Commissions with a site plan and drawing of the proposed building as well as permits from Split Rock Township for two driveways.

Commissioner Olson reminded the petitioner that this item had been postponed from the last meeting so that a neighborhood meeting could be held. Mr. Sazonov explained that his realtor, Tom Winkler was going to take care of that.

Daren Horner, 2406 River Bluff Cir., stated that they had not been given any information until 9:00 pm the night before and that no meeting had been held and that the neighbors had no time to discuss the new information.

No one else wished to address the item and the floor was closed to public testimony.

Commissioner Cypher stated that all the parties involved had held a ½ hour meeting in the back room after the last Commission meeting. The petitioner is willing to meet all the conditions and conforms to the covenants.

Based on the staff report and public testimony, a motion was made for the County by Cypher and seconded by Rogen to approve conditional use permit #06-35 with the recommended conditions. The motion passed unanimously. Same motion for the City by Larson and seconded by Schmidt. The motion passed unanimously.

**ITEM 4. JOINT ZONING ORDINANCE AMENDMENT #06-17– definition of same ownership as it pertains to the transfer of building eligibilities in the A-1 Agricultural and R/C Recreation/Conservation District**  
Petitioner- Planning Departments

**Report by:** Pat Herman

In April 2006 the County Planning Commission denied a conditional use permit for a transfer of eight residential building eligibilities. Three proprietries were involved in the transfer – the land the eligibilities were coming from which was owned by John and Jane, a middle parcel owned by John and Jill, and the receiving parcel owned by John and Jack. The petitioner had just recently added his name to the deed for the middle parcel and the Planning Commission felt that the middle parcel was just being used as a conduit and did not meet the intent of the ordinance.

The denial of the transfer was subsequently appealed to the County Commission. At that meeting Chief Deputy State's Attorney Gordy Swanson stated that the zoning ordinance does require that the properties involved in a transfer must be contiguous and under the same ownership. Mr.

Swanson explained that while John was listed on each deed, the properties could not be considered under the same ownership as each deed did not contain the same combination of names.

To reinforce this principle the Planning Department is proposing an amendment to the zoning ordinance to define same ownership as it pertains to the transfer of building eligibility. The following language will be added to the A-1 Agricultural and RC Recreation/Conservation District under those portions of the zoning ordinance addressing the transfer of building eligibility.

For purposes of this section, same ownership means: Two or more parcels of land owned or controlled by an individual or combination of individuals, corporations, partnerships, or other legal entities; with said owners described uniformly on the deed or other legally binding conveyance of each parcel.

### **Recommendation**

The Planning Departments recommended approval of zoning amendment #06-17.

### **Public Testimony**

The County Planning Commission expressed some concern that this definition might be too restrictive. If a husband and wife separately owned property which was adjoining, could they transfer building eligibilities? Ms. Herman explained they would have to file new deeds that listed the owners for each property in the same manner. Mr. Anderson stated that if someone was not happy with the way staff interpreted the ordinance an appeal of the staff's decision could be filed with the Board of Adjustment. Commissioner O'Hara felt that it would make it too difficult to transfer among family members.

No one else wished to address the item and the floor was closed to public testimony.

Based on the staff report and public testimony, a motion for the County was made by Bunde and seconded by Zweep to recommend approval of text amendment #06-17. The motion passed (O'Hara nay). Same motion for the City by Larson and seconded by Olson. The motion passed unanimously.