

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
February 26, 2007**

A joint meeting of the County and City Planning Commissions was held on February 26, 2007 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Susie O'Hara, Mark Rogen, Don South, Wayne Steinhauer and Carol Twedt.

CITY PLANNING COMMISSION MEMBERS PRESENT: Theresa Boysen, Ken Dunlap, Meredith Larson and Anita Wetsch.

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

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

APPROVAL OF THE CONSENT AGENDA

At the request of Staff and the audience, Items 2, 3 & 4 were placed on the regular agenda. A motion was made for the City by Wetsch and seconded by Boysen to approve the consent agenda (Items 2, 3 & 4 removed). The motion passed unanimously. Same motion for the County by Cypher and seconded by Rogen. The motion passed unanimously (Steinhauer absent).

ITEM 1. MINUTES – Minutes of the January 22, 2006 meeting.

APPROVAL OF THE REGULAR AGENDA

A motion was made for the City by Boysen and seconded by Wetsch to approve the regular agenda. The motion passed unanimously. Same motion for the County by O'Hara and seconded by Rogen. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT # 07-14 to allow 1620 sq. ft. of accessory building area.

Legal Description – Tracts 15, 15A, 16, & 16A Boekhoff's Subdivision in Section 21-T101N-R50W

Location - 46861 265th St. 1/2 mile west of Sioux Falls

Petitioner / Owner- Matthew Poss

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Residential

Parcel size- <1 Acre

Report by: Pat Herman

Staff Analysis

The property site is located approximately a ½ mile west of Sioux Falls on 265th St., an extension of W. 12th St. The lot is located in the midst of a row of houses that align 265th St. and there is a house on this site. All of the surrounding properties, including those with residential structures, are zoned A-1 Agricultural. The 2015 Growth Plan for Sioux Falls shows this area as existing rural residential surrounded by single family residential.

Residential lots located in subdivisions are limited to 1200 sq. ft. of accessory building area unless a conditional use permit is granted to increase the allowed square footage. The petitioner has an existing accessory building which is 1280 sq. ft. He would like to place a second

structure on this site, to be used for personal storage.

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.

Individual lots in this subdivision have accessory building areas ranging from 170 sq. ft. to 1620 sq. ft. Allowing 1620 sq. ft. of accessory building area on this lot would be consistent with the Planning Commissions' past actions to allow an increase of accessory building area equal to the largest existing size.

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

An increase in accessory building area should not have an effect on the development of vacant property in this area.

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

Access will be from 265th St. using the existing driveway.

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

The lot has sufficient parking for a single family dwelling and its accessory uses.

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.

An increase in accessory building area should not create anything that will constitute a nuisance.

Recommendation

The requested accessory building area does not exceed the largest existing amount in the subdivision and the planning staffs recommended approval of Conditional Use Permit #07-14 with the following conditions:

- 1) Accessory building area shall not exceed 1620 sq. ft.
- 2) Accessory buildings shall not exceed one story in height.
- 3) No commercial use of the accessory buildings shall be allowed.
- 4) A building inspection is required of any new accessory buildings.

Public Testimony

The petitioner, Matt Poss, stated that he wanted to add a small lawn shed.

Ron Anderson, 46849 256th St. presented pictures showing the lot from the south side where there were several vehicles parked. He said he thought one was not licensed and that a lawn shed had already been placed on the site. He is opposed to this request.

In response to Commissioner Dunlap, Mr. Poss wondered why Mr. Anderson cared what vehicles were parked on his property and that the vehicles were licensed. Commissioner Larson noted that the request was to add additional accessory building area.

Ms. Herman explained that the petitioner needed the conditional use permit to allow the shed to be on the property. She had advised the petitioner to ask for the 1620 sq. ft. in case he needed more storage space in the future. By getting approval at this time he would not have to reapply to for another conditional use permit. Ms. Herman also stated that all vehicles parked outside of a permanent structure are required to be licensed and operable and that she would work with Mr. Poss to ensure his property was in compliance. The conditional use permit will not expire within one year because the placement of the shed constitutes the starting of the conditional use permit. A conditional use permit expires only if nothing is started within one year from the approval date.

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

After a brief discussion the Commission felt that a 5th condition, requiring that all the vehicles be licensed by March 5, 2007, should be added to the requirements.

Based on the staff report and public testimony a motion was made for the City by Wetsch and seconded by Boysen to approve Conditional Use Permit #07-14 with the following conditions:

- 1) Accessory building area shall not exceed 1620 sq. ft.
- 2) Accessory buildings shall not exceed one story in height.
- 3) No commercial use of the accessory buildings shall be allowed.
- 4) A building inspection is required of any new accessory buildings.
- 5) All vehicles parked outside a permanent structure shall be currently licensed no later than 5:00 pm on March 5, 2007.

