

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
June 28, 2010**

A joint meeting of the County and City Planning Commissions was held on June 28, 2010 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

CITY PLANNING COMMISSION MEMBERS PRESENT: Pam Breidenbach, Darla Erb, Kent Metzger, and Lynette Olson.

STAFF PRESENT:

Scott Anderson, Pat Herman, and Ryan Streff - County Planning
Dustin DeBoer – Office of the State's Attorney
Dave Loveland – City Planning

The City Planning Commission chair Pam Breidenbach presided over the meeting. The County Planning Commission was chaired by Chair Susie O'Hara.

CONSENT AGENDA

A motion was made for the City by Erb and seconded by Olson to approve the consent agenda. The motion passed unanimously. Same motion for the County by South and seconded by Rogen. The motion passed unanimously.

Item 1. Minutes – April 26, 2010

A motion was made for the City by Erb and seconded by Olson to **approve** the meeting minutes from the April 26, 2010 meeting. The motion passed unanimously. Same motion for the County by South and seconded by Rogen. The motion passed unanimously.

Item 2. Conditional Use Permit #10-02 to exceed 1200 square feet of accessory building area; 1320 total.

Petitioner: Gerald Lipovsky

Location: 47638 Slip Up Creek Road, ¼ miles north east of Sioux Falls

General Information:

Legal Description – Andy's Acres Tract 5 NE1/4 SW1/4 of Section 23-T102N-R49W

Existing Land Use - Agriculture

Current Zoning – A1 Agricultural

Parcel Size – .74 Acres

Staff Report: 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 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 1320 sq. ft. of accessory building area on his property. In 1987 the applicant obtained building permit #87-193 for a 600 sq. ft. detached garage. The discrepancy between issued building permits and the size of the structure was noticed when planning staff was reviewing a conditional use permit request in the neighborhood last November. When contacted, the Mr. Lipovsky immediately submitted his application but the hearing date was postponed until summer as he travels south for the winter.

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 sit 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, which exceeds the 1200 square foot restriction. 1360 square feet of accessory building area was constructed on this lot before to 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. There was an application filed for a lot in this subdivision in November of 2009 to allow 3,992 square feet of accessory building area. That request was subsequently denied by the joint planning commissions.

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 use of the building for storage, should not negatively affect property values. The County Planning Department has not received any complaints about this building or property.

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

There have not been any approved conditional use permits for increased size accessory buildings in this neighborhood. Approval of this request has the potential to encourage other residents to apply for a conditional use permit after they have constructed a building in the hopes of getting approval for a larger building.

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

Utilities are provided in the neighborhood. Access to the building is from an unconstructed 66' foot public right-of-way, Weidenbach Street. It is unlikely that this street will be developed in the near future.

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

The addition of the building does 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.

The staff from each planning department is reluctant to support a request for increased building size when the construction was done without first obtaining a building permit, and in this instance, a conditional use permit. A recommendation of approval is only given due to the fact that there is one residential lot that exceeds the petitioner's requested accessory building square footage.

Recommendation:

The County and City Staff recommended approval of Conditional Use Permit #10-02 with the following conditions:

- 1) Accessory building area shall not exceed 1320 square feet.
- 2) No commercial use of the accessory structure shall be permitted.
- 3) The applicant shall obtain a building permit for 720 square feet of accessory building area by July 31, 2010. The building permit fee shall be doubled.

Action

Based on the staff report a motion was made for the City by Erb and seconded by Olson to **approve** Conditional Use Permit #10-02 with the conditions as stated. The motion passed unanimously. Same motion for the County by South and seconded by Rogen. The motion passed unanimously.

Conditional Use Permit #10-02 – APPROVED.

ITEM 3. Conditional Use Permit #10-36 to allow a vehicle and general repair shop.

Petitioner: Clay Sowards

Location: 1412 E 60th St. N. north edge of Sioux Falls

General Information:

Legal Description – S1/2 Lot 34 North Side Gardens in Section 27-T102N-R49W

Existing Land Use - Residential

Current Zoning – C Commercial

Parcel Size – 0.44 Acres

Staff Report: Pat Herman

Staff Analysis

The property is located at 1412 E. 60th St. N., approximately 800 feet east of the intersection of N. Cliff Ave. and E. 60th St. N. The surrounding properties to the east, west and north are zoned C Commercial. This area was zoned for commercial use by the Sioux Falls in the late 1960s. The property on the south side of E.60th St. N. is zoned I-1 Light Industrial.

Staff met with the petitioner on the site on June 14, 2010. The petitioner is requesting approval for a vehicle and general repair shop. Motorcycles will be the specialty of the shop, but ATV's and watercraft will also be repaired. In October 2009 a building permit was issued for a 36x40 detached accessory building for personal storage. The County Building Inspector has reviewed the submitted plans and the structure was constructed to meeting commercial code requirements. The business will be open from 9:00 am to 6:00 pm Tuesday through Saturday.

The neighborhood is a mixture of residential and commercial businesses. Residential structures cannot be structurally changed or additions constructed as they are considered non-conforming uses in the commercial zoning district. Slowly the residences are being replaced by commercial businesses. Shape Sioux Falls 2035 depicts this area as Business Park.

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.

Previously approved conditional use permits for the area include a tent and awning business, storage facility, repair shop, welding shop, auto repair, and contractor's storage yard. The requested use, vehicle and general repair shop, is an appropriate use for this commercial zoned area.

