

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
March 24, 2014**

A joint meeting of the County and City Planning Commissions was held on March 24, 2014 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Wayne Steinhauer, Bill Even, Bonnie Duffy, Mike Cypher, Mark Rogen, and Becky Randall.

CITY PLANNING COMMISSION MEMBERS PRESENT: Steve Gaspar, Sean Ervin, Denny Pierson, and Ken Dunlap.

STAFF PRESENT:

Scott Anderson and David Heinold - County Planning
Diane de Koeyer – City Planning

The County Planning Commission Chair Wayne Steinhauer presided over the meeting. The City Planning Commission was chaired by Steve Gaspar.

CONSENT AGENDA

A motion was made for the City by Commissioner Pierson and seconded by Commissioner Ervin to **approve** the consent agenda. The motion passed unanimously. Same motion was made for the County by Commissioner Rogen and seconded by Commissioner Randall to **approve** the consent agenda. The motion passed unanimously.

ITEM 1. Approval of Minutes – February 24, 2014

A motion was made for the City by Commissioner Pierson and seconded by Commissioner Ervin to **approve** the meeting minutes for February 24, 2014. The motion passed unanimously. Same motion was made for the County by Commissioner Rogen and seconded by Commissioner Randall to **approve** the meeting minutes for February 24, 2014. The motion passed unanimously.

Regular Agenda

A motion was made for the City by Commissioner Pierson and seconded by Commissioner Ervin to **approve** the regular agenda. The motion passed unanimously. Same motion was made for the County by Commissioner Rogen and seconded by Commissioner Randall to **approve** the regular agenda. The motion passed unanimously.

ITEM 2. REZONING #14-03 to rezone from the A-1 Agricultural District to the I-1 Light Industrial District on the property legally described as Lots 7-10 in Block 1 of Alguire Land Co. First Addition to the Village of Ellis, Section 9-T101N-R50W.

Petitioner: Rainbow Ranch Partnership

Property Owner: Linda Main

Location: Lots 7-10 in Block 1 of Alguire Land Co. First Addition to the Village of Ellis, Section 9-T101N-R50W

Staff Report: Scott Anderson

General Information

Legal Description – Lots 7-10 in Block 1 of Alguire Land Co. First Addition to the Village of Ellis, Section 9-T101N-R50W

Present Zoning – A-1 Agriculture

Existing Land Use – Residential

Parcel Size – 0.86 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is proposing to rezone a four parcels of property totaling approximately .86 acres in size from A-1 Agriculture District to I-1 Light Industrial District. The applicant has indicated that he would like to construct a 60' by 88' post-framed steel building for personal warehousing. This use would require a conditional use permit to be obtained should the rezoning be approved.

On March 5, 2014, staff conducted a site visit to the subject property. There are approximately 15 residences located to the north of the proposed rezoning and 9 residences to the south. The existing commercial and industrial uses are located approximately 1000 feet to the south. The area to the west is in agricultural production.

The Minnehaha County Comprehensive Plan, adopted in 1998, has identified areas of future growth. These future growth areas are called "Transition Areas". The subject property is not located within the transition area. The concept behind the transition areas is to promote cooperative efforts with cities in dealing with development issues along their fringes. Ideally, growth should occur where and when municipal infrastructure can be provided. This area is outside of the area that the City of Sioux Falls has identified as being able to be serviced by municipal services. The Comprehensive Plan also identifies Rural Service Areas. A Rural Service Area is where conveniences, services and industrial uses are desired and promoted. The subject property is also not located within a Rural Service Area. There is an area of existing I-2 zoning located approximately ½ mile to the south and was the historic location of the Ellis Elevator and some other businesses.

The rezoning proposal does not meet the policies and objectives of the Comprehensive Plan. It ignores the intent of orderly development and growth. The rezoning request would not promote the existing residential uses in the area and open the door to expanded industrial uses in a primarily residential and agricultural area.

Staff also has concerns that the proposal represents spot zoning. The rezoning the .86 acre parcels away from a larger area of the same zoning appears to be spot zoning. The closest I-1 Light Industrial zoning district is located approximately 1/2 miles to the south in Ellis along County Highway 139 and the abandoned railroad right-of-way.

For all of the above mentioned reasons, staff cannot support the proposed rezoning request. It is not consistent with the intent of the Comprehensive Plan and appears to constitute spot zoning.

