

**MINUTES OF THE JOINT MEETING  
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS  
July 27, 2009**

A joint meeting of the County and City Planning Commissions was held on July 27, 2009 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Dick Kelly, Susie O'Hara, Becky Randall, Don South, and Wayne Steinhauer.

CITY PLANNING COMMISSION MEMBERS PRESENT: Ken Dunlap, Steve Gaspar, Meredith Larson, Jessie Schmidt and Mike Roth.

**STAFF PRESENT:**

Scott Anderson, Phil Kappen, Pat Herman, Ryan Streff – County Planning  
Dave Loveland – City Planning  
Gordy Swanson – Office of the State's Attorney

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

**CONSENT AGENDA**

A motion was made for the City by Dunlap and seconded by Schmidt to approve the consent agenda (Items 1, 2 & 3). The motion passed unanimously. Same motion for the County by O'Hara and seconded by Steinhauer. The motion passed unanimously.

**ITEM 1. MINUTES – May 18, 2009**

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

**ITEM 2. CONDITIONAL USE PERMIT #09-50 to transfer one residential building eligibility from the SW ¼ NE ¼ to the NW ¼ NW ¼; all in Section 20-T101N-R50W (Wayne Township)**

Location – 1 mile west of Sioux Falls  
Petitioner / Owner- Estate of Lucille A. Schuer

**General Information**

Existing Land Use - Agricultural  
Current Zoning - A-1 Agricultural  
Parcel Size - 40 Acres

**Report by:** Ryan Streff

**Staff Analysis**

The petitioner is requesting to transfer one residential building eligibility from the SW1/4 NE1/4, to the NW1/4 of the NW1/4 of Section 20, Township 101 N, Range 50. The eligibility that is to be transferred is located within the joint jurisdiction (Sioux Falls & Minnehaha County) and is being moved just west of the joint jurisdiction line. The subject property is currently zoned A-1 Agricultural. No livestock operations will affect the property in this location. The property is located adjacent to West Acres Rural Subdivision across 265<sup>th</sup> Street. The subject property is located one and one half (1.5)

miles to the west of the growing residential area of the City of Sioux Falls.

The Schuer family has owned these properties since June 30, 1970. This request to transfer this eligibility is to avoid the potential loss of the one eligibility when all the Estate's properties are sold.

**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.**

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area.

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

The transfer of the building eligibility does not increase the number of dwelling units allowed in this quarter

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

The subject property is allowed to have access off of 467<sup>th</sup> Avenue which is a township road. If the petitioner would like to have access off of 265<sup>th</sup> Street which is a State Highway the petitioner shall contact SDDOT (South Dakota Department of Transportation) for permission. Rural water is available from the line that runs north and south along 467<sup>th</sup> Ave. A waste water system will be utilized in this location.

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

Off-street parking requirements will be provided for once a single-family residence is constructed on the subject property. There is a minimum lot acreage of one (1) acre.

**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.**

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance.

**Recommendation**

The joint staff finds this conditional use permit request to be consistent with density zoning and recommended approval of Conditional Use Permit #09-50 with the following conditions:

- 1) The lot shall be platted and a right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit.
- 2) If access is taken from the highway a SDDOT driveway permit is required prior to the issuance of building permit.

**Action**

Based on the staff report, a motion was made for the City by Dunlap and seconded by Schmidt to **approve** Conditional Use Permit #09-50 with the conditions stated. The motion passed unanimously. Same motion for the County by O'Hara and seconded by Steinhauer. The motion passed unanimously.

**ITEM 3. CONDITIONAL USE PERMIT #09-47 to allow a nursery.**

Legal Description - E ½ SE ¼ SE ¼ (Ex. Rolling Spring Acres & Ex. H-2) in  
Section 18-T101N-R48W

Location – 7508 E. 10<sup>th</sup> St. east edge of Sioux Falls

Petitioner / Owner- Gerry Anderson

**General Information**

Existing Land Use - Commercial

Current Zoning - A-1 Agricultural

Parcel Size - 16.42 Acres

**Report by:** Pat Herman

**Staff Analysis**

The property is located at the intersection of E. 10<sup>th</sup> Street and Six Mile Road. Sioux Falls has annexed the land on the south and east edges of this property. North and west is agriculturally zoned land containing agriculture uses.