The motion passed unanimously. Same motion for the County by O'Hara and seconded by Rogen. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT # 07-11 allow the transfer of two residential building eligibilities.

From - S1/2 SW1/4 NE1/4 & from the NW1/4 SE1/4 in Section 29-T101N-R48W

To - NE1/4 SE1/4 in Section 29-T101N-R48W

Location - ¾ mile east of Sioux Falls

Petitioner / Owner- O'Hanlon LLC

General Information

Present Zoning - A-1 Agricultural

Existing Land Use - Agriculture

Parcel size- 40 Acres

Report by: Pat Herman

Staff Analysis

The proposed building site is located a mile east of Sioux Falls and is adjacent to River Bluff Road. The surrounding properties are zoned A-1 Agricultural, as is the subject property. Abutting the site to the north is O'Hanlon Addition, a residential subdivision of eleven lots. There are additional residential units further north as well as Arrowhead Park. To the east is the residential subdivision known as Rollinger's Addition and Pine Lake Subdivision is south of this site. The proposed site is shown as single family residential on the 2015 Growth Plan.

The petitioner is requesting a transfer of two residential building eligibilities. The receiving quarter-quarter has one building eligibility so a total of three eligibilities would be available for development.

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 area of the County is heavily developed with rural residences and the addition of three more dwelling units should not negatively impact the existing development.

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

This area is shown on the 2015 Growth Plan for single family development and the petitioner has submitted a preliminary subdivision plan (Item 4) to ensure these three lots are compatible with the future growth expected in this area.

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

The lots will be served by septic systems until such time as the City of Sioux Falls can provide sewer service. There is rural water in the area and the petitioner will need to work with the City Public Works department to obtain hook-up permits. Access to the lots will be from a new road

which will be platted along the south side of the lots.

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

The lots are sufficient in size to meet all parking requirements for a single family dwelling.

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.

Single family dwellings should not generate odor, fumes, dust, noise, vibration, or lighting at levels that would constitute a nuisance.

Recommendation

The Planning Staffs find the request to be in conformance with the 2015 Growth Plan and recommended approval of Conditional Use Permit #07-11 with the following condition:

The lots shall be platted and a right-to-farm notice filed on the deed each lot prior to the issuance of a building permit.

Public Testimony

Ms. Herman explained that the applicant had not sent out the required notification letters and requested that this item be deferred until the March 26th meeting.

A motion was made for the City by Boysen and seconded by Wetsch to defer Conditional Use Permit #07-11 to March 26, 2007. The motion passed unanimously. Same motion for the County by Cypher and seconded by O'Hara. The motion passed unanimously.

ITEM 4. PRELIMINARY SUBDIVISION PLAN # 07-1 O'Hanlon Addition Phase 2
(Tracts 12-14)

Legal Description – A Portion of the NE1/4 SE1/4 of Section 29-T101N-R48W
Location - ¾ mile east of Sioux Falls
Petitioner / Owner- Gerald Johnson, O'Hanlon LLC

General Information

Present Zoning - A-1 Agricultural
Exiting Land Use - Agricultural
Parcel size- Approximately 4.3 acres (each lot = 1.04 acres)

Staff Analysis

The site is located ¾ mile east of Sioux Falls, south of Arrowhead Park. The proposed subdivision is adjacent to O'Hanlon Addition to the south. Land use in the area is agricultural with scattered rural residential acreages and a community park.

The application is to allow a rural residential subdivision of three lots south of the existing O'Hanlon Addition.

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 south third of this Section is already a rural residential subdivision, and property development in the immediate vicinity of the proposed subdivision is also rural residential in character.

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

The 2015 Growth Plan Land Use Map indicates low density residential development of this whole Section. Although the proposed subdivision plan is reasonable in location and layout, staff has advised the Applicant to consider planning concepts for future phases of this subdivision before submitting the next Preliminary Subdivision Plan application.

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

The Plan submitted indicates E. 33rd Street will be constructed for access to the three lots from River Bluff Road and water service connections will be included. An existing Conditional Use Permit for O'Hanlon Addition allows for three additional lots to be served by the Lincoln County Rural Water System. Water systems are to be installed to City of Sioux Falls Engineering Design Standards.

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

Single-family residential zoning and parking regulations apply to future lot development.

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.

Minnehaha County zoning and subdivision regulations apply to lot development for building construction, lighting, and noise and dust control.

Recommendation

The Planning Departments recommended approval of Preliminary Subdivision Plan # 07-1 with the following condition:

- 1) Water systems are to be installed to City of Sioux Falls Engineering Design Standards.

Public Testimony

Ms. Herman explained that after the staff report was completed and mailed out the Public Works Department submitted additional requirements. The applicant was in agreement with this item being deferred until the March 26th meeting.

