

**MINUTES OF THE JOINT MEETING  
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS  
April 28, 2008**

A joint meeting of the County and City Planning Commissions was held on April 28, 2008 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Susie O'Hara, Becky Randall, Don South, Carol Twedt, and Wayne Steinhauer.

CITY PLANNING COMMISSION MEMBERS PRESENT: Ken Dunlap, Meredith Larson, Lynette Olson, and Jessie Schmidt.

STAFF PRESENT: Scott Anderson, Phil Kappen, and Pat Herman – County Planning  
Gordy Swanson – Office of the State's Attorney  
Steve Randall– City Planning

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

**ITEM 1. MINUTES – February 25, 2008**

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

**CONSENT AGENDA**

A motion was made for the City by Schmidt and seconded by Dunlap to approve the consent agenda. The motion passed unanimously. Same motion for the County by O'Hara and seconded by Steinhauer.

**ITEM 2. REZONING #08-03 A-1 Agricultural to C Commercial.**

Legal Description – Tr. A lying N of Tr. 1 (Ex H-4 & Ex. Peterson's Tract 1) NW1/4 of Section 27-T102N-R49W & Tr. 2 (ex Peterson's Tract 1) in the NE1/4 of Section 28-102N-R49W

Location - 6109 N. Cliff Ave. Cliff Ave. and E. 72<sup>nd</sup> St. N.

Petitioner / Owner- B. Jean Halpin Etal.

**General Information**

Present Zoning - A-1 Agricultural

Existing Land Use - Residential

Parcel size- 2.37 Acres

**Report by:** Pat Herman

**Staff Analysis**

This request is to rezone property from A-1 Agricultural to C Commercial. The property is located in the southwest corner of the intersection of N. Cliff Avenue and E. 72<sup>nd</sup> Street North. The property to the east is within Sioux Falls and has single and twin homes. North of the site is single family housing and a mobile home park. Immediately to the north is the County Extension Services storage building. The abutting land to the south is zoned C Commercial, the remainder is zoned RC Recreation Conservation and is in agricultural production.

The 2015 Growth Plan depicts this site for commercial development. As specified by that plan, it is located one mile north of the commercial development at Cliff Avenue and I-90, and one mile south of the commercial area at the Renner Corner. Growth at this location is anticipated to be neighborhood commercial, allowing for both pedestrian and automobile traffic, and needing a land area of less than 10 acres.

The petitioner's are requesting the rezoning so that the land can be marketed for commercial uses. Both the County and City Planning Departments are in agreement that any development of the site should only occur after annexation into the City, thus guaranteeing the City the review of the specifics of the improvements.

**Recommendation**

The joint staffs find the request to be in conformance with the 2015 Growth Plan and recommended approval of Rezoning #08-03.

Based on the staff report, a motion was made for the City by Schmidt and seconded by Dunlap to recommend approval of Rezoning #08-03. The motion passed unanimously. Same motion for the County by O'Hara and seconded by Steinhauer. The motion passed unanimously.

**ITEM 3. REVIEW OF CONDITIONAL USE PERMITS #84-8.1, #90-25, & 96-26.**

Legal Description – Lot 3 & 4 Tysdal’s Sub. Pleasant View Acres in Section 19-T101N-R48W

Location – East edge of Sioux Falls

Petitioner / Owner- Tysdal Properties LLC (Ron Tysdal)

**General Information**

Present Zoning - C Commercial

Existing Land Use - Commercial

Parcel size- 2 Acres

**Staff Analysis**

In 1984 Ron Tysdal obtained a conditional use permit (#84-8.1) for an auto body shop on a lot in Pleasant View Acres (this is the northernmost of two lots and will be referred to as the north lot).

Mr. Tysdal also owns the lot immediately to the south (the south lot). The 1984 CUP for the north lot was approved with three conditions:

1. No outside storage of junk or used parts shall be permitted on the property.
2. A 10-foot landscaped area shall be provided along the street frontage.
3. The road from Highway 38 to the south property line shall be improved to subdivision standards prior to commencing operation of the business.

Then, in 1990, Mr. Tysdal obtained a CUP (# 90-25) for automotive sales on the south lot. That permit had one condition that “No damaged or inoperable vehicles shall be sold from the property or stored on the property”.

