

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
July 23, 2007**

A joint meeting of the County and City Planning Commissions was held on July 23, 2007 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, and Wayne Steinhauer.

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

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

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

ITEM 1. MINUTES – June 25, 2007

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

REGULAR AGENDA

A motion was made for the City by Schmidt and seconded by Boysen to approve the regular agenda. The motion passed unanimously. Same motion for the County by Cypher and seconded by Bunde. The motion passed unanimously.

ITEM 2. REFERRED REZONING # 07-02 from A-1 Agricultural to I-1 Light 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

The Joint Minnehaha County Commission/Sioux Falls City Council referred the zoning request back to the Planning Commissions for consideration of the I-1, Light Industrial District rather than I-2, General Industrial.

Report by: Phil Kappen and Shawna Goldammer

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-1 as a first step towards relocating the TJN scrap metal facility 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. Due to a recent annexation of airport property, the site is now contiguous to the Sioux Falls City Limits. Development on the site may be better accommodated with urban utilities.

The area is not with a flood plain as the levee separates the flood plain from the subject property. However, the site is located in the water source protection district. Development on the site will be reviewed in accordance with the Water Source Protection Overlay District and requires a conditional use permit for storage of regulated substances.

Recommendation

The joint planning staffs found the proposed zoning is in conformance with the Sioux Falls 2015 Growth Management Plan and recommended approval of Rezoning #07-02.

Public Testimony

In response to questions from Commissioner Dunlap, Ms. Goldammer explained that the triangular shaped piece of property immediately adjacent to the east would have staff support if a request to rezone that property was submitted. Ms. Goldammer said that at its current location within the City of Sioux Falls, TJN Enterprises has a conditional use permit as a recycling processing facility and that its property is zoned I-1 Industrial. The Joint Zoning Ordinance does not define or allow a recycling processing facility. If the rezoning is approved, the petitioner will then annex the property into the City of Sioux Falls. The petitioner can then apply for a conditional use permit to operate a recycling processing facility under the City's Zoning Ordinance. Ms. Goldammer noted that property is often rezoned while it is under joint City/County control and then, when the land is annexed into the City, it receives the City's equivalent zoning district. Ms. Goldammer displayed the 2015 Growth Plan which depicts this area for Industrial/Economic Development.

The petitioner, Miles Schumacher with TJN Enterprises, stated that at their current site off of W. 12th St., they are zoned I-1 Industrial and have a conditional use permit for a recycling processing facility. They would have the same classification, same activity, and same business here. Mr. Schumacher stated that there are some inconsistencies between the Joint Zoning Ordinance and the City Zoning Ordinance. He has agreed to a voluntary annexation once the property is rezoned. This business will then meet the City's definition of a recycling processing facility. Mr. Schumacher noted that inventory for the business is turned over in 30 days. The site to be rezoned has rail access and access to Hwy38 and is a use that can be located in the airport fly zone.

Matt Bock with Woods Fuller, 300 S. Phillips, represents the land owners to the east, Keith and Pamela Myrmoe at 25738 475th Ave., and the property owners to the west, Agri-business at 2113 N. Louise Avenue. Mr. Bock repeated Ms. Goldammer's explanation of the difference between the Joint Zoning Ordinance and the City Zoning Ordinance. Mr. Bock stated that his clients were not opposed to this property being zoned I-1 Industrial. When the applicant applies for a conditional use permit they will be opposing that request. It is their contention that TJN Enterprises is a junk/salvage yard, not a recycling processing center.

David Berstein with TJN Enterprises stated that the property owner, Jeff Schmitt, was also in attendance and that Mr. Schmitt would like to see this property rezoned I-1 Industrial whether TJN Enterprises locates at the site or not.

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

Ms. Goldammer explained that the next step for the applicant is to apply to annex the property. Then a conditional use permit application would be submitted for a public hearing before the City

Planning Commission. Commissioner Dunlap wanted the petitioner to understand that if this property was rezoned and then annexed into the City, it was no guarantee that the conditional use permit would be approved. Ms. Goldammer stated that the petitioner understood that risk.

Based on the staff report and public testimony, a motion was made for the City by Wetsch and seconded by Schmidt to recommend approval of rezoning #07-02. Same motion for the County by Rogen and seconded by Cypher. The motion passed (Steinhauer abstaining).

ITEM 3. ZONING TEXT AMENDMENT # 07-05 amending Article 22.00 Fees and Article 23.00 General Provisions.
Petitioner – Planning Staff

Report by: Pat Herman

Staff Analysis

The Planning Departments are proposing several amendments to the 2002 revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls. The changes will affect Article 22.00 Fees and Article 23.00 General Provisions. The amendments are as follows:

Section 22.01 General Regulations: This amendment spells out that application fees will not be refunded after the deadline to apply has passed. Previously the ordinance allowed for a refund anytime prior to the Planning Commission meeting. This practice did not take into account the cost to the Planning Departments for the staff time and materials (site visits, legal ads, printing costs, signs) needed to review the item before the meeting.

Section 22.08 Zoning Permits: This amendment reflects Minnehaha County's adoption of the International Building Code.

Sections 23.02, 23.03(c), and 23.04: These sections are being changed by replacing the words "zoning permit" with the words "building permit". Planning Staff is proposing the term change to make this section compatible with the wording used in the International Building Code. The words "building permit" are also better understood by the general public. Action is also being taken to change the expiration date of a building permit from one year to 180 days in order to be congruent with the International Building Code.