The 2015 Growth Plan for Sioux Falls depicts the future land use at this site to be multifamily, with single family to the north, east and west. The new Fred Assam Elementary is immediately to the west. Commercial uses are planned to the south of the nursery.

The property is currently zoned A-1 Agricultural and has a grandfathered use of a landscape nursery. Recently the petitioner erected a new sign on the east edge of the property. He had been informed by the City Engineer's office that they anticipated E. 10<sup>th</sup> would be vacated with future development. The new sign is not part of the grandfathered use and the zoning ordinance does not have provisions that would allow a sign for a nursery operation. The petitioner has applied for the conditional use permit to allow for the new sign.

**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.**

A sign is a typical accessory use with a landscape nursery. The completed sign is compatible with the neighborhood and should have little impact on surrounding properties.

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

A nursery with no customer sales is a permitted special use in the Agricultural district. The petitioner has operated his business in this manner and has stated that he will continue to follow this practice. The only public traffic to the site are clients who wish to view their product prior to it's installation on their property. This minimal traffic and the use itself will have no negative impact on the development of the surround properties.

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

The site is currently accessed from either E. 10<sup>th</sup> Street or from Six Mile Road. Six Mile Road is currently hard surfaced (County Highway 119) while East 10<sup>th</sup> Street is gravel. Should the property be annexed into Sioux Falls, the City will want to have the driveways and customer parking areas hard surfaced. A condition should be added to the permit that requires hard surfacing at such time as the property is annexed.

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

There is ample parking space on the property. The original access for the nursery was from the gravel road, E. 10<sup>th</sup> Street. The new access is from a hard surfaced road but staff does not support the need to hard surface the driving and parking areas of the operation at this time. The petitioner is being forced to change his access to a street vacation. The nursery is also an existing use which now requires a conditional use permit only to allow the placement of a new sign. Should the petitioner opt to have on-site retail sales, an amendment to the conditional use permit would be necessary and hard surfacing would be required.

**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.**

The Planning Office is not aware of any other complaints regarding the use on the site. The property is maintained and the sign is an asset to the property.

The contractor spoke with a County Planning Department staff member concerning the sign. He was told that because the new sign would be the same size as what was previously on the site, no building permit would be required. Subsequently, the sign was constructed on the site. The petitioner will need to obtain a building permit from the county.

**Recommendation**

The joint staff recommended approval of Conditional Use Permit #09-47 to allow a nursery with the following conditions:

- 1) The property is approved for use as a nursery.
- 2) 48 square foot of on premise signage is allowed.
- 3) The addition of on site retail sales shall require a conditional use permit amendment.
- 4) At such time as the property is annexed into the city of Sioux Falls the property shall be brought into compliance with city ordinances and standards.
- 5) The petitioner shall obtain a building permit for the sign.

**Action**

Based on the staff report, a motion was made for the City by Dunlap and seconded by Schmidt to **approve** Conditional Use Permit #09-47 with the conditions stated. The motion passed unanimously. Same motion for the County by O'Hara and seconded by Steinhauer. The motion passed unanimously.

**REGULAR AGENDA**

A motion was made for the City by Roth and seconded by Dunlap to approve the regular agenda. The motion passed unanimously. Same motion for the County by Steinhauer and seconded by Randall. The motion passed unanimously.

**ITEM 4. CONDITIONAL USE PERMIT #09-45 to allow a group day care.**

Legal Description - Tr. 31 & 32 meadow view Tracts North NE1/4 SE1/4 in  
Section 21-T102N-R49W

Location - 6704 & 6708 N. 9<sup>th</sup> Ave. North edge of Sioux Falls

Petitioner / Owner- Ernest Claxton & Joyce Claxton Briscoe

**General Information**

Existing Land Use - Residential

Current Zoning - RR Rural Residential

Parcel Size - 0.92 Acres

**Report by:** Scott Anderson

**Staff Analysis**

The applicant is applying for a Conditional Use Permit to operate a group day care with a maximum of twelve (12) children. The day care is proposed to be located within a 25 foot by 45 foot steel building on the lot north of the existing single family residence. The interior remodeling was begun without a building permit. Subsequently, a building permit obtained on June 22, 2009 and the required penalty for beginning work without first obtaining a building permit was paid.

