

**MINUTES OF THE JOINT MEETING  
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS  
November 27, 2017**

A joint meeting of the County and City Planning Commissions was scheduled on November 27, 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, Becky Randall, Paul Kostboth, Bonnie Duffy, Mike Ralston, and Jeff Barth.

CITY PLANNING COMMISSION MEMBERS PRESENT: Kurt Johnson, Sean Ervin, John Paulson, Larry Luetke, and Sharon Chontos.

**STAFF PRESENT:**

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning  
Jeff Schmitt – City Planning  
Maggie Gillespie – States’ Attorney

The County Planning Commission Chair was presided over by Chair Mike Cypher. The City Planning Commission was chaired by Kurt Johnson.

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 Cypher read each item on the agenda individually. There were no objections to any of the items listed on the consent agenda by either the planning commissions or members of the audience.

A motion was made for the County by Commissioner Barth and seconded by Commissioner Randall to **approve** the consent agenda consisting of Items 1 and 2. The motion passed unanimously. The same motion was made for the City by Commissioner Chontos and seconded by Commissioner Ervin. The motion passed unanimously.

**ITEM 1. Approval of Minutes – October 23, 2017**

As part of the consent agenda, a motion was made for the County by Commissioner Barth and seconded by Commissioner Randall to **approve** the meeting minutes from October 23, 2017. The motion passed unanimously. The same motion was made for the City by Commissioner Chontos and seconded by Commissioner Ervin to **approve** the meeting minutes from October 23, 2017. The motion passed unanimously.

**ITEM 2. CONDITIONAL USE PERMIT #17-82 to allow Rock, Sand, and Gravel Extraction on the property legally described as Gov't Lot 2 (Ex. H-1 & H-2), Section 31-T102N-R48W.**

Petitioner: Jason Bowes

Property Owner: Timothy Dale Brown

Location: Southwest corner of the intersection of E. Rice St. & SD Hwy. 100

Staff Report: Scott Anderson

This would allow Rock, Sand, and Gravel Extraction.

**General Information:**

Legal Description – Gov't Lot 2 (Ex. H-1 & H-2), Section 31-T102N-R48W

Present Zoning – A1 Agriculture

Existing Land Use – vacant

Parcel Size – 65.70 acres

**Staff Report:** Scott Anderson

**Staff Analysis: Location and Background**

The site is located on the east side of Sioux Falls at the intersection of Rice Street and the new SD Highway 100 (Veterans Parkway). Sand and gravel deposits are found along the slopes of the Big Sioux River and other extraction operations currently exist west of this area. Pasture and crop land are the predominate land uses in the area. As you move to the west into Sioux Falls, there are several industrial areas along Rice Street.

**Planning Considerations**

The applicant has not provided the Planning Department with an estimate on the duration of the mining activity on the subject property. The projected life of most mining operations is dependent on the demand for aggregate for construction. Extraction will be done with earth moving equipment. No blasting will occur on the site. Staff will recommend that all mining activity be concluded within ten (10) years. Should more sand and gravel extraction be called for, then the applicant will need to amend this conditional use permit to extend the life of the permit.

The applicant has not shown any internal haul roads. It is likely that any internal haul roads would change as the mining moves around the site. The applicant has stated that the haul road would exit onto SD Highway 100 (Veterans Parkway). The applicant has met with the SD Department of Transportation to discuss the use and impact to Highway 100. No formal documentation for access onto SD Highway 100 has been provided to the Planning Department but the applicant says that the SD DOT will allow access onto SD Highway 100.

The zoning regulations list developmental and operational criteria for use in evaluating extraction activities. Following is a review of the proposal based on the criteria. Please note that the proposed use is for rock, sand and gravel extraction as regulated by Article 15.14 of the Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls.

**Buffer area** - The suggested minimum setback between extraction areas and existing residences is 1000 feet. There are no residences located within the buffer area.

**Hours of operation** - The zoning criteria suggests that mining operations be limited to the hours from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays. Other activities such as office or maintenance operations, which produce no noise, are not restricted to the times listed above.

**Berms** - Berms are commonly used to screen on-site activities from public view and to minimize noise. The petitioner has indicated that berms would be considered if requested. The subject property is located near the intersection of a new major highway into Sioux Falls. Staff recommends that berms be constructed to minimize the impacts. The applicant shall submit a landscape plan showing the location of the proposed berms and how they will be vegetated to the County Planning Director prior to opening of the sand and gravel pit.

**Noise** - 55 decibels recorded over a 10 minute period measured at the nearest residence. This standard is generally addressed on a complaint basis.

