

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
May 21, 2012**

A joint meeting of the County and City Planning Commissions was held on May 21, 2012 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Susie O'Hara, Mike Cypher, Bonnie Duffy, Wayne Steinhauer, Becky Randall, Mark Rogen and Gerald Beninga.

CITY PLANNING COMMISSION MEMBERS PRESENT: Diane DeKoeper, Nick Sershen, Denny Pierson, Steve Gaspar and Jessie Schmidt.

STAFF PRESENT:

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

The County Planning Commission Chair Susie O'Hara presided over the meeting. The City Planning Commission was chaired by Jessie Schmidt.

CONSENT AGENDA

A motion was made for the City by Sershen and seconded by Gaspar to **approve** Items 1 and 3 of the consent agenda and move Items 2 and 4 to the regular agenda. The motion passed unanimously. Same motion for the County by Rogen and seconded by Steinhauer. The motion passed unanimously.

ITEM 1. Approval of Minutes – January 23, 2012

A motion was made for the City by Sershen and seconded by Gaspar to **approve** the meeting minutes from April 23, 2012. The motion passed unanimously. Same motion for the County by Rogen and seconded by Steinhauer. The motion passed unanimously.

ITEM 3. Conditional Use Permit #12-23 to exceed 1200 square feet of accessory building area – 1684 Requested.

Petitioner: Lester Meyer

Property Owner: same

Location: ½ mile north of Sioux Falls

General Information

Legal Description – Tract 26 SE ¼ SE ¼ Section 21-T102N-R49W

Present Zoning – RR Rural Residential

Existing Land Use - Residential

Parcel Size – 0.46 Acres

Report by: Scott Anderson

Staff Analysis

The property is located approximately 1/2 mile east and ½ mile north of the city limits just 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 1,684 square feet is smaller than the largest existing accessory buildings in the area located on parcels to the north. There are several other large accessory buildings located in the area. The petitioner's requested size of 1,684 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. 10th Avenue and 6808 N. 10th Avenue (1,728 square feet) and 6208 N. 10th Avenue (1,600 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 Cliff 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 Cliff 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 #12-23 with the following conditions:

1. The total accessory building square footage shall not exceed 1,684 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 building does not exceed 1,684 square feet measured from the outside perimeters.
5. A building permit is required.
6. That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
7. That the Planning & Zoning Department reserves the right to enter and inspect accessory building at any time, after property notice to the owner, to ensure that the property is in compliance with the conditional use permit conditions and the Minnehaha County Zoning Ordinance.

Action

A motion was made for the City by Sershen and seconded by Gaspar to **approve** Conditional Use Permit #12-23 with stated conditions. The motion passed unanimously. Same motion for the County by Rogen and seconded by Steinhauer. The motion passed unanimously.

CUP #12-23 – APPROVED

ITEM 2. Conditional Use Permit #12-15 to amend CUP #10-15 to allow sale of malt beverages.

Petitioner: Bruce Aljets

Property Owner: same

Location: ½ mile northeast of Sioux Falls

General Information

Legal Description – ½ Vac. Section Line ROW Lying Adjacent & N ½ (Except H-1, H-2 & Except Part of NE ¼ South of Hy 90 & Except N640' W300' NW ¼) Section 30-T102N-R48W

Present Zoning – CA-1 Commercial/Agricultural

Existing Land Use - Commercial

Parcel Size – 259.45 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting to allow the sale of malt beverages at Yogi Bear Campground. The applicant has opened a swim-up bar and would like to expand the beverages offered there.

The campground has been established at this site for over 20 years. The addition of malt beverage sales should not affect the existing conditions of approval for the establishment.

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 sale of malt beverages should not have any additional impact in the immediate vicinity.

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

The proposed addition of malt beverage sales will not impede development in the area.

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

The proposed additional sales will not require any further infrastructure development.

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

The parking requirements have been met for the existing establishment. The addition of malt beverage sales at the establishment will not increase the need for 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.

The proposed additional use will not result in anything that may be considered a nuisance.

There have not been any issues with the operation of the campground at this site. The additional sale of malt beverages seems to be an appropriate amendment to the Conditional Use Permit for

The Yogi Bear Campground.

Recommendation: Staff recommended approval of Conditional Use Permit 12-15 to allow the sale of malt beverages at the Yogi Bear Campground in addition to the other approved uses with the following condition.