Recommendation: Staff recommended **denial** of Rezoning #14-03 to rezone the subject property from A-1 Agriculture District to I-1 Light Industrial District.

Public Testimony

Brian Ingalls, 1205 Hyannis Port Lane, on behalf of Rainbow Ranch Partnership, LLC to propose rezoning Lots 7-10 at 1610 N Alguire Ave. from the A-1 Agricultural District to the I-1 Light Industrial District. Mr. Ingalls stated that there is a 100-plus year old, 864 square foot house on the property that currently sits vacant and appears to be uninhabitable by general living standards. He continued to mention that the house would extensive renovation and based on the current condition of the house it would not be economically feasible to make the necessary repairs.

The proposal for the rezoning is to remove the 1-4 family dwelling and replace with a steel accessory building used for personal storage. The future plans for this building are to construct a bathroom and lounge area. The use of the building will be strictly for personal use only, no commercial or retail trade will be conducted on this property. The property, 0.83 acres, lies within the 100-year floodplain, which would deem the construction of a new home unreasonable due to obtaining flood insurance on any type of mortgage property. In addition, as part of the proposed building plan to get out of the floodplain it would take about 600-800 yards of dirt as well as demolition/renovation of the existing building that costs more than \$15,000 in order to bring the property up to building specifications.

The petitioner's representative stated that he would deem the proposed structure as an overall improvement and enhancement to the neighborhood based on over \$100,000 of building improvement costs to the site. He continued to mention that he thinks that the building on the property currently sits in a dilapidated state and without the proposed rezoning the property will continue to deteriorate while continuing to create more problems in the neighborhood if it sits vacant for an extended amount of time.

In short, the reason for the proposed rezoning was born out of the idea that the proposal to construct a standalone accessory structure is similar many properties in the community. There is a 70'x50' steel pole building that sits on a separate lot a few properties to the north of the proposed rezoning site. A few of the properties to the south of the proposed site have similar

accessory structures, but are affixed to a residential property.

Mr. Ingalls would be in favor of leaving the house sit in its' current state and applying for a conditional use permit to allow an accessory structure over 1,200 square feet on the property; however, it was brought to his attention that that is not an option without obtaining the property as a primary residence. He added that staff mentioned that the only way to allow an accessory structure for the use intended by Mr. Ingalls is to rezone the property to the I-1 Light Industrial District. He stated that personal warehousing is allowed in the Light Industrial District provided that the proposed structure does not exceed 20,000 square feet. The proposed building, about one-third to one-fourth that size, would have an appropriate building-to-land ratio.

Based on the proposed rezoning, the petitioner feels like they would be significantly improving the property. The property will be maintained meticulously and well landscaped up to standard landscaping guidelines with the removal of a few older trees. The petitioner has no intention of any commercial use for the building. The building will only be used for personal storage of a boat, pontoon, and Bobcat skid loader to move snow. Mr. Ingalls stated that there should be minimal disturbances, as he only expects to be at the property once per week.

Commissioner Even asked if the petitioner has purchased the property and Mr. Ingalls noted that the purchase is subject to the approval of the rezoning in order to build the proposed structure. The petitioner explained that he would be open to keeping the property in its' current condition if he were to be granted a conditional use permit for an accessory building on the subject lot. Commissioner Gaspar mentioned that the petitioner stated the property is in the 100-year floodplain and Commissioner Gaspar asked for clarification that Mr. Ingalls would have to build the property up 12 feet in order to build on the lot. Mr. Ingalls added that the property owner would either have to build the lot up to specifications or pay the required flood insurance rates. He explained that it would be unlikely something were to happen unless someone wanted to buy the property with cash. He proceeded to mention that by the time someone acquires the property they would have already put \$15,000 in to build up the lot and it would be about a \$70,000 lot, which he doesn't foresee happening.

Commissioner Gaspar asked for clarification that the petitioner plans to build up the lot. The petitioner explained that it would be optional because they are purchasing the lot with cash so that they would not have to mortgage the property, which would otherwise require the bank to require flood insurance. He stated that they will be building the property up to about 36 inches, or 3 feet. Commissioner Gaspar asked if a homeowner had cash would be required to purchase flood insurance and the petitioner said that it is optional only if the purchase is made with cash. Mr. Ingalls added that if any type of mortgage is used, then the homeowner is required to buy flood insurance.

