

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
June 26, 2017**

A joint meeting of the County and City Planning Commissions was scheduled on June 26, 2017 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Doug Ode, Bonnie Duffy, Paul Kostboth, Mike Ralston, and Jeff Barth.

CITY PLANNING COMMISSION MEMBERS PRESENT: Sean Ervin, Steve Gaspar, Nicholas Sershen, Sharon Chontos, and John Paulson.

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning
Diane de Koeyer – City Planning
Judy Zeigler Wehrkamp – States' Attorney

The County Planning Commission Chair was presided over by Chair Mike Cypher. The City Planning Commission was chaired by Sean Ervin.

Planning Commission Chair Mike Cypher called the joint City of Sioux Falls and Minnehaha County Planning Commission meeting to order at 7:00 p.m.

Consent Agenda

Commissioner Barth made a motion and was seconded by Commissioner Duffy to move Item #2 to the regular agenda for discussion. The motion passed unanimously. The same motion was made for the City by Commissioner Sershen and seconded by Commissioner Paulson. The motion passed unanimously.

The Minutes for the May 22, 2017 meeting was the only item on the consent agenda.

ITEM 1. Approval of Minutes – May 22, 2017

A motion was made for the County by Commissioner Kostboth and seconded by Commissioner Barth to **approve** the meeting minutes from May 22, 2017. The motion passed unanimously. The same motion was made for the City by Commissioner Gaspar and seconded by Commissioner Paulson to **approve** the meeting minutes from May 22, 2017. The motion passed unanimously.

Regular Agenda

A motion was made to **approve** the regular agenda for the County by Commissioner Barth and seconded by Commissioner Duffy. The motion passed unanimously. Same motion was made for the City by Commissioner Sershen and seconded by Commissioner Paulson. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #17-39 to exceed 1,200 square feet of total accessory building area – requesting 1,735 sq. ft. on the property legally described as Tract 4A, Sittig’s Addition, SW1/4, Section 19-T102N-R48W.

Petitioner: Michael VandenBosch

Property Owner: same

Location: 25982 478th Ave. Approximately 1 mile northeast of
Sioux Falls

Staff Report: David Heinold

This would allow 1,735 square feet of total accessory building area.

General Information:

Legal Description – TRACT 4A SITTIG'S ADDITION, SW1/4, Section 19-T102N-R48W, BRANDON TOWNSHIP

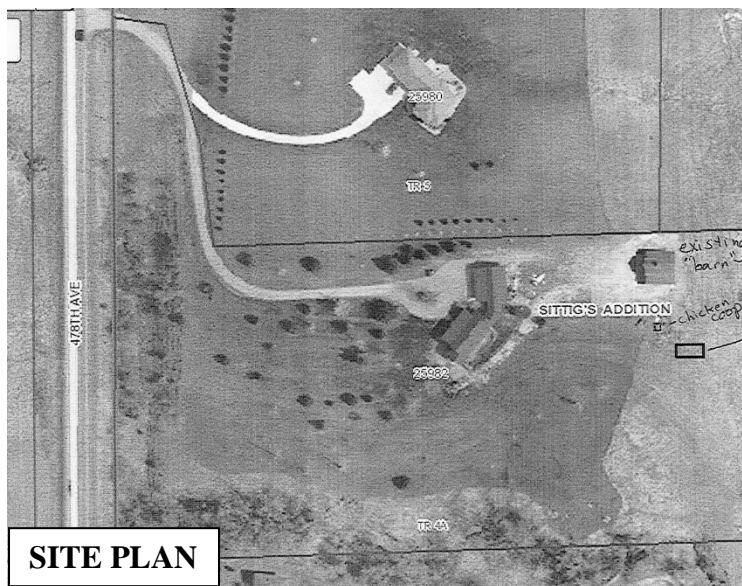
Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 8.10 Acres

Staff Report: David Heinold

Staff Analysis:



The petitioner is requesting conditional use permit approval to allow 1,735 square feet of total accessory building area. The site plan, at left, shows the location of a 15'x30.5' three-sided run-in shed to provide shelter for the 3 equines (a mule, horse, and miniature donkey) just south of the existing 1,197 square foot accessory building constructed in 2013. In addition to this building, there is also an 8'x10' chicken coop located between the existing building and the proposed location for the run-in shed.