The portion of the building to be used for the group day care measures approximately 25 feet by 30 feet. There will be two outside entrances on the east and west sides of the building. There will be two large rooms and a 6 foot by 12 foot bathroom, as shown on the site plan submitted by the applicant. The applicant is required to obtain a state permit for a group day care or day care center from the S.D. Department of Social Services.

On July 14, 2009, staff conducted a site visit. A large, circular above ground swimming pool is located in the area shown as the play area on the site plan, east of the group day care building. Staff visited with Ernest Claxton, asking if that was the permanent location of the pool. The applicant indicated that it was. Staff noted that there was no fencing with a gate around the pool. The applicant indicated that one would be installed. The pool without secure fencing at least 42 inches in height and a secure gate violates the 2006 IBC (International Building Code). As this is a health and safety issue, the fencing must be installed immediately. Staff has concerns with a pool being located in the play area of the day care, however, the liability ultimately is the responsibility of the property owner. The play area, as identified on the site plan, shall be secured with a fence at least four (4) feet in height.

Staff further observed three (3) dogs that appeared to be pit bulls. Staff checked with the Humane Society, the organization that has the animal control contract for the county, and found that they have been out to this area, responding to these dogs being loose. While the county has not identified pit bull dogs as being any more dangerous than another breed of dog, staff nonetheless, has concerns about pit bulls dogs and a children's day care facility being housed on the same site. Once again, the liability of this issue rests with the applicant.

**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 proposed use will have an impact on the enjoyment of the properties in the vicinity. There will be significant additional traffic, as parents drop-off and pick-up children. There will also be additional noise from children playing outside. It is unlikely, however, that these impacts will be so significant as to change the property values in the area.

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

There did not appear to be any vacant property in the general vicinity. Single family residences have been constructed around the subject property.

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

Renner Sanitary Sewer District provides waste-water disposal for this property. All other needed utilities and roads have been constructed.

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

Article 16 of the Joint Zoning Ordinance does not identify any parking requirements for this use. A group day care facility is neither retail or non-retail. The use is accessory to the established residence. The applicant is meeting the parking requirements for their residence, as they have an attached double stall garage, which meets the one (1) parking space requirement for a single family residence. In addition, there are approximately four (4) parking spaces located between the street and the garage where parents can park while dropping-off and picking-up children.

**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.**

The proposed use will not create odors, fumes, dust or vibrations in any amount that might be considered a nuisance. There might be minimal noise associated with this use, but not an amount that would be considered intrusive. The applicant will need to address lighting. Any security lighting on the group day care building or on the property shall be of a full cutoff and fully-shielded design.

**Recommendation**

Staff recommended approval of Conditional Use Permit #09-45 to allow a group day care with the following conditions:

- 1) Any exterior lighting shall be of a full cutoff and fully-shielded design.
- 2) That the applicant obtains and maintains a South Dakota sales tax license.
- 3) That the group day care facility not exceed twelve (12) children.
- 4) That existing pool shall have fencing installed immediately that meets the requirement of the 2006 IBC (International Building Code).
- 5) Any signage installed by the applicant shall meet the requirements of Article 17 of the 2002 Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls.
- 6) The applicant shall maintain two (2) exits, an operational smoke detector in each room of the accessory structure being used for the group day care facility, and that one fire extinguisher be located in the building.
- 7) The play area, as identified on the site plan, shall be secured with a fence at least

four (4) feet in height.

- 8) The applicant shall obtain a state permit for a group day care or day care center from the S.D. Department of Social Services.

### **Public Testimony**

Commissioner Cypher asked what the total square footage of each accessory building was. Mr. Anderson stated following dimensions of the accessory buildings; daycare building 26'x45' (1,170 sq. ft.), Tiki Bar 8'x30' (240 sq. ft.), and dog shed 10'x10' (100 sq. ft.). In response to Commissioner Randall, Mr. Anderson stated that the site plan was wrong and that the pool is located behind the daycare center.

Commissioner Dunlap asked if the county kept track of the number of daycare facilities within its jurisdiction. He asked if the daycare was to operate out of the home would the county use the same conditional use permit process. He also asked if any daycare facilities in the past used an accessory building like this for operations. Commissioner Schmidt stated that if the daycares were to have fewer than six (6) children no permit would be needed from the county.

Mr. Anderson explained that all daycare centers over six (6) children would need a conditional use permit so the county would have the records for this. Some research would have to be conducted to determine how many daycare centers were in the joint area of the county.