1. The sale of malt beverages shall be permitted provided all other required permits and/or licenses are obtained from the County and State of South Dakota.

Discussion

Scott Anderson stated that the County Planning Department would like to rescind the previous permit and add all of those conditions into Conditional Use Permit #12-15. He stated that this is just a housekeeping matter so that all the conditions are on one permit.

Commissioner Schmidt asked how the County does code enforcement. Scott Anderson replied that it is based on a complaint basis; otherwise an annual review of the conditional use permit is done. Commissioner Schmidt stated that she doesn't agree with the condition that request census information from the campground. She stated she doesn't understand why the County Planning Department needs that information. Scott Anderson explained that those numbers are used to review the site and conditional use permit to confirm that there are such things as adequate parking or restrooms, etc.

Bruce Aljets, 26004 478th Avenue, stated that he had no comments and is okay with all of the conditions that have been approved in the past and present.

Action

A motion was made for the City by Gaspar and seconded by DeKoeper to **approve** Conditional Use Permit #12-15 with the following conditions:

- 1) No additional on-premise signs shall be erected.
- 2) Storage shall be limited to only those items such as campers and vehicles which are accessory to campers. No sales shall occur from the storage area and no unlicensed or inoperable vehicles shall accumulate on the property.
- 3) No access shall be allowed from the fireworks parking lot and no additional driveways shall be constructed onto the highway.
- 4) No tenting or camping shall be allowed over septic drainfields.
- 5) A recreational facility – corn maze – shall be allowed at the east end of the campground and shall be open to the public.
- 6) No additional driveway access shall be allowed.
- 7) Public parking shall be located in the 4 acre field, south of the tent area of the campground and in the tent area. Signs shall delineate the parking lot and the parking rows shall be marked.
- 8) One portable toilet shall be placed near the entrance of the recreational facility during

- the duration of the operation of the corn maze.
- 9) The County Planning Department shall be provided with an attendance record by December 15th of each year.
 - 10) Planning staff shall have unrestricted access onto the property to inspect the recreational facility to ensure the conditions are being met.
 - 11) Hours of operation shall be consistent with public hours for the campground.
 - 12) The sale of malt beverages shall be permitted provided all other required permits and/or licenses are obtained from the County and State of South Dakota.
 - 13) Conditional Use Permit #10-15 is rescinded.

The motion passed unanimously. Same motion for the County by Cypher and seconded by Randall. The motion passed unanimously.

CUP #12-15 – APPROVED

ITEM 4. CONDITIONAL USE PERMIT #12-25 to allow a temporary fireworks stand.

Petitioner: Mike Denning

Property Owner: Swearingen Properties, LLC

Location: W 12th Street and Ellis Road Intersection

General Information

Legal Description – Wittrock Tract 1 (Ex E30') in the NW1/4 NW1/4 of Section 22-
T101N-R50W

Existing Land Use - Vacant

Current Zoning – C-Commercial

Parcel Size – 0.53 Acres

Staff Report: Dustin Powers

Staff Analysis

The subject property is located in the southeast corner of Ellis Road and W. 12th Street (HWY 42). This property is in the C Commercial District within the joint jurisdiction between the City of Sioux Falls and Minnehaha County. The properties to the west and north are zoned A-1 Agricultural, property to the south is zoned I-1 Light Industrial and property to the east is zoned C Commercial.

The petitioner has applied for this conditional use permit to allow an annual nine-day fireworks sale from June 27th to July 5th. Fireworks will be sold from a tent, trailer or portable POD located at the site and placed in the southwest corner of the lot. The parking on the site would be located in the parking area between the proposed tent location and Chaser's Food and Spirit.

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.

Due to the limited time frame for the fireworks sales, the use should have no effect on the enjoyment of the surrounding property or on property values in the area. The hours of operation should be limited from 9:00 am to 10:30 pm. This is consistent with other firework sales approved by conditional use permit in the area.

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

Given the temporary nature of the proposed use, there should be no impact on future development of the area.

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

Access to the site will be from W 12th Street (HWY 42). This access also serves as the second entrance to Chaser's Food and Spirit. That if needed the petitioner will provide a portable restroom at the site. No other new utilities, access roads, drainage or facilities will be needed.