A copy of the ordinance is attached. Removals are shown with strike outs, additions are underlined.

Recommendation

The joint planning staffs recommended approval of zoning text amendment #07-05.

Public Testimony

Commissioner Larson suggested that section 22.08 be amended by adding the word revised or a similar term, as the building code changes every three months. He agreed to leave the wording up to the joint planning staff. Commissioner Steinhauer asked if 180 days was too short a time for a building permit to expire. Staff explained that this change would make the zoning ordinance consistent with the adopted building code and the county's other zoning ordinances. There is also an allowance to apply for an extension to a building permit. A building permit is only invalid if the work is not started within six months or if no work occurs for a period of six months.

No one in the audience wished to address this item and the floor was closed to public testimony.

A motion was made for the City by Breidenbach and seconded by Boysen to approve zoning text amendment #07-05 with Commissioner Larson's suggested change. The motion passed

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

ORDINANCE MC

AN ORDINANCE AMENDING THE 2002 REVISED ZONING ORDINANCE FOR MINNEHAHA COUNTY AND THE CITY OF SIOUX FALLS BY REVISING THE TEXT PERTAINING TO ZONING AND BUILDING PERMITS AND GENERAL PROVISIONS.

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 22.01 is hereby amended to read:

22.01 GENERAL REGULATIONS. All fees required by this article shall be the property of the County and shall be deposited with the County Treasurer and credited to the general fund. The fees shall be paid at the time of filing the application with the County Planning Department. No action shall be taken on any application until all applicable fees have been paid in full. Under no conditions shall any fee required hereunder be refunded after said application has been heard by the Planning Commissions. Under no conditions shall any fee required hereunder be refunded to an applicant who withdraws their application after the application deadline has passed. ~~An applicant who withdraws his application prior to the Planning Commission meeting is entitled to a refund provided all publication costs incurred by the county are first deducted from the fee.~~

Section 2: That Section 22.08 is hereby amended to read:

22.08 ZONING PERMITS. A fee of \$50.00 shall be charged for filing an application for a zoning permit. However, this fee shall be waived when the proposed construction is subject to the requirements and fees of the ~~Uniform Building Code~~ International Building Codes as adopted and revised by Minnehaha County.

Section 3: That Section 23.02 is hereby amended to read:

23.02 BUILDING ZONING PERMITS REQUIRED. It shall be unlawful for any person to construct, alter, or repair a building or structure or to commence the construction, alteration, or repair of a building or structure, without first having obtained a ~~zoning~~ building permit from the County Planning Department. This requirement shall not apply to minor nonstructural changes involving no change of use.

Section 4: That Section 23.03(c) is hereby amended to read:

- (c) An application for a ~~zoning~~ building permit shall be submitted in such form as the Director may prescribe. Such application shall be made by the owner or lessee, or agent of either, or the architect, engineer, or builder employed in connection with the proposed work. If such application is made by a person other than the owner

in fee, when required by the Director, it shall be accompanied by a duly verified affidavit of the owner in fee, or the person making the application that the proposed work is authorized by the owner in fee and that the person making the application is authorized to make such application. Such shall contain the full names and addresses of the applicant and of the owner, and if the owner is a corporate body, of its responsible officers. Such application shall describe briefly the proposed work and shall give such additional information as may be required by the Director for an intelligent understanding of the proposed work.

Section 5: That Section 23.04 is hereby amended to read:

23.04 SITE PLAN. All site plans shall provide the following information:

- (a) Each application for a building zoning permit shall be accompanied by a site plan showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of these regulations. A record of applications and site plans shall be kept in the office of the Director.
- (b) Nothing in these regulations shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.
- (c) The Director or authorized representative shall examine applications for building zoning permits within a reasonable time after filing. If, after examination, it appears that the proposed work will be in compliance with all applicable laws, the application shall be approved and a permit issued as soon as practicable. If the examination reveals otherwise, the application shall be rejected, with the findings attached to the application, and a copy delivered to the applicant.
- (d) Nothing in these regulations shall be construed to prevent the Director or authorized representative from issuing a building zoning permit for the construction of footings before the entire plans and detailed statements of said building or structure have been submitted or approved, if adequate plans and detailed statements have been presented for the same and have been found to comply with the requirements.
- (e) All work performed under a permit issued by the Director or authorized representative shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved site plan, or an approved amendment thereof, shall be strictly adhered to. It shall be unlawful to reduce or diminish the area of a lot or tract of which a site plan has been filed and has been used as the basis for a permit, unless a revised site plan showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

- (f) Every permit issued by the Director under the provisions of these regulations shall have his signature affixed thereto; but this shall not prevent him from authorizing a subordinate to affix their signature.
- (g) A permit under which no work is commenced within 180 days ~~one year~~ after issuance shall expire by limitation.
- (h) The Director may revoke a permit or approval issued under the provisions of these regulations in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

Adopted this 20th day of August, 2007.

MINNEHAHA COUNTY

Chair, Board of County Commissioners

ATTEST:

County Auditor

1 st Reading	July 31, 2007
Legal Ad. – Argus Leader	August 8, 2007
Dell Rapids Tribune	August 8,2007
Garretson Weekly	August 9, 2007
Public Hearing	August 20, 2007
Fact of Adoption – Argus Leader	August 27 & September 3, 2007
Dell Rapids Tribune	August 29 & September 5,2007
Garretson Weekly	August 30 & September 6, 2007
Effective Date	September 26, 2007