Petitioner Ernest Claxton stated that the pool, which is located east of the daycare building, will have a fence placed around it. He said that the play area will be changed from east (pool side) to the west side of the building. He stated that his three (3) Pit Bulls are licensed and are not the same dogs which were escape artists when he first moved to this house. Those dogs were surrendered to the Humane Society last year. Mr. Claxton has ensured that his dogs can only get out onto the property when he lets them out, via gate on fence around dog house (10'x10' accessory structure). He stated that he found one that only one conditional use permit had been issued for a family daycare in the neighborhood and that that permit had expired. He has \$35,000 invested into the building for the purpose of obtaining a state license and making the facility safe for children. He stated that the state would require that this facility be licensed as a daycare center because it is in a separate building and not within the primary residential structure. At this time, the number of children is undetermined.

Commissioner Larson stated the commission has to look at this as a land use issue and that other organizations and departments that will look at building codes and daycare health requirements.

In response to the Commission, Mr. Claxton stated that the pool was not fenced but will be done once the conditional use permit is approved. He anticipates the hours of operation to be 6 A.M to 6 P.M.

Brian Johnson (6709 N 9<sup>th</sup> Ave) stated that he sent the commissioners a letter regarding the daycare facility. He asked who was going to be in charge of the daycare and if Mr.

Claxton could run this business if he was not listed as a property owner. He also asked if a daycare could be placed into an accessory building.

Commissioner Larson explained that it is not the planning commission position to regulate who is in charge of the daycare facility and stated that you do not need to be a property owner to operate a business.

Mr. Johnson continued that the neighborhood collected over \$15,000 to maintain the roads in this subdivision. He stated that this facility could add up to 48 vehicles trips on their roads each day (one to drop off and one to pick up). He felt this would cause more noise, dust, traffic congestion, and physical wear and tear on their roadways. He stated that when kids and dogs get together more noise is made. He is also is a pilot that flies at night and is concerned that the added noise of the daycare will not allow him to sleep during the day when the daycare is operating. He is also concerned that winter conditions will cause parents to use his driveway to load and unload their children.

Commissioner Kelly asked if the accessory building was there before the Claxton's moved into the home. Mr. Johnson stated that the accessory building was there before the Claxton's bought the property and that it was used as a shop. He added that he does not know how the Claxton's will be able to operate a daycare center if "they can not even follow the rules of society."

Commissioner Schmidt explained to the audience that the Planning Commission's role was to consider whether a day care was a good land use for this neighborhood. The other matters being raised are not part of the Commission's decision making process. Day care is necessary and is compatible with single family homes.

Nancy Zeig (6700 N 9<sup>th</sup> Ave.) stated that many times children have been injured or killed by these types of dogs. She noted that she had to modify here property to keep the male dog out. She explained that the dogs are locked in a small shed all day with no windows. She stated that she overheard Mr. Claxton say on the phone "I have never beaten my son, I would never do that."

Dean Jasper (6809 N 9<sup>th</sup> Ave.) asked if the petitioner and his business would provide revenue to the township for the up keep of the roadways in the development. He asked what size of sign would be permitted in this area. He wondered if there could be a condition that the sign must meet other standards for signage in a residential area.

Commissioner Schmidt stated that signs are covered in the Minnehaha County/ City of Sioux Falls Joint Zoning Ordinance. Mr. Anderson stated that the sign could only be 16 square foot in size. He also stated that the township would see revenue from this business.

Paul Evenson, Township Supervisor, (47594 257<sup>th</sup> Street) stated that the Meadowview residents have upgraded their roads and have spent much time and money doing this. He noted that four (4) school districts use the roads within Meadowview. He explained that it is currently a large task to keep the roads maintained during the summer and winter

months and that the added traffic could cause damage to the roads in the area. He stated that this daycare would add more traffic which would then create more dust in the subdivision.

Lori Jasper (6809 N 9<sup>th</sup> Ave.) stated that the Brandon School District picks the kids up at the corner along the highway and does not go down the roads in Meadowview.

Dave Loveland (City Planning) stated that the city is okay with this type of land use at this property. He explained that the only thing that would be different if the property was within city limits is that City of Sioux Falls would require a city permit. He said that there are 151 daycares within the city limits.

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

Commissioner Dunlap questioned if it was good land use practice to have business like this in an accessory building within a residential area. Commissioner Roth asked if the city had any objection to the daycare center on this property. Mr. Loveland stated that the city did not have any objection to this use.