The Minnehaha County Planning office was forced on a number of occasions (1993, 1995 and 1996) to address ordinance violations on the properties. These violations consisted of the outside storage of junk or damaged vehicles on both lots, the outside storage of scrap or auto parts, and the failure to maintain a 10-foot landscaped buffer along the right-of-way of Stoakes Avenue. The office, on a number of occasions, encouraged Mr. Tysdal to apply to amend his body shop CUP to allow screened outside storage which he did in 1996.

On June 24, 1996 a CUP amendment (# 96-26) was approved for the north lot with the following four conditions:

1. All outdoor storage of parts, junk and dismantled vehicles shall be screened from public view by an 8-foot solid wood fence.
2. The screened storage area shall conform to the revised site plan.
3. A 10-foot landscaped buffer shall be provided along the street frontage. Landscaping plans for the area are to be submitted to the city and county planning staffs for approval.
4. The screening for the storage area must be completed by August 5, 1996 and the landscaped buffer must be completed by October 7, 1996.

By August of 1996, the screening fence had not been erected and staff proposed taking the item back to the Planning Commission for review and possible revocation. Mr. Tysdal then erected the screening fence and the item was not placed on the September agenda. Mr. Tysdal, however, has never provided the landscaping plan for the buffer area.

Staff has been required to address similar violations in 2002, 2006, 2007 and now, in 2008. In 2007 Mr. Tysdal told staff that he wasn't in business anymore. When we spoke with him this year he said that he was 90% out of business. Pictures of the two properties show that the south lot is being used either as a contractor's storage yard or a trucking enterprise for which there has been no zoning approval. There are also unlicensed or inoperable vehicles on both the north and south lots, which constitutes a violation of the public nuisance ordinance. There are automotive parts and scrap piled on the north lot. The pictures also show that there is no 10-foot landscaped buffer along Stoakes Avenue and, as was previously noted, Mr. Tysdal has never supplied the planning office with the required landscape design for that area. There has been a continual history of non-compliance on both properties requiring a great amount of staff time to continually address violations. Staff has been working with the property owner for many years in an attempt to have him address these violations. After considerable work by staff, the property will be brought, somewhat, into compliance but quickly reverts to the previous condition.

### **Recommendation**

Staff finds that this is an ongoing problem on these properties and that, as the petitioner has indicated that he is going out of business, there is no longer any need to continue the conditional use permits. Staff, therefore, recommends that Conditional Use Permits #84-8.1, #90-25 and #96-26 be revoked and a date set for the finalizing of the end of the business operations and the removal of the previously approved land uses from the property.

### **Public Testimony**

Mr. Kappen explained that the property owner had cleaned up the property and planted the required trees. This item should still be heard so that the Planning Commission is aware of the history on this property, should it fall out of compliance once again. At this point, staff is not recommending revocation. In response to Commissioner Dunlap, Mr. Kappen stated that conditional use permit compliance issues are found by periodic checks by staff and through complaints. On this property, Mr. Tysdal has a history of bringing the property into compliance when contracted by the Planning Department and then falling out of compliance again. Mr. Kappen noted that Mr. Tysdal told him he was going to close the business.

Ron Tysdal admitted that he had stuff outside that he shouldn't. He stated that scarp metal was nuisance. He had planned on going out of business but now his health has improved and he plans to keep the business. The most recent vehicles on his property were from his neighbor, whom he let park the vehicles on the property over the winter. Commissioner Dunlap stated that this appears to be an ongoing situation. Mr. Tysdal agreed, noting that when he was busy he just didn't keep a good handle on the situation.

Charlie Dorothy, Mr. Tysdal's attorney, stated he and his client had met with Mr. Anderson and reviewed the whole file. The conditional use permit did not prohibit the parking of damaged or inoperable vehicles, just the sale of such vehicles. He noted that this is an auto repair shop so of course there will be damaged vehicles there. Other repair shops in this development have damaged vehicles on their lots. When Mr. Tysdal first applied for the conditional use permit the main concern was not to have this look like a salvage yard. The use here is auto recycling. Mr. Dorothy admitted that his client was sloppy but he doesn't feel a revocation of the permit is a reasonable action. This is an industrial area, not an office park. He reiterated that the conditional use permit does not prohibit the parking of damaged vehicles on this property.

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Commissioner Schmidt stated that she understands that the property is now in compliance but that the history of non-compliance is troubling. She noted that Mr. Tysdal had admitted to some problems and hopes that he will not have to come before this board again. She felt he had forced the County's hand to do enforcement. Mr. Kappen noted that the Public Nuisance Ordinance prohibits the storage of unlicensed or inoperable vehicles outside of a permanent structure.

The Planning Commissions took to no action on this item.