A motion was made for the City by Wetsch and seconded by Boysen to defer Preliminary Subdivision Plan # 07-1 to March 26, 2007. The motion passed unanimously. Same motion for the County by Twedt and seconded by Rogen. The motion passed unanimously.

ITEM 5. REZONING # 07-02 from A-1 Agricultural to I-2 Industrial.

Legal Description -S1364.50' W1/2 SW1/4 lying west of the railroad (ex. Tract 1 A Erickson's Subdivision & ex. All H lots and E lots) in Section 29-T102N-R49W

Location - ¼ mile north of the Sioux Falls Airport
Petitioner / Owner- TJN Enterprises

General Information

Present Zoning - A-1 Agricultural
Existing Land Use - Agriculture
Parcel size- ± 32 Acres

Report by: Phil Kappen

The subject property is located along the north side of 60th Street North, to the north of the airport. Specifically, the property lies between the railroad tracks and where the street goes up the hill to the west. The surrounding properties are currently in agricultural uses or are in the flood plain. The property is planned for industrial uses in the city's 2015 Growth Management Plan.

Staff Analysis

The petitioner wishes to rezone the property to I-2 as a first step towards relocating the TJN salvage yard from the western part of the City. They intend to use the property for their scrap metal recycling operation and will also develop additional buildings for new steel sales and manufacturing.

Their current location along W. 9th Street has become full and allows no room for expansion. The

proposed site would offer much more room for growth and also has ready access to both highways and rail, which is a requirement of their business.

The area is designated for industrial growth in the city's growth management plan. The area is not with a flood plain as the levee separates the flood plain from the subject property. This use will also require a conditional use permit. During the conditional use process questions such as specific uses, rail and highway access, screening, and wastewater management will have to be addressed.

Recommendation

Staffs found the proposed zoning to be in conformance with the Sioux Falls 2015 Growth Management Plan and recommended approval of Rezoning #07-02.

Public Testimony

Mr. Kappen, County Planning, explained that in the I-2 Zoning District permissive uses include public utilities, wind towers, cell towers, and any permissive uses, except personal services, listed in the C Commercial District. Commissioner Dunlap confirmed that the request was in conformance with the City's Comprehensive Plan and even if the rezoning was approved the applicant would have to get a conditional use permit approved.

The petitioner, Dave Bernstein with TJN, stated that their current site is five acres in size and they have out grown that location. For this business, access to rail is critical. At this location they would need to put a rail spur in.

Matt Bock with Woods, Fuller, Shultz & Smith, spoke on behalf of Agri-Research, the adjacent property owner to the west. He stated that even though the Comprehensive Plan showed this area for industrial development there are two Industrial Districts in the Zoning Ordinance. I-2 is heavy industrial and is the least compatible with residential and commercial development. There needs to be a sufficient transition between any uses allowed in the I-2 District and the existing residential and planned commercial development. Mr. Bock stated that this 32 acre site was only part of a larger tract of land and that this request amounts to piecemeal zoning. Mr. Bock read the following definition for a salvage yard from the Zoning Ordinance:

An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires, bottles, and motor vehicles. This definition includes an automobile wrecking or dismantling yard, but does not include uses established entirely within enclosed buildings.

Mr. Bock asserted that this type of use with I-2 zoning needs to be located in the middle of an I-1 District. Right now the surrounding properties are zoned for agricultural use. His clients have no plan at this time as to how their property will be developed and there are existing residences right next to this proposed site.

Bob Boyd, co-owner of Agri-Research, stated that eventually they would like to do a development with a combination of office, commercial and residential uses, but they just haven't put anything together yet. At this time they don't know if a salvage yard would be compatible with their proposed uses. They did meet with the petitioner for about an hour prior to tonight's meeting. Mr. Boyd feels that both sides will eventually get together but at this time he is opposed to the rezoning.

Steve Randall, City Planning, explained that this area is slated for economic development. There has been some industrial development in the northern part of the City. The proposed use would require a conditional use permit, and through that process the site could be made more compatible

with the surrounding land uses. There are other areas of the City that have been specified for industrial development including the area along Rice Ave. east towards Brandon which does have rail access. There are also some possibilities along N. Cliff Avenue. There hasn't been a lot of industrial development but there is a need for it. Mr. Randall noted that businesses that require I-2 zoning usually look for properties that are not yet zoned because the land is cheaper. He said that the City has taken the approach to recognize that there are isolated residential areas within the specified economic growth areas, but that economic growth is going to proceed and change these areas.