David Burton, 8500 W. Walnut St., stated that his house is not in the floodplain and he lives approximately 50 feet from the subject property. He added that he has lived there for 29 years and the dirt road between his property and the subject property is not maintained very well. Most of the maintenance of the road comes from the neighbors' efforts for snow removal, gravel

repairs, etc. We do not need any extra traffic in the neighborhood; it has been a quiet, single-family dwelling kind of town. Mr. Burton pointed out that the house at 1610 N. Alguire Ave. was occupied as little as three years ago by the property owners' brother. He continued to mention that the house may not be habitable in its' current state, but someone did live in the house three years ago. He is beginning to be against the construction of metal pole buildings in the neighborhood because it has consisted of mainly single-family homes for many years.

Mr. Burton stated that he is unsure what the petitioner plans to use the building for, whether it will be for painting cars or whatever. He feels like the rezoning of this property and construction of a metal pole building will hurt the property value of his home. He said that he has never been approached by the petitioner and received the notification of the meeting in today's mail from Rainbow Ranch Properties, LLC. He does not feel that the notice of the meeting has not been real fair because the notice was posted on the south side of the house taped to the window. He mentioned that it was only visible from Alguire Ave., which is only an alley way. He added that he is unsure what the petitioner thinks that they will drive on because there is no access for the property off of either Walnut St. or Alguire Ave.

Harold Fiferlick, 1600 N. Alguire Ave., stated that the flooding water comes from northwest of Ellis, but it does not flood the entire town. He added that the last two houses on the north end of the Ellis Addition should not have been put there because that is the waterway for water to cross to the east side of Ellis Rd. He mentioned that staff told him that the property owner put in a driveway, which is about four to five feet tall with a 24 inch culvert. Mr. Fiferlick explained that when the heavy rains arrive in the spring, the water backs up and floods the neighborhood. He noted that the other property owner landscaped the driveway by adding rocks and it looks great, but the water still needs to be able flow naturally through this area to the other side of the street.

Mr. Fiferlick mentioned that the water used to run to the north, but the property owners built up the present industrial area on the south end of Ellis. He added that the old church that has been converted into a home had culverts decrease in size about one-tenth of an inch so the water would flow out. He explained that when the lots were first sold, the purchaser had to buy the lot on Alguire Ave., which is a 16-foot street. He stated that the township opened the road up when people moved their trailer houses back there a long time ago so that they could access their property. The metal building on the north end of Alguire Ave. was built because the property owner bought two lots. Mr. Fiferlick and his brother bought one and had the Mulberry St. right of way vacated. The metal building to the south was originally sold as two lots.

He explained that the drainage is a real problem because the waterway outlet on the north end was blocked. He proceeded to mention that the county wanted to install a culvert larger than 48 inches, but the property owner receiving the water said that they would file suit against the county if more water was drained onto their land. He added that the county wanted to dig a big trench all the way out to County Highway 139 and 140, but the project didn't get done because the price was too expensive. He stated that he heard that there was supposed to be a waterway through the property where the old chicken coop building is located.

Mr. Fiferlick stated that the area around 1600 N. Alguire Ave. has never been flooded since about 30 years ago and now the entire area up to 1610 N. Alguire Ave. is in the floodplain. He explained that if more attention was focused on how the buildings that were put in on the north and south end of Ellis, then the water might flow the right way. Commissioner Steinhauer asked where Mr. Fiferlick was in relation to the subject property and he explained that he is located at 1600 N. Alguire Ave., or at the terminus of Mulberry St. Commissioner Steinhauer asked for clarification that Mr. Fiferlick is concerned that the proposed rezoning would make the problem worse. Mr. Fiferlick stated that if the petitioner puts in a four foot berm on the south side of the property, directly adjacent to his property. He, along with the rest of the neighbors, would like Ellis to remain as nice and quiet little town.

Gene Fiferlick, 1600 N. Alguire Ave., mentioned in regard to the floodplain issue that he has heard that the floor of the house has to be at least 4 feet above ground level to be considered out of the mapped flood area. He is concerned about the use of the building and whether large trucks will be coming in-and-out of the storage building because of the proposed screening that the petitioner wishes to construct. He also explained that the township has never had the money to perform maintenance on the alleyway that the petitioner proposes to use as a driveway to the building. Basically, he is concerned about the impact on neighbors' property and whether the value will help, hurt, allow things to stay the same, or cause problems in this area.