**Dust** - Air quality should not be a concern due to the nature of the extraction operation. Dust from truck traffic can be controlled by applying dust control agents to the haul road. The applicant has offered to pave this portion of the haul road to minimize the dust. The balance of the haul road shall be treated with a dust suppressant so that dust is eliminated. The County Planning Department should be given authority to require the operator to install on-site monitoring devices if air quality becomes a problem.

**Hydrology, dewatering and drainage** – The applicant has indicated that no dewatering of the pit is anticipated so the area’s hydrologic conditions should not be impacted. The applicant shall be required to obtain a South Dakota Surface Water Discharge Permit for Storm Water Associated with Industrial Activities if required by the state.

The applicant has not provided the Planning Department with a hydrologic review of the site. The applicant provided an Army Corps of Engineers 404 Report from 2014. The 404 Permit was part of the Highway 100 documents needed for construction. A hydrologic review typically would indicate any dewatering plans, information on the water table, and depth of sand and gravel materials. The hydrologic information would also make a statement on whether there would be any impacts to surrounding shallow and deep wells as a result of the mining operations and a conclusion on the activities. Should the Planning Commission wish to have a hydrologic review for the subject property, the conditional use permit will need to be continued in order for

the study to be prepared and reviewed by staff.

**Haul roads** - The most common problem associated with extraction operations is the use of gravel township roads for truck hauling. In this case, the haul road will exit directly onto SD Highway 100 (Veterans Parkway). The applicant indicated in the narrative accompanying the application that they have contacted the SD Department of Transportation and that the DOT has granted access off of SD Highway 100. The applicant has not indicated the location of the haul road for staff to review. The applicant will be required to obtain a "Highway Access Permit" from the SD DOT for the new haul road. The applicant will hard surface the haul road for a distance of 100' off of SD Highway 100. This will reduce dust and mud tracking onto SD Highway 100. The applicant will be responsible for the maintenance of the hard surfacing of the portion of the haul road for the duration of the extraction. Once extraction is concluded and the site has been completely reclaimed, the applicant shall either remove the hard surfacing or leave the hard surfacing depending on the wishes of the property owner.

**Operator surety** – Article 15.14.G requires a surety bond to be filed with the County Auditor to protect the County in the event the operator abandons the site without completing the required conditions of approval. The standard amount of \$5,000.00 surety shall be required.

**Reclamation** – The plan submitted by the applicant simply indicates that the topsoil will be stripped and stockpiled for use in reclamation. The site will be reclaimed for agricultural uses either as tillable farm ground or pasture. The site shall be restored to a farmable or natural status within one (1) year of the conclusion of mining operations. Reclamation should result in the rehabilitation of affected land through contouring and soil stabilization, revegetation and other appropriate means so as to create an aesthetic appearance and promote the most appropriate future use of the property. The applicant shall be required to follow the reclamation requirements of the Minnehaha County Zoning Ordinance as outlined in Article 15.14(G). The site shall be returned to agricultural use.

The applicant is also required to post a \$20,000.00 surety with the State of South Dakota in order to obtain the state mining permit. The applicant has indicated that they have many years of operator experience in Minnehaha County and value their reputation as good business people.

**Security** – The Zoning Ordinance suggests that the sand and gravel operation site should be secured during non-working hours by means of gates and fencing. The gates and fences should remain in place until all required reclamation activities have been completed. Staff will include these considerations in the recommended conditions of approval.

**Other considerations** - The entrance to the property should be gated to discourage individuals from disposing of refuse in the pit during non-working hours. The subject property is not located with any flood hazard areas defined by FEMA or within the Water Source Protection Overlay District.

The City Planning Department has reviewed the requested and noted that the location is a potential habitat for the lined snake and western prairie fringe orchid, both endangered species. An Environmental Assessment was conducted along this area in 2013 in preparation for the SD Highway 100 construction project. Neither of the endangered species were found in the area. The city had no other comments.

**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 majority of uses in the general vicinity revolve around agricultural production. The proposed use should not impact the property values of the agricultural land in the general vicinity. With proper planning and execution of the plan, the proposed sand and gravel extraction should not effect of the enjoyment of other properties in the immediate vicinity. There are no residences located within the suggested 1,000 foot buffer area.

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

The proposed use could have an impact on the development of surrounding vacant property. While most agricultural uses, such as animal husbandry or crop production, would not be impacted by the proposed use, some uses such as rural residences may not desire to locate near this proposed use. The proposed use will generate additional heavy truck traffic, and minor amounts of noise and dust. Staff is recommending that all mining activities conclude within ten (10) years.