This conditional use permit request has been brought forth by the applicant due to a code enforcement issue partly regarding an accessory structure built without a building permit and a conditional use permit as required by the zoning ordinance, which the applicant has paid the required double filing fee for starting work without permit approval.

On April 13, 2017, picture at right, the original complaint was filed regarding junk, scrap, and building materials since last fall 2016. Specifically, the complaint included folding chairs, junk, trailers full of miscellaneous items, discarded wood under lean-to, shingles blowing off roof of three-sided shed, trash blowing into neighbor's yard, old yellow tractor, trucks, trailers, four wheelers, and numerous livestock. On April 14, 2017, staff inspected the property and found piles of tires, leftover building materials, junk tractor, wood shed without a building permit, trailers, and about a dozen total livestock animals. On April 17, 2017, staff sent letter number one for this complaint. On April 21, 2017, staff received a complaint about more tires, junk, and scrap being hauled onto the property over the weekend.



On May 2, 2017, see pictures below, staff met with Judy VandenBosch at the property to discuss the public nuisance ordinance violation. Mrs. VandenBosch explained that the car tires are being used to build a retaining wall for a walkway to the three-sided horse shelter. She mentioned that the horse trailer is in the process of getting weighed and licensed. She also noted that they are trying to sell the old yellow tractor in the front yard, but it is operable. She explained that the trailers full of junk and miscellaneous items plans to be removed by the end of the week. There are also a few pieces of leftover building material lying next to the house that need to be cleaned up or removed from the property.



On May 15, 2017, staff received a complaint regarding 3 trailers full of junk and miscellaneous

items as well as a horse trailer brought onto the property on May 6. The complaint noted that the items on the property include a horse trailer, 3 wooden spools, pallets, and a four wheeler.

On May 24, 2017, staff inspected the property and took the pictures that are included below of



items listed in the complaint. Staff found 5 metal barrels with unknown contents, scrap wood piles, 3 lawn mowers, 2 unlicensed trailers, 2 trailers with what appears to be scrap metal inside, 2 unlicensed tractors, fence materials, steel stakes, landscape rock, and 2 four wheelers. Staff sent letter number two regarding the most recent complaint.

On June 14, 2017, see pictures above, staff discussed the items mentioned above with Mrs. VandenBosch and determined that the property is in compliance with the Public Nuisance Ordinance. However, there are still some remaining house siding materials lying next to the attached garage. Staff informed the petitioner of the leftover building materials and unusable items that need to be placed within an enclosed permanent accessory building or removed from the property.



The property owner has expressed interest in moving the leftover siding materials and indicated that the scrap iron poles will be removed from the property within the next few weeks. The remaining items are being used in the current maintenance or personal enjoyment of the property. The vehicles are all licensed and operable.

There are several large accessory building sizes in the surrounding area. The property owner, 25943 478th Ave., located about one-half mile to the north of the subject property replaced a 40'x60' accessory building on 4.9 acres in 2010 but does own the surrounding 150 acres of land along County Highway 121. The property at 25952 478th Ave. a little less than a half mile north has a 1,440 sq. ft. accessory building on 10.07 acres. The adjoining property to the immediate south, 25994 478th Ave., has 1,848 sq. ft. of total accessory building area on 11.34 acres. Lastly, the property about a quarter mile to the south of the petitioner's proposed building site at 26010 478th Ave. has a 1,500 sq. ft. accessory building on 1.65 acres.

On June 14, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed addition on the north part of the lot. The accessory building is situated on an 8.10 acre parcel. The property owner removed the items listed in the complaint file that staff has noted as public nuisance ordinance violations.



Conditional Use Permit Criteria

1) The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

The proposed use for a three-sided shelter for the petitioner's horses should not have a significant effect on surrounding residential and agricultural properties. The area is primarily agricultural with about a half dozen single family dwellings within a quarter mile of each other. There are existing accessory building sizes relatively comparable and larger than the requested size, 1,735 sq. ft., in the surrounding area.

2) Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

The accessory building may only be used for residential purposes, no commercial or business activities are allowed. The property is zoned within the A-1 Agricultural District, which allows the keeping of a limited number of livestock such as horses, mules, and chickens for personal use and enjoyment. However, failure to maintain the subject property where the livestock will be located according to the Minnehaha County Public Nuisance, Zoning, and Animal Control Ordinances may cause significant impacts to surrounding property owners.

3) The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.

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. The complaint has noted that shingles have been blowing off the roof of the requested three-sided horse shelter, which must meet the current standards in the building code.

4) The proposed use shall not adversely affect the public.

The proposed accessory building should have no effect on the health, safety, and general welfare of the public provided that all county regulations are being met. The use of the three-sided horse shelter for private use and storage will create few problems to neighboring properties. The Envision 2035 Comprehensive Plan identifies the area just outside of the Transition Area for the City of Sioux Falls and within the Agricultural Production Area. The land area not designated as transition or rural service area is considered agricultural production area because it is likely to continue as primarily farm land through the duration of the planning period. Goal 2, Action 2.4, on Page 91 of the Envision 2035 Comprehensive Plan recommends supporting growth that is compatible to adopted municipal comprehensive plans.

In the Future Land Use Plan section of the Envision 2035 Comprehensive Plan,

Goal #2 aims to coordinate growth and land use planning among Minnehaha County, Cities, Townships, and other relative organizations. The result of this coordination is cooperation between County, Cities, and Townships for planning and implementing strategies and land use procedures.

The subject property is located just outside of the City of Sioux Falls growth area. In the Shape Sioux Falls 2040 Comprehensive Plan the area is proposed to be identified as rural that contains vast areas of agricultural land on which urban development will not be desirable during the planning period.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-39 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 1,735 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.
- 7.) That all accessory structures must comply with the 2015 International Building Code Regulations.
- 8.) 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 Revised Joint Zoning Ordinance for the City of Sioux Falls and Minnehaha County.

PUBLIC TESTIMONY

David Heinold, County Planning, presented a brief overview of the staff report. Mr. Heinold recommended that the joint planning commissions add a condition that the property shall be in compliance with the Declaration and Abatement of Public Nuisances Ordinance MC33-04.

Commissioner Cypher questioned the process for requiring a conditional use permit. Staff explained that the petitioner has paid the penalty fee for constructing a building without prior conditional use permit approval. Commissioner Cypher asked staff whether the structure has been inspected and staff stated that the structure has not been inspected at this time.

Commissioner Gaspar concurred with Commissioner Cypher that the horse shelter should have been inspected by county staff prior to the planning commission meeting.

Commissioner Cypher asked staff about the current compliance status of the property with the public nuisance ordinance. Staff indicated that the only issue on the property is the old yellow tractor that hasn't moved from the spot by the entrance to the driveway off of 478th Ave.

Commissioner Sershen asked about the building permit and inspection process for an accessory building. Staff explained that the petitioner is required to bring the building into compliance with the building code regulations.

Commissioner Paulson questioned which building staff is referring to during the previous discussion. Staff explained that the 15'x30.5' three-sided horse shelter is located just southeast of the 8'x10' chicken coop.

Judy VandenBosch, 25982 478th Ave., identified herself as the property owner and mentioned that they were told by the realtor they are not in a subdivision nor need a building permit for a horse shelter when they purchased the property. Mrs. VandenBosch explained that the animals were bought last fall and needed some kind of shelter. She continued to mention that they poured the footings and put up a partial building as winter was already beginning at that time.

Mrs. VandenBosch told the planning commission that they were planning to work on the building in the spring, but received a letter in the mail about needing a building permit that caused them to cease all work. She continued to mention that they called the planning office and were told they need conditional use permit approval prior to any inspection being performed on the structure. She also provided details pertaining to the quality of the structural wood and maintenance of the yard due to the shingles blowing off the horse shelter roof.