Kim Miller, 1514 N. Alguire Ave., stated that he does not have comments and will leave it to the planning commissions to decide.

Christopher Raymond, 1611 N. Ellis Rd., lives in the house to the east of subject property and is concerned about the impact that a building of the proposed size will have his garden receiving sunlight as well as the fact that the proposed building may depreciate the value of his house over the long term.

Terry Mellema, 1804 N. Alguire Ave., stated that he is one of the people that has a shed and the tallest door is 7 feet tall. He pointed out that the standalone metal pole building has been causing nothing but problems since there has been 3 tenants in-and-out of that building. He mentioned the fact that the 3 tenants do not like driving on the gravel road, so they just drive in the ditch on the side of the road. He is curious as to why it is Rainbow Ranch Partnership, LLC applying for the rezoning and not just an individual. Generally, he is very opposed to the proposed metal building for the potential impact that it could have on the neighborhood.

Discussion

Commissioner Cypher made a motion to agree with the recommendation of staff to deny the rezoning application based on the fact that this is spot zoning and should not be ignored because it could set a precedent for future applications to rezone a parcel of land to Light Industrial in the middle of a residential area.

Commissioner Pierson concurred with Commissioner Cypher's comment about spot zoning and made the same motion for the City.

Action

A motion was made by Commissioner Cypher and seconded by Commissioner Even to recommend **denial** of Rezoning #14-03. The motion passed unanimously. Same motion was made for the City by Commissioner Pierson and seconded by Commissioner Ervin. The motion passed unanimously.

Rezoning #14-03 – Denial Recommended

ITEM 3. CONDITIONAL USE PERMIT #14-09 to exceed 1,200 square feet of accessory building area – requesting 1,728 square feet on the property legally described as Swanson’s Tract No. 4 Section 30-T102N-R49W.

Petitioner: Clarene & Roger Kooima

Property Owner: same

Location: 5905 N. Western Ave. approximately 0.5 mile north of Sioux Falls

Staff Report: David Heinold

General Information

Legal Description – Swanson’s Tract No. 4 N1/2 NE1/4 Section 30-T102N-R49W

Present Zoning – A-1 Agricultural

Existing Land Use – Residential

Parcel Size – 1.00 Acre

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to exceed 1,200 square feet of total accessory building area. The petitioner is requesting 1,728 square feet of total accessory building area. According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

(1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

The petitioner is requesting to construct a 1,728 square foot accessory building for personal storage and as a hobby shop to replace an existing garden shed. The proposed building will be used to store personal automobiles and as a hobby shop. The proposed accessory building will be located west of the existing residence. On March 10, Mr. Kooima told staff that the proposed accessory building will be constructed with 12 foot sidewalls.

There are several large accessory buildings located within the Swanson Tracts subdivision and immediate area. In 2010, the property owner at 1801 West 70th St. North applied for Conditional Use Permit #10-07 and was approved to allow a total accessory building area of 7,280 square feet. The property owner at 1801 W. 70th St. N. applied for a conditional use permit in 2010 and was approved to allow 7,280 square feet. The property owner at 2200 W. 70th St. N. has 4,704 square feet of total accessory building area. These two properties have large accessory structure sizes because one was built for agricultural equipment storage and the other building is for a tree nursery business.

The property owner at 6205 N. Hummingbird Ave. has a total accessory building area of 1,600 square feet and the property owner at 6104 N. Western Ave. currently has 1,380 square feet, both

of which are within close proximity to the petitioner's property in the Swanson Tracts subdivision. In 2013, the property owner at 2000 W. 70th St. N applied for Conditional Use Permit #13-06 and was approved to allow 1,590 square feet of total accessory building area.

On February 13, 2014, staff met with a neighboring property owner who lives at 5904 N. Swanson Dr. The property owner is concerned about the impact the building will have on the existing septic system drainfield, which is located approximately 30 feet to the west of the proposed location for the requested accessory building. They are also concerned that the petitioner will install a gate on the southwest corner of the property to access from Swanson Drive. Staff believes that it is impossible to provide vehicular access to the petitioner's property from Swanson Drive; access must be provided via the existing driveway off of Western Avenue as mentioned by the petitioner.

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.