Commissioner Steinhauer stated that it is different when an accessory building is used for a daycare rather than a personal residence. Commissioner Kelly stated that the roads, dust, traffic, swimming pool, and pit bulls concern him. Commissioner Cypher stated that the conditions of the roads concern him the most.

Commissioner Dunlap stated that he is concerned about using the detached garage/shop as a daycare center. He said that taking a garage and turning it into a daycare center will affect the residents in the area. He stated it would be different if the daycare center would be operated within the home. Mr. Anderson read the definition for a family day care – “Is normally in a family home. The number of children cared for is seven (7) to twelve (12) children under the age of fourteen including the provider's own children six years and under.” Mr. Anderson stated that the use of the word normally is in the definition indicates that there are times accessory buildings may be used for this purpose.

Commissioner Randall stated that she too is concerned about the pool and the dogs but these are not part of this application. She stated that these types of concerns are up to the state to decide. The Commissions discussed the size of sign that should be allowed and looked to the home occupation regulations of 4 square feet. A suggestion was made to add the hours of operation as a condition.

### **Action**

Based on the staff report and public testimony, a motion was made for the City by Dunlap and seconded by Schmidt to **approve** Conditional Use Permit #09-45 with the following conditions. The motion passed (Dunlap nay). Same motion for the County by O’Hara and seconded by Steinhauer. The motion passed (Steinhauer and Kelly nay).

- 1) Any exterior lighting shall be of a full cutoff and fully-shielded design.
- 2) That the applicant obtains and maintains a South Dakota sales tax license.
- 3) That the group day care facility not exceed twelve (12) children.

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- 4) That existing pool shall have fencing installed immediately that meets the requirement of the 2006 IBC (International Building Code).
- 5) Any signage installed shall not exceed four (4) square feet.
- 6) The applicant shall maintain two (2) exits, an operational smoke detector in each room of the accessory structure being used for the group day care facility, and that one fire extinguisher be located in the building.
- 7) The play area, as identified on the site plan, shall be secured with a fence at least four (4) feet in height.
- 8) The applicant shall obtain a state permit for a group day care or day care center from the S.D. Department of Social Services.
- 9) Hours of operation shall be from 6 A.M to 6 P.M.

**ITEM 5. CONDITIONAL USE PERMIT #09-46 to exceed 1200 sq. ft. of accessory building area – requesting 1510 square feet.**

Legal Description - Tr. 31 & 32 meadow view Tracts North NE1/4 SE1/4 in  
Section 21-T102N-R49W

Location – 6704 & 6708 N. 9<sup>th</sup> Ave. North edge of Sioux Falls

Petitioner / Owner- Ernest Claxton & Joyce Claxton Briscoe

**General Information**

Existing Land Use - Residential

Current Zoning - RR Rural Residential

Parcel Size - 0.92 Acres

**Report by:** Scott Anderson

**Staff Analysis**

The property is located approximately 1/2 mile west and north of the city limits off of S.D. Highway 115 (Cliff Avenue). The parcel is part of a group of residential lots platted in Section 21 of Mapelton Township.

The petitioner would like to construct an accessory building on this site. In subdivisions or residential developments which exceed four lots in size, accessory building area is limited to 1200 sq. ft. unless approval for a larger size is obtained through the conditional use permit process.

The petitioner's requested size of 1510 square feet is smaller than the largest existing accessory buildings in the area, located on parcels to the south. There are several other large accessory buildings located in the area. The petitioner's requested size of 1,510 square feet would be consistent with the accessory building square footage on the other properties in the neighborhood. The largest existing accessory buildings in the area are located at 6425 N. 10<sup>th</sup> Avenue (1,728 square feet) and 6208 N. 10<sup>th</sup> Avenue (1,600 square feet).

On March 28, 2003, a building permit was issued for the 26 foot by 45 foot detached accessory structure. Subsequently, the applicant started interior finishing work on the 26 foot by 45 foot detached accessory structure without obtaining a building permit. On June 22, 2009, the applicant obtained a building permit for the interior finish work and in addition paid a penalty for beginning that work without obtaining a building permit. This structure has an area of 1,170 square feet. In addition, the applicant would like to construct an 8 foot by 30 foot tiki bar area. On July 14, 2009, staff noted that a cement pad had been poured for the tiki bar, but no further construction was underway. The concrete slab for the tiki bar does not constitute the start of that structure. The applicant will simply need to obtain a building permit prior to construction. There is an existing smaller shed located near the southeast corner of the property measuring approximately 10 feet by 10 feet. The combined total area of these three (3) structures will be 1510 square feet.

