

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
November 23, 2009**

A joint meeting of the County and City Planning Commissions was held on November 23, 2009 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

CITY PLANNING COMMISSION MEMBERS PRESENT: Ken Dunlap, Steve Gaspar, Meredith Larson, and Lynette Olson.

STAFF PRESENT:

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

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

CONSENT AGENDA

A motion was made for the City by Gaspar and seconded by Olson to approve the consent agenda. The motion passed unanimously. Same motion for the County by O'Hara and seconded by Randall. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #09-75 to allow a dog training and daycare service and future kennel.

Legal Description – Tract 1 Peterson's Tracts SE ¼ NE ¼ in Section 25-
T102N-R49W

Location – 26035 478th Avenue EROS exit from I-90
Petitioner / Owner- David Patterson / Brad Gullickson

General Information

Present Zoning - C Commercial
Existing Land Use - Commercial
Parcel Size - 1.0 Acres

Report by: Pat Herman

Staff Analysis

The subject property is located in a commercial area in the northwest quadrant of the EROS exit on I-90. Land use to the north is agricultural, and commercial uses are east, west and south. The property is zoned commercial and shown on the 2015 Growth Plan as commercial use.

The petitioner is requesting a conditional use permit to allow dog training and daycare services. In the future, the petitioner is also considering a small boarding kennel. A text amendment to the zoning ordinance is needed in order to operate a boarding kennel in a commercial zoned area. Staff asked Mr. Patterson to include information about kenneling in his application so that this part of the business could be reviewed as part of this conditional use permit. Approval of the boarding kennel will be contingent upon

approval of the zoning text amendment.

Improvements will be made to both the interior and exterior of the existing building. The primary use of the property will be as a training facility for dogs. The petitioner estimates that the maximum number of dogs on the site at one time will be 10, and more realistically 6-8. There will be indoor dog runs as well as a fenced outdoor area. The petitioner has stated that he typically will take and train a dog for 30 days with the goal of a better the relationship between the dog and its owner.

Future boarding kennels will only be inside the building. The facility will be staffed 24 hours a day, allowing for the control of barking. The dogs will be walked regularly to prevent boredom and will never be left outside unattended.

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 use should not impact the surrounding commercial uses which include fireworks sales, auction facility, an oil company, and campground to the east of the highway. The nearest residences are at the top of the hill to the north or south across I-90.

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

The petitioner's submitted site plan is consistent with the zoning regulations and depicts all required set backs.

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

Access is from County Highway 121 and the driveway and parking area in front of the building has been hard surfaced. The petitioner will be collecting the dogs from their homes so there will be limited customer traffic.

The building's wastewater needs are served by a holding tank which is located on the south side of the driveway. The petitioner will hire a waste clean up service to pick up the animal waste on a regular cycle.

Prior to the commencement of business, the building will need to be inspected by the County building inspector. There is no charge to the petitioner for the inspection.

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

The zoning ordinance requires six parking spaces for a commercial building of this size. This parking requirement has been met with paved parking.

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.

Given the surrounding land uses, any barking should not constitute a nuisance. Any outside lights should be designed to shine light directly downward and not allow any light spillage off of the property.

Petitioners Note: Any signs for the business require a building permit.

Recommendation

The proposed commercial use is congruent with the Sioux Falls Growth Plan and the

Minnehaha County Comprehensive Plan and staff recommended approval of Conditional Use Permit #09-75 with the following conditions:

- 1) The business shall conform to the submitted site plan dated November 4, 2009.
- 2) No outside storage shall be allowed.
- 3) All outside dog areas will be fenced by a minimum 6 foot high fence.
- 4) Maximum dogs on the site shall not exceed 40. This number includes both the daycare and boarding kennels combined.
- 5) At a minimum, boarding kennels shall be constructed to the standards of the Animal Welfare Act Part 3, Sub-part A, Sections 3.1-3.45. The boarding kennel shall not commence operation until the zoning text amendment has been approved.
- 6) Dogs shall not be outside between the hours of 10:00 pm to 6:00 am, unless being walked on a leash.
- 7) All animal waste shall be disposed of in conformance with Minnehaha and South Dakota law.
- 8) Operation of the business shall not commence until the Building Inspector has approved the facility.
- 9) The applicant shall obtain a building permit for any structural changes to the building or the addition of any signage.
- 10) The applicant shall maintain a South Dakota tax license.

Action

Based on the staff report a motion was made for the City by Gasper and seconded by Olson to **approve** Conditional Use Permit #09-75 with the conditions as stated. The motion passed unanimously. Same motion for the County by O'Hara and seconded by Randall. The motion passed unanimously.

Conditional Use Permit #09-75 – APPROVED.

REGULAR AGENDA

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

ITEM 3. CONDITIONAL USE PERMIT #09-74 to exceed 1200 sq. ft. of accessory building area – 3992 sq. ft. requested.