There are several properties in the immediate vicinity that have a total accessory building area up to 7,280 square feet, so there should be no impact on the property values of surrounding properties. The building will be used for the property owner's personal storage and as a hobby shop. The property adjacent to the petitioner's property mainly consists of one-acre residential lots with a few 17-acre residential properties to the east of the petitioner's property. Thus, the proposed accessory building size should not affect the residentially-used properties in the area. The requested building size would only cause a slight visual impact on neighboring properties. The proposed building size should not have a greater impact on the natural flow of water from rooftops than the buildings already permitted in the area.

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

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory structures in the immediate vicinity of the petitioner's property, a 1,728 sq. ft. accessory structure would be congruent with the land composition; however, the petitioner's requested size may set a precedent for larger accessory buildings on relatively small one-acre residential lots.

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

Access will be provided via an extension of the petitioner's driveway to the east of the proposed accessory building. No further infrastructure will need to be provided.

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

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.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

Recommendation:

Staff found that the proposed building size would set a precedent for larger accessory structures on relatively small one-acre lots; therefore, the petitioner's request should be limited to the size of the largest existing residential accessory building in the neighborhood, 1,600 square feet. Staff recommended **approval** of Conditional Use Permit #14-09 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 1,600 square feet with 15 foot sidewalls.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That a building inspection is required to determine that the building does not exceed 1,600 square feet measured from the outside perimeter with 15 foot sidewalls.
- 4.) That the existing garden shed shall be removed from the property prior to construction of the proposed accessory building.
- 5.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 6.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 7.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 8.) That a building permit is required prior to construction of the accessory building.
- 9.) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony

Staff presented a brief report on Conditional Use Permit #14-09. Commissioner Ervin asked staff if there are any residences behind the 1,600 square foot accessory structure that was mentioned. Staff responded that there is an existing house to the north of that accessory structure, but is shielded by a row of coniferous trees. Commissioner Gaspar asked staff if the 1,600 square feet has been discussed with the petitioner. Staff mentioned that the petitioner is well aware of the 1,600 square foot limitation, but the petitioner would rather request a square footage that is incremental to being able to store all of his personal recreational vehicles.

Roger Kooima, 5905 N. Western Ave., stated that he is requesting construct a 36'x48' accessory structure to store several boats, camper, automobiles, and a sailboat that is 33 feet long that are currently at another location. He added that he would rather have the vehicles inside not outside. The petitioner would like the width of the building to be 36 feet wide because he has a 33-foot

long sailboat. Mr. Kooima stated that he would be okay with a length of 45 feet long, but would like to have at least 45 feet in length. The 36'x45', 1,620 square foot, accessory building would be an adequate building size for the 2-foot increment requirement for accessory buildings. Commissioner Steinhauer asked for clarification that 1,620 square feet is the petitioner's requested accessory building size and if there was going to be an overhang. The petitioner confirmed that request is 1,620 square feet and that the proposed building will have a 2 foot overhang. Commissioner Steinhauer noted that the overhang is usually calculated in the square footage, but staff explained that it is only measured with the structural walls.

Mr. Kooima clarified that the water drains to the south not to the west of the property. He also indicated that he has graphic evidence that the water does indeed flow south along his western property boundary to the south.

Commissioner Rogen brought up the fact that staff included in the report a requirement for 15 foot sidewalls, but 14 and 16 foot sidewalls are more common for accessory buildings. Commissioner Rogen and Mr. Kooima concurred that a 14 foot overhead door would require a 16 foot sidewall. Commissioner Rogen questions whether or not the inclusion of the 35-foot height limit for the accessory building would be redundant and prefers a requirement for 16 foot sidewalls.

Commissioner Gaspar asked staff for clarification on the intent of the 15 foot sidewall requirement and staff mentioned that it was based off of the largest existing residential accessory building in the neighborhood with a maximum of 15 foot sidewalls. Commissioner Even asked if the proposed building will only be for personal storage and the Mr. Kooima stated that it would only be used for personal storage with no intention of commercial use for the building.

Jim Rieff, 5904 N. Swanson Dr., lives directly to the west of the petitioner and is concerned about what size the building will actually be. Mr. Rieff indicated that Mr. Kooima never asked for permission if he could purchase a small portion their land so that he could access his property. Mr. Rieff stated that he has graphic evidence that there are spots where the drainage has collected on his property. He also mentioned the importance of not adding any extra water from the proposed building flowing into my drainfield and wonders who would have to pay for any damages. He added that it is questionable as to whether the two buildings over 4,000 square feet are in the Swansons' Tracts neighborhood. He continued to mention that the existing residential accessory buildings are situated among trees, not directly in the line of sight.