**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.**

Given the existence of other larger accessory buildings in the area, the construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

**2) The effect upon the normal and orderly development and improvement of**

**surrounding vacant property for uses predominant in the area.**

The building can only be used as an accessory structure to the established residential use and no commercial or business activities are allowed.

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

There is existing access from North 9<sup>th</sup> Avenue. As this is only an accessory structure, no other infrastructure is required.

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

There is existing access from North 9<sup>th</sup> Avenue. As this is only an accessory structure, no other infrastructure is required.

**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.

Staff finds that the requested conditional use is appropriate for this residential area. The recommended conditions of approval will help to ensure the over-sized building will be in character with the surrounding area. The Planning Department will perform a building inspection to measure the size of the structure. Measurements are taken of the outside perimeter.

**Recommendation**

Staff finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #09-46 with the following conditions:

- 1) The total accessory building square footage shall not exceed 1,510 square feet.
- 2) The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
- 3) The accessory building shall not exceed one story in height.
- 4) A building inspection is required to determine that the buildings do not exceed 1,510 square feet measured from the outside perimeters.

**Public Testimony**

The petitioner, Ernest Claxton, stated that the Tiki Bar area would be used as a grilling area with patio furnisher.

Brian Johnson (6709 N 9<sup>th</sup> Ave) stated that there is another accessory building on the property west of the 10' x 10' accessory building (dog house).

Me. Claxton stated that this building was bought and moved onto the property. He stated that the building was 6' x 6'. Commissioner Roth asked if the Tiki Bar area had water and sewer hookups. Claxton stated that there was no water and sewer at the Tiki Bar.

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

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**Action**

Based on the staff report and public testimony, a motion was made for the City by Roth and seconded by Schmidt to **approve** Conditional Use Permit #09-46 with the conditions stated. The motion passed unanimously. Motion was made for the County by Cypher and seconded by Randall. The motion passed.(Kelly & Steinhauer).

**ITEM 6. ZONING TEXT AMENDMENT #09-04** – Proposed text amendments for junkyards, recycling, salvage operations, bed & breakfasts, recreation facilities, produce stand, and farmer’s market.

Petitioner – Joint Planning Staff, Dave Loveland and Pat Herman

**Staff Analysis**

The joint planning staff is proposing a number of text amendments to the Joint Zoning Ordinance. Changes are suggested for the A-1 Agricultural, R/C Recreation/Conservation, I-1 & I-2 Industrial Districts; additional use regulations; and the definitions sections.

The definitions added to the Joint Zoning Ordinance pertaining to junkyards, recycling facilities and salvage operations will help bring clarity to businesses engaged in those types of operations by specifically delineating where, and how, those operations will be permitted to operate.

In addition, this will clarify that there is a land use difference between a recycling center and a salvage operation. These new definitions are based upon the same standards as prior, but are now separating the household from the more commercial, industrial operation.

Definitions are also proposed for bed & breakfasts, recreational facilities, produce stands and farmer’s markets. The produce stand and farmer’s market are new uses which will be added to the conditional use section of the A-1 & R/C Districts. The term recreational facility will be substituted for private outdoor recreational facility. Both recreation facility and bed & breakfast had never been defined in the ordinance and this will clarify these uses.

Staff is recommending reorganization of the ordinance. Sometime in the past a portion of the regulations addressing telecommunication towers, antenna support structures and broadcast towers was placed under the administration section for conditional use permits. These need to be moved to the Additional Use Regulations chapter to be combined with the regulations which already exist for this telecommunications towers.

**Recommendation**

Adding the text changes will offer a better understanding of these different uses. The joint staff recommended approval of Zoning Text Amendments #09-04.

**Public Testimony**

Ms. Herman presented the recommended changes to the Planning Commission.

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

**Action**

Based on the staff report and public testimony, a motion was made for the City by Roth and seconded by Schmidt to **approve** Zoning Text Amendment #09-04. The motion passed unanimously. The same motion was made for the County by Steinhauer and seconded by O’Hara. The motion passed unanimously.