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

There is ample parking available on this site to handle the vehicle load generated by this temporary land use.

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.

This temporary use should not create any nuisances that are listed above.

Recommendation

Staff recommended approval of Conditional Use Permit #12-25 with the following conditions:

1. That the temporary sales of fireworks shall be allowed to operate annually between June 27th and July 5th.
2. That access shall be from W. 12th Street (HWY 42).
3. That the business shall be allowed to operate between the hours of 9:00 am and 10:30 pm.
4. That one site sign is permitted and shall not exceed 32 square feet in size. Two signs or banners are permitted on the proposed tent and shall not exceed 15 square feet each. No other signs, banners or flags, with the exception of the American flag, shall be permitted in conjunction with the use.
5. That sign(s) shall not be placed on the property prior to June 23rd and shall be removed by July 8th of each year.
6. That fireworks shall be sold from a tent, trailer or portable POD located at the site and placed in the southwest corner of the lot.
7. That parking shall not be allowed within the right-of-way of either W. 12th Street (HWY 42) or Ellis Road. All parking shall be contained to the parking area on the site plan.
8. That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.

Public Testimony

Mike Denning, 6605 W. 52nd Street, stated that he operates 7 sites like this in the State of South Dakota.

Doug Washburn, stated that he does not want to have to clean up this mess every July 5th. He is also concerned with there being explosives near his property and wants to know what type of insurance the applicant has. Commissioner Pierson stated that he used to have 3 fireworks stands and never had or allowed anyone to shoot off fireworks.

Lucille Langdon, 3900 S. Orchard Avenue, stated she is concerned with traffic speed on 12th Street at that intersection. She stated that she had been told that they can't park on the grass so how is the applicant able to park on the grass. She also stated that she has concerns about the explosives and how the applicant is going to cover damages to her property. Commissioner Schmidt asked about being able to have parking in the grass area. Dustin Powers replied that when there is a permanent commercial business they are required to pave their properties

according to the ordinance. Since this is a temporary use for only 9 days a year we do not require that the parking area be paved.

Mike Denning stated that he does have insurance and would be willing to add Mr. Washburn and Mrs. Langdon to the additionally insured portion of his insurance binder. He stated the he is a member of the NFPA (National Fire Protection Act) which all of the Fire Marshalls and Chiefs across the nation are a member of that as well. He stated that he is not in the business of shooting off fireworks and he must have a sign that states that no fireworks can be discharged within 300 feet of the tent. He also stated that he doesn't believe that any of his fireworks he sells will end up on Mr. Washburn's or Mrs. Langdon's lots but will personally help clean up their lots if needed.

Mr. Washburn stated he rather just not have it near his shop, with the risk of an explosion damaging his shop. Commissioner Sershen stated that there is the same risk of Mr. Washburn's shop creating an explosion that would damage the fireworks stand.

Commissioner DeKoeyer asked if the fireworks were locked up during hours of no operation. Mike Denning replied that there is security on the site 24/7 from the time the fireworks are delivered.

Discussion

Commissioner Steinhauer asked if this was an annual event. Dustin Powers replied that the Conditional Use Permit was to allow an annual 9-day sale of fireworks. Commissioner Steinhauer stated that he doesn't see a problem with it in the foreseeable future but 10-15 years down the road there may be issues as development occurs; also does the City Staff have any comments about future annexation. Dave Loveland stated that a lot this area is going to be dependent on voluntary annexation at this time.

Commissioner Gaspar asked how large the tent for the sales would be. Dustin Powers responded the tent would be 30' x 60'. Commissioner Rogen wanted to make sure that the tent would have to meet the setbacks, Dustin Powers responded that they would.

Commissioner Beninga stated that the biggest concerns he heard was the issue of parking along Ellis Road and the walking and biking traffic along there. He doesn't believe that there is enough parking in this area for both the fireworks stand and Chasers Bar.

Action

A motion was made for the City by Sershen and seconded by Pierson to **approve** Conditional Use Permit #12-25 with stated conditions. The motion 3-2 (Gaspar and DeKoeyer voted No). A motion was made for the County by Beninga and seconded by Steinhauer to **deny** Conditional Use Permit #12-25. The motion 4-3 (Cypher, Rogen, and O'Hara voted No).

CUP #12-25 – DENIED