Mr. Rieff noted the fact that you can see the proposed location from both east and west directions on Interstate 90, which would cause the proposed building to be an eyesore for surrounding property owners. If approved by the planning commission, the accessory building should be of similar design and color with respect to the petitioner's house at the bare minimum. He is also concerned that the petitioner will be utilizing a gate on the southwest side of property to access the property, but does not think that it is even possible to fit a boat or other vehicle through there without ripping off the side of the neighbor's garage on the corner. Mr. Rieff stated that he has

seen one boat and a sailboat, but is unsure that what Mr. Kooima will be storing are his personal vehicles.

Linda Rieff, 5904 N. Swanson Dr., is concerned about the drainage of water from the proposed building because her and her husband had a flooding problem about twenty years ago when a house was built on the lot to the north their house and the ground was built up about four feet higher. She indicated that when she talked with planning staff at this time they said that the water will run to the north, but after the house was put in water started flowing to the south onto her property. Since then they have had to pay for damages done to their property from the flood and the flooding issue has been fixed because a trench was installed along Swanson Drive so that the water could drain properly.

Mrs. Rieff is also concerned that the covenants are not being enforced, but Commissioner Steinhauer clarified that covenants are dealt with as a civil matter not a planning and zoning issue. Commissioner Rogen asked for clarification on where Mrs. Rieff's property is in relation to the subject property. She stated that her property is directly adjacent to the west.

David Herrick, 6104 N. Western Ave., is a longtime resident of the area who has seen the Swansons' Tracts subdivision develop and feels like he is a part of the neighborhood even though he lives on the east side of Western Ave. He stated that he has come to a realization of just how poorly planned this development was because of some properties were sold with and without covenants placed on the deeds. He indicated that the people that built according to the requirement for only wood-frame buildings spent a little extra money to build their buildings and it doesn't seem quite fair to them. He continued to mention that the introduction of metal pole buildings may be a sore spot to a lot of people.

Mr. Herrick added that he hopes that the neighborhood can reach a compromise where everyone comes feeling good about the decision. He said that it may take a relocation and redesign of the type of structure to keep a low profile instead of the sight a large metal pole building on top of a hill. He realizes that this may cost more money, but it will save a lot of hard feelings and create a good neighborhood.

Richard Hudelson, 6004 N. Swanson Dr., is another longtime resident and stated that what Mr. Herrick mentioned is pretty accurate. Mr. Hudelson explained that it is unfair to compare the proposed building with the 1,600 square foot accessory building that is ten times as nice and adds significant value to that property. He is certain that the proposed building will not add value to the neighborhood. He continued to mention that the 1,590 square foot pole building that was constructed is not a legal building according to the neighborhood covenants, it was snuck through because the neighborhood didn't know the building was going to be a pole building.

Mr. Hudelson would like the petitioner to adhere to development standards of the Swansons' Tracts subdivision because he is still a part of the neighborhood. He stated that he does not think it is fair to compare the proposed building size to accessory buildings that are not in the neighborhood. He indicated that the decision needs to consider the long-term impacts when the

petitioner is no longer residing in the neighborhood because they may not know what they can do with a building this size. He continued to mention that there is no need for a building this large and that he does not think that the petitioner has enough to store in the proposed building. He thinks that 1,200 square feet would be plenty of space for what Mr. Kooima wants to store.

Bob Larson, 6204 N. Hummingbird Ave., lives directly across the road from the 1,600 square foot building and does not see that building as an eyesore. He indicated that it is sided, painted, and roofed similar to the construction of the house. He added that the accessory building as well as other accessory buildings in the neighborhood fit well with the design of the house and are in a location that would not raise issues for neighbors. He also pointed out that the location of the proposed accessory structure or any future buildings should be located in an area where the entire neighborhood would have to see it as they drive by on Swanson Drive, which is the primary access road for most of the property owners in the Swansons' Tracts subdivision.

Commissioner Pierson asked the petitioner if there was another location further east and closer to the house that isn't so close to the western property boundary to mitigate some of the concerns from neighboring property owners. Mr. Kooima indicated that the main concern from neighbors as he understands it is a visibility issue from Swanson Drive. He added that he has a picture with the proposed building that shows all but 4 feet of the building from 6 feet off the road because the location of the building is just below the slope of the hill.