Legal Description – E1/2 Tract 12 & all of Tract 13 in Andy's Acres NE1/4
SW1/4 in Section 23-T102N-R49W

Location – 25915 N. Cloudas Avenue 1 mile northeast of Sioux
Falls

Petitioner / Owner- Charles Heimes

General Information

Existing Land Use - A-1 Agricultural

Current Zoning - Residential

Parcel Size - 1.01 Acres

Report by: Pat Herman

Staff Analysis

The Joint Zoning Ordinance for Minnehaha County and Sioux Falls regulates the size and location of accessory buildings in Section 15.07. In regards to the A-1 zoning district, the Ordinance states:

In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use permit has been approved.

The applicant has applied for a conditional use permit to exceed 1200 sq. ft. of accessory building area on his one acre lot located in Andy's Acres. This subdivision of thirty-four houses is located approximately $\frac{3}{4}$ of a mile north of the interchange for Interstates 90 and 229. The development is a $\frac{1}{4}$ mile from the city limits.

Equalization records show that the applicant currently has just shy of 1200 sq. ft. of accessory building area on his property. There are two buildings, a detached garage at 720 sq. ft. and a shed at 476 sq. ft., which provide a total area of 1196 square feet. The applicant would like to add 2796 sf. ft. of area to his property for a total accessory building area of 3992 square feet.

There are two large accessory buildings at the north end of the subdivision. The 1950 sq. ft. building was constructed in 1976. In 1986 a permit was issued for the 10,296 sq. ft. building as a farm structure. Neither of these buildings is on lots which have a residential structure and at the time they were issued the owner of the properties was engaged in farming.

There is one other lot, on the east end of Slip Up Creek Road, that exceeds 1200 square feet. 1360 square feet of accessory building area have been constructed on this lot before 1992. All of the large accessory buildings in this subdivision were constructed 10 years prior to the County and Sioux Falls adoption of the restriction for accessory buildings on agricultural zoned properties in 2001.

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 applicant's planned use of the building, storage, should not negatively affect property values. The potential for this large building to be retrofitted for a commercial business in the future does exist, which would have a negative impact on the residential neighborhood.

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

The applicant is the first resident of this development to petition to exceed 1200 sq. ft. of accessory building area. A larger building would not be congruent with the neighborhood composition.

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

Utilities are provided in the neighborhood. It appears from the submitted site plan that access to the building would be from an unconstructed 66' foot public right-of-way.

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

The addition of the building would not require any additional parking.

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.

A storage building should not constitute any odor, fumes, dust, noise, vibration or lighting at the level of a nuisance.

Recommendation

Staff finds that an accessory building area exceeding 1200 square feet does not fit with the character of the neighborhood, would not enhance future development, and could provide a catalyst for future commercial use. Staff recommended denial of Conditional Use Permit #09-74.

Public Testimony

The petitioner, Charles Heimes, stated that his hobby is saving and restoring antique tractors and plows. He needs more room in which to put this equipment and to spread out his parts and tools. Earlier this year, the Planning Department had taken enforcement action against his property because he had dismantled and waste pieces stored outside on the site. Mr. Heimes noted that he keeps this material until he can take it out to the farm. He talked with Ryan Streff, the enforcement agent, and learned about applying for a conditional use permit. He also has a camper and boat he would like to store indoors. Mr. Heimes explained that he had brought a whole row of neighbors with him who were not opposed to this building.

Commissioner Randall asked if Mr. Heimes had considered adding on to his attached garage, thus avoiding the square footage issue. Mr. Heimes stated that the accessory building he is planning will work better for his needs, match the house in color and overhang, and look better than trying to attach all the buildings. It would probably be 2X the cost to do an attached building. Mr. Heimes also said that he had no plans in going commercial.

Mike Harris, 47625 Surrell St., lives immediately west of Mr. Heimes. He explained that they had purchased the lot between their properties, and split it, each gaining a ½ lot for more room. He urged the Commission to take the individual asking for the request into consideration, saying that the property is always nice looking and kept up.

Commission Dunlap explained that the Commission has to balance the needs of one individual against what is good for a whole community. While it doesn't seem intrusive to allow this building, what would happen if the remaining 34 property owners also applied for larger buildings?

Robert Olson, 47626 Surrell St., lives directly across the street and will be looking out the window at this building. He has no problem with a new building and asked the Commission to support the important value of Mr. Heimes restoration projects.

Steve Slocum, 47630 Surrell, St., would like to see the building constructed. Mr. Heimes should be allowed to continue this hobby. With an extra ½ lot he has the room for the building.

Commissioner Larson explained that the Commission is not unsympathetic to Mr. Heimes hobby. Their job is to consider the zoning requirements and limitations appropriate for this neighborhood. Based on information provided to the Commission, there are some neighbors opposed to the building.

In response to Commissioner Dunlap, Mr. Loveland, explained the City was still opposed to the request and supported the 1200 square foot restriction stated in the zoning ordinance.

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

Action

Stating that this request did not fit the standard of the neighborhood and that approval of this square footage would set precedent; a motion was made by Steinhauer to deny Conditional Use Permit #09-74. Seconded by Rogen, who sited the possibility for the building to be used for a business by a future owner. The motion to deny passed unanimously. Same motion for the City by Gaspar and seconded by Dunlap. The motion passed unanimously.

Conditional Use Permit #09-74 - DENIED.