Mr. Anderson, County Planning, noted that he had looked at the I-1 Zoning District with the petitioner and this business would not work in that zoning district. Commissioner Steinhauer stated that he has concerns given that this site is located along an entrance into the City and the proximity of the airport. Mr. Anderson stated that screening and increased set backs could be required as part of the conditional use permit. Screening of this site is difficult, given its location at the bottom of a hill. As you drop down you can see right in. Commissioner Dunlap opined that once this property was rezoned the cat was out of the bag. Mr. Anderson agreed that the Comprehensive Plan showed this site for industrial development, but a conditional use permit would still be required. Commissioner Wetsch pointed out that there was a big difference between I-1 and I-2 zoning and that the Comprehensive Plan does not really distinguish between where either industrial zoning district should be located.

Mr. Kappen explained that he had consulted with Jeff Schmitt, Assistant City Planning Director, about this rezoning proposal. He stated that Mr. Schmitt felt this rezoning and proposed use was in step with the City's Comprehensive Plan.

Rick Miller, 3524 S. Spenser, noted that he regular flies into and out of the airport. This site would be very visible from the airplanes. He is concerned that potential investors and people being recruited for jobs would have a salvage yard as their first and last impression of Sioux Falls.

Commissioner Twedt stated that I-2 zoning is somewhat of a NIMBY. There is a need for the businesses that must have I-2 zoning, but where does the City want them to locate?

Keith Myrmoe, 25738 475th Ave., owns the land to the east of the railroad tracks and the little triangle of land adjacent to the proposed site. He was been working with Sayre Associates on a plan to develop a put-put golf course, pitching area and upscale camping sites. The existing dike would hide his property from the proposed development. He would like TJN to buy his triangle piece of property.

Josh Schmidt, 1700 W. 60th St. N., currently farms this land (his family owns the land) and it is getting harder to exit out onto 60th St. He said that it was interesting that the property owners to the west were going to do the same thing at one time but are now opposed to this. Emotions need to be eliminated from the discussion. The site has access to paved roads and the railroad, making it well suited for this type of development. The neighbors in the area have to realize that things are changing. Mr. Schmidt noted that he has faced reality and is willing to pick up and relocate in order to continue his livelihood. This land has been in the family for over 100 years so it is not easy to sell. His parents plan on keeping the acreage to the north.

Karen Schmidt, 1700 W. 60th St. N., stated that it was not at all easy to part with the land. It is an emotional decision but she has realized the area is changing and development will occur. She plans to stay on the acreage and plant 10 acres of screening trees.

Mr. Bock agreed that emotions should stay out of it. He reiterated that there is not an overall plan for this area, just for a small portion. The adjacent users must be looked at in considering whether I-2 zoning is appropriate for this site.

Mr. Bernstein stated that they are more than willing to work with the neighbors. His company runs salvage yards in seven cities. He noted that they recently went through this process in Sioux City, with a site that was almost analogous to this location, and had been able to work with the surrounding property owners to design a site which fits into the neighborhood. Mr. Bernstein stated that he had considered sites in Corson or Tea but they were just too far out from Sioux Falls to work for this business. This site, with available rail access, would be ideal.

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

Commissioner Twedt stated that she had empathy with TJN and their struggle to find a new site. 60th St. N. is a gateway into Sioux Falls and this may not be the most appropriate location. Commissioner Wetsch echoed those comments. Commissioner Steinhauer stated that he was conflicted on this issue. He is concerned with the aesthetics at this site but feels that Sioux Falls is lacking in manufacturing jobs. Not everyone can work in the health field or in the banking industry. He is also aware that there are not a lot of good sites for industrial uses that are located on a railroad. He is inclined to vote for this and then really control the site through the conditional use permit. Commissioner South stated he would prefer I-1 zoning here, citing the industrial development along N. Westport Ave. as a prime example of what can be done. This site will be visible both coming down the hill on 60th St. N. as well as from the Interstate.

Commissioner Cypher voiced that it is tough to find rail access. He suggested that with 30 acres there is plenty of room to have the salvage yard set back 10 acres from along the roadway. That requirement could be handled through the conditional use permit. Commissioner Wetsch pointed out to the petitioner that even if the rezoning was approved there was no guarantee that a conditional use permit would also be passed. Commissioner Larson asked the Commission to focus on the issue of whether I-2 zoning was the best land use for this location. Commissioner Cypher reiterated that it all comes back to the conditional use permit and that nothing can be done without that permit. If the plan is not appropriate it won't pass.

Based on the staff report and public testimony, a motion for the City was made by Dunlap and seconded by Wetsch to recommend denial of Rezoning #07-02. The motion passed unanimously.

A motion for the County was made by Commissioner Twedt to recommend denial of Rezoning #07-02. The motion died for a lack of second. A motion was made by Rogen and seconded by Cypher to recommend approval of Rezoning #07-02. The motion failed due to a tie vote (Rogen, Cypher, O'Hara aye; Twedt, Steinhauer, South nay).