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

Shape Sioux Falls anticipates that this area will continue to develop as a commercial and industrial node. As annexation has occurred, new commercial enterprise has taken hold.

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

Access will be from E.60th Street N. The petitioner is required to pave all driving and parking surfaces. The submitted site plan indicates that these surfaces will be concrete. County Highway met with the petitioner on the site to look at the driveway. Highway approved the widening of the existing driveway access.

There is a restroom in the shop building which connected to the same septic system used by the residence. The size of the tank is sufficient to handle both buildings.

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

Section 16.02 of the Joint Zoning Ordinance requires 5 parking spaces for a building of this size. Staff recommends that only three of the spaces be hard surfaced. The site is located between two residences and reduced parking will allow the shop to blend better with the neighborhood. Drainage is a problem in this area and hard surfacing will not improve that issue. The business is a one man operation which will limit the amount of traffic to the site. Staff recommends that the remaining two parking spaces be considered overflow, and that they not be hard surfaced. The petitioner has stated that he does not want to have any employees, but if circumstances change and the number of employees does increase remaining two parking spaces should be hard surfaced.

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 will be some disturbance from this commercial use, especially noise from motorcycles. The petitioner's hours of operation will help to minimize the business' intrusion on the nearby residences. All outside lighting should be required to direct light directly downward onto the property.

In addition to sending out the required notification and posting the sign, the petitioner verbally informed the three adjoining land owners about the plans for a repair shop. The neighbors on the east and west side were concerned about drainage and the petitioner has taken the necessary steps to insure water is not backed up onto their property.

The petitioner has obtained the required tax id license.

Recommendation

The requested use is appropriate in a commercial zoned area, is consistent with other uses approved for this neighborhood, and is in conformance with Shape Sioux Falls 2035.

The County and City Staff recommended approval of Conditional Use Permit #10-36 with the following conditions:

- 1) The driveway and three parking spaces shall be hard surfaced. This shall be completed by June 1, 2011.
- 2) Two overflow parking spaces shall be provided. If the number of employees increases, these two parking spaces shall be hard surfaced.
- 3) All outside storage shall be screened from public view by an 8 foot fence with 90% opacity. The fence shall be of an earth tone color.
- 4) Outdoor lighting shall be of a design to direct light directly downward and not allow light spillage off of the property.
- 5) Hours of operation shall be from 9:00 am to 6:00 pm Monday through Saturday.
- 6) One freestanding sign is allowed and shall be limited to 127 square feet and 30 feet in height. Wall signs shall be limited to 254 square feet. A building permit is required for all signs.

Action

Based on the staff report a motion was made for the City by Erb and seconded by Olson to **approve** Conditional Use Permit #10-36 with the conditions as stated. The motion passed unanimously. Same motion for the County by South and seconded by Rogen. The motion passed unanimously.

Conditional Use Permit #10-36 – APPROVED.

ITEM 4. Conditional Use Permit #10-38 to exceed 1200 sq. ft. of accessory building area 3104 sq. ft. requested.

Petitioner: Steve Gage

Location: 8701 East Madison St. east of Sioux Falls

General Information:

Legal Description – Lot 2 Gage's Addition NW ¼ 4 NE ¼ in Section 17-T101N-R 48W

Existing Land Use - Residential

Current Zoning – A1 Agricultural

Parcel Size – 1.07 Acres (owns adjacent lot 1.07 Acres)

Staff Report: 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 lot located on E. Madison Street. There are a number of house that line Madison Street and Hidden Valley Country Estates, a 70 lot residential subdivision is to the north of the subject property. All the surrounding land is zoned A-1 Agricultural.

The applicant has two existing sheds on the property, 24x28 and 12x16, which amount to 864 square feet. The request is to construct a 2,240 square foot (46x56) storage shed. The total square footage request is for 3104 square feet.

The property located at 8601 E. Madison St. has an accessory building area of 3,980 sq. ft. The next largest building area is located at 8704 E. Madison St. and is just of 2,000 sq. ft. in size. The applicant has two lots which total 2 acres in size. The applicant's property is larger in size than the lot with 3,980 square foot building.

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.

Accessory buildings are a common structure in the rural area. An additional building will not impacting neighboring property values.

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

The requested size is lower than the standard that has been set for the neighborhood. The subdivided lots in this area have been developed and future growth is limited until city services are available.

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

Access will be from Madison Street using the existing driveway. Any needed utilities

already exist on the lot.

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

This structure will not need additional parking. There is sufficient space for parking on acreage.

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 list above should not be at a degree as to constitute a nuisance.

Recommendation

The County and City Staff find the request to increase allowable accessory building area is consistent with the neighborhood and recommended approval of Conditional Use Permit #10-38 with the following conditions:

- 1) Accessory building area shall be limited to 3,104 square feet.
- 2) A building permit is required for the accessory building.
- 3) The building shall be limited to one story in height.
- 4) Only personal residential storage shall be allowed in the building and no commercial uses or commercial storage is allowed.
- 5) The building shall be an accessory use to the continued use of the property as a residential lot.
- 6) Access is limited to the existing driveway.
- 7) A building inspection, measuring the outside perimeter dimensions, is required.

Action

Based on the staff report a motion was made for the City by Erb and seconded by Olson to **approve** Conditional Use Permit #10-38 with the conditions as stated. The motion passed unanimously. Same motion for the County by South and seconded by Rogen. The motion passed unanimously.

Conditional Use Permit #10-38 – APPROVED.

REGULAR AGENDA

There were no regular agenda items.