Commissioner Pierson asked the petitioner how he feels about the suggestions from neighbors about making the accessory building look more like the design of his house. Mr. Kooima stated that he agrees with the suggestions, but they would be more costly. Commissioner Pierson added that it might make the neighbors feel better and the petitioner concurred.

Commissioner Even asked for clarification on the ingress and egress from the proposed building. The petitioner stated that he never intended on accessing the property from the southwest, only from the driveway off of Western Ave. directly to the east of the proposed building location.

Commissioner Even concurred with Commissioner Pierson and asked if the color of the proposed building would match the house. Mr. Kooima mentioned that the building will be a neutral color. Commissioner Steinhauer asked if the petitioner will have asphalt shingles and Mr. Kooima said that the roof will be a dark steel color, not galvanized steel.

Commissioner Randall asked if the trees that shield the building from view are on the neighbors' property. Mr. Kooima indicated that he has trees on his property, the neighbor to the west has trees on their property, and there are no trees to the north of the proposed location for the building.

Mr. Hudelson indicated that the entire building will be visible to everyone as they drive on Swanson Dr. because there are hardly any trees on the western property boundary and the fact that the petitioner will have to build the building up to grade level.

Discussion

Commissioner Rogen suggested that the motion for approval include a change to condition #1 to allow 1,620 square feet with all other conditions as already stated. Commissioner Steinhauer asked if the motion should include any requirements about color or access as has been discussed earlier. Commissioner Rogen stated that he does not prefer that the planning commission get involved in specifying colors for types of buildings and it has already been stated that the petitioner has to use the driveway as access to the proposed accessory building.

Commissioner Dunlap asked if the motion would include the nine stipulations. Commissioner Rogen explained that the motion would include all of the other conditions as stated, it would just change the maximum total accessory building square footage from 1,600 to 1,620 because of the 2-foot increments. Commissioner Randall asked if buildings usually come with 14 foot or 16 foot sidewalls, then does the planning commission need to change the condition. Commissioner Rogen indicated that if the petitioner ends up with a 2'x6' type wall, then he could have 15 foot sidewalls. Commissioner Rogen noted that Mr. Kooima said 15 foot sidewalls would be adequate, so he just kept it at a 15 foot sidewall maximum.

Commissioner Cypher pointed out that we do not enforce covenants, just determine justifiable sizes for accessory buildings. Commissioner Cypher concurred with Commissioner Rogen for what our purposes are, which deal with zoning issues only. Commissioner Randall wondered if there should be a requirement for screening trees. Commissioner Steinhauer indicated that we do get involved with earth-tone colors for buildings. Commissioner Rogen noted that if the petitioner decides to paint his house purple, then are we going to have a purple instead of earth-tone color building.

Commissioner Dunlap suggested that the city make a motion for discussion purposes. He stated that he would have to bow a little to the county's viewpoint on this issue, but he would rather require a stick-built building. He proceeded to mention that Sioux Falls allows neighborhood storage, but it has to be a stick-built building. He thought it was unfortunate that a metal pole building was built previously without the neighbors knowing the specific details.

Commissioner Ervin expressed his concerns about constantly ignoring the requirement for accessory buildings when the reason the zoning ordinance states a maximum of 1,200 square feet is to set an upper limit. He explained that every time that we just look to what has been done in the neighborhood and keep allowing people to go up that high or beyond, we degrade the value of the zoning expectation so that neighbors know what they can expect.

Commissioner Dunlap referred to the drainage issue between the petitioner's property and the neighbor's property to the west about how it can be a big thing. He noted the fact that Sioux Falls requires the applicant to set their corner elevations prior to filing a building permit and asked staff if the county had a similar mechanism. Staff mentioned that the issue between property owners ends as a civil matter.

Action

A motion was made by Commissioner Rogen and seconded by Commissioner Duffy to recommend **approval** of Conditional Use Permit #14-09 with a change in condition #1 to allow 1,620 square feet of total accessory building area. The motion passed unanimously. Same motion was made for the City by Commissioner Dunlap and seconded by Commissioner Ervin. The motion **failed** with 2 nays, 1 aye.

Conditional Use Permit #14-09 – No Action

Old Business

None.

New Business

None.

Adjourn

A motion was made for the City by Commissioner Gaspar and seconded by Commissioner Pierson to **adjourn**. The motion passed unanimously.