Commissioner Cypher asked the petitioner if all of items related to the public nuisance ordinance violation had been addressed. Mrs. VandenBosch explained that the yellow tractor was used for mowing previously, it is in working order, and they are trying to sell it to bring the property into compliance with county regulations. She continued to mention that they left the tractor in the same spot because it is in the process of being sold.

Commissioner Barth indicated that the current structure is subpar, but asked the petitioner how it will look when it will be completely finished. Mrs. VandenBosch mentioned that stained or painted 6-foot cedar panel fencing will be used to finish the structure.

Commissioner Barth questioned if the planning staff has any authority over what the siding on the building will look like. Scott Anderson, County Planning Director, explained the process of obtaining conditional use permit approval first, then a building permit as well as the inspection process.

Commissioner Ralston asked staff about the conditional use permit for a larger accessory building size and Mr. Anderson confirmed that the request is about the total building size.

Kevin Neuheisel, 25980 478th Ave., identified himself as the property owner just north of the subject property and have been there for just less than twenty years. Mr. Neuheisel added that they are not here to contest the requested total accessory building area, but they want to be insured that the property is brought up to current regulations and the building code standards. He continued to mention that they have windows directly facing the property in question and that the adjacent property is devaluing their property with the current conditions.

Mr. Neuheisel indicated that all of the other similar properties being compared to the subject property in terms of accessory building area are kept clear of junk and other miscellaneous items. He explained that they should not have to look at junk/scrap, buildings that don't match the house, and other miscellaneous items from their house. He noted that the current structure does not meet the minimum building code standards, which devalues property values due to the substandard condition.

Commissioner Cypher called for additional public testimony, but there was no answer.

Commissioner Cypher closed the floor to public testimony.

DISCUSSION

Commissioner Duffy brought up for discussion the additional condition recommended by planning staff about compliance with the County Public Nuisance Ordinance.

Commissioner Barth asked staff how the wording of the condition should be and staff explained that it needs to reflect the title of the ordinance, "Declaration and Abatement of Public Nuisances MC33-04".

Commissioner Sershen questioned adding the condition regarding compliance with the public nuisance ordinance and staff explained that the additional condition allows recall/review of the conditional use permit for a larger accessory building area if the property owner fails to meet the conditions of approval.

Commissioner Duffy made a motion for the County to add condition #9, "that the property must

be in compliance with the Declaration and Abatement of Public Nuisances Ordinance MC33-04” with further consideration of the conditional use permit request and was seconded by Commissioner Barth. The motion passed unanimously.

The same motion was made for the City by Commissioner Sershen to add condition #9, “that the property must be in compliance with the Declaration and Abatement of Public Nuisances Ordinance MC33-04” with further consideration of the conditional use permit request and seconded by Commissioner Chontos. The motion passed unanimously.

Commissioner Barth indicated that some livestock on a rural acreage is reasonable to expect in this area. He added that it is good to have shelter for the animals, but the building must be built to the current building code standards.

Commissioner Cypher concurred that the accessory building size is appropriate, but the building needs to be corrected to proper standard. Commissioner Kostboth also agreed that the current situation needs to be brought into compliance with county regulations.

ACTION

A motion was made for the County by Commissioner Kostboth with the addition of condition #9 and seconded by Commissioner Ralston to **approve** Conditional Use Permit #17-39. The motion passed unanimously. The same motion was made for the City by Commissioner Sershen and seconded by Commissioner Chontos to **approve** Conditional Use Permit #17-39. The motion passed unanimously.

Conditional Use Permit #17-39 – Approved with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 1,735 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.
- 7.) That all accessory structures must comply with the 2015 International Building Code Regulations.
- 8.) 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 Revised Joint Zoning Ordinance for the City of Sioux Falls and Minnehaha County.
- 9.) That the property must be in compliance with the Declaration and Abatement of Public Nuisances Ordinance MC33-04.

Old Business

None.

New Business

None.

Adjourn

A motion was made for the County to **adjourn** by Commissioner Barth and seconded by Commissioner Kostboth. The motion passed unanimously. The same motion was made for the City to **adjourn** by Commissioner Sershen and seconded by Commissioner Gaspar. The motion passed unanimously.

The meeting was **adjourned** at 7:52 pm.