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

The existing road infrastructure will be utilized for this proposed land use. The applicant has contacted the SD Department of Transportation and will meet their requirements. No other infrastructure is needed for this land use.

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

Article 16 does not set any off street parking requirements for this land use. Staff recommends that a minimum of one off-street parking space for each employee and an additional two off-street spaces for customers be provided.

**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.**

With the proposed sand and gravel extraction, there is a possibility of noise, dust and vibration to occur. Staff has addressed dust and noise in the recommended conditions of approval. The hours of operation will reduce the possibilities of these elements becoming a nuisance. Staff is recommending that the first 100 feet of the haul road off SD Highway 100 be hard surfaced. This will help to control dust from vehicular traffic.

**6) Health, safety, general welfare of the public and the Comprehensive Plan.**

This area has been identified in the Envision 2035 Comprehensive Plan as an area that is suitable for mineral extraction. With this type of use, there can be safety concerns, but staff feels these safety concerns have been mitigated by the recommended conditions of approval.

Staff finds the proposed sand and gravel extraction use compatible to the surrounding land uses and a use that can be found in the general vicinity. With proper zoning controls, the use can be conducted in such a manner to minimize potential nuisances.

**Recommendation:** Staff recommended **approval** of Conditional Use Permit #17-82 to allow rock, sand and gravel extraction with the following conditions:

- 1.) An annual fee shall be paid to the County in accordance with Section 15.14 of the zoning regulations. (Note: An annual fee of \$10 per acre of unreclaimed land is assessed to the operator.)
- 2.) Hours of operation shall be from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays.
- 3.) That the only dewatering shall be for use in dust control, road projects and rock washing. The applicant shall obtain any required permits from the state for use of the water.
- 4.) That prior to any sand or gravel extraction, the applicant shall obtain a Highway Access Permit from the SD Department of Transportation for the new approach onto Highway 100 (Veterans Parkway).
- 5.) The haul road shall be hard surfaced with a minimum of a 6 inch granular base course and a 2 inch thickness of asphalt or a 7 inch thickness of Portland cement concrete for a minimum distance of 100 feet off of SD Highway 100. The applicant shall maintain the haul road in good condition for the duration of the mining and reclamation activity.
- 6.) The ambient air quality standards for total suspended particulate matter shall be 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once a year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM10 (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
- 7.) The County Planning Department shall direct the operator to install air quality sampling stations if the standards appear to be exceeded. Such monitoring shall be at the operator's expense.
- 8.) The sound level from on-site operations shall not exceed an average of 55 decibels recorded over a 10 minute period measured at the nearest residence.
- 9.) That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
- 10.) The boundaries of the extraction area shall conform to the site plan submitted with the application.
- 11.) Topsoil and overburden shall remain on the site and be used in final reclamation.
- 12.) Only clean fill shall be used as backfill.
- 13.) There shall be no storage or accumulation of inoperable or discarded equipment or parts.
- 14.) A gate shall be required at the haul road entrance to the property.
- 15.) That all mining activity is concluded by January 1, 2028 and that reclamation shall be in accordance with the plan filed with the State and outlined in the application and all reclamation of the site shall be completed by December 31,

- 2028 in accordance to all requirements outlined in Article 15.14(G) of the Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls.
- 16.) That if one (1) or more acres of area is disturbed, the applicant is required to obtain a General Permit from the Department of Environment and Natural Resources.
  - 17.) That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
  - 18.) The sand and gravel operations shall be secured during non-working hours by means of gates and fencing. The property shall be continuously secured until all required reclamation activities have been completed.
  - 19.) The applicant shall submit a landscape plan showing the location of the proposed berms and how they will be vegetated to the County Planning Director prior to opening of the sand and gravel pit.
  - 20.) That the Planning Department reserves the right to enter and inspect the contractor's shop and storage yard, diesel truck repair and taxidermy shop 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 Minnehaha County and the City of Sioux Falls.

**Action**

As part of the consent agenda, a motion was made for the County by Commissioner Barth and seconded by Commissioner Randal to **approve** Conditional Use Permit #17-82 with staff recommended conditions. The motion passed unanimously. The same motion was made for the City by Commissioner Chontos and seconded by Commissioner Ervin. The motion passed unanimously.

**Conditional Use Permit #17-82 – Approved**

**Regular Agenda**

**ITEM 3. ZONING TEXT AMENDMENT #17-04 to amend Section 15.07 of the Revised Joint Zoning Ordinance for the City of Sioux Falls and Minnehaha County.**

Petitioner: County Planning Staff

Staff Report: Kevin Hoekman

This will amend regulations pertaining to the allowable size of Accessory buildings according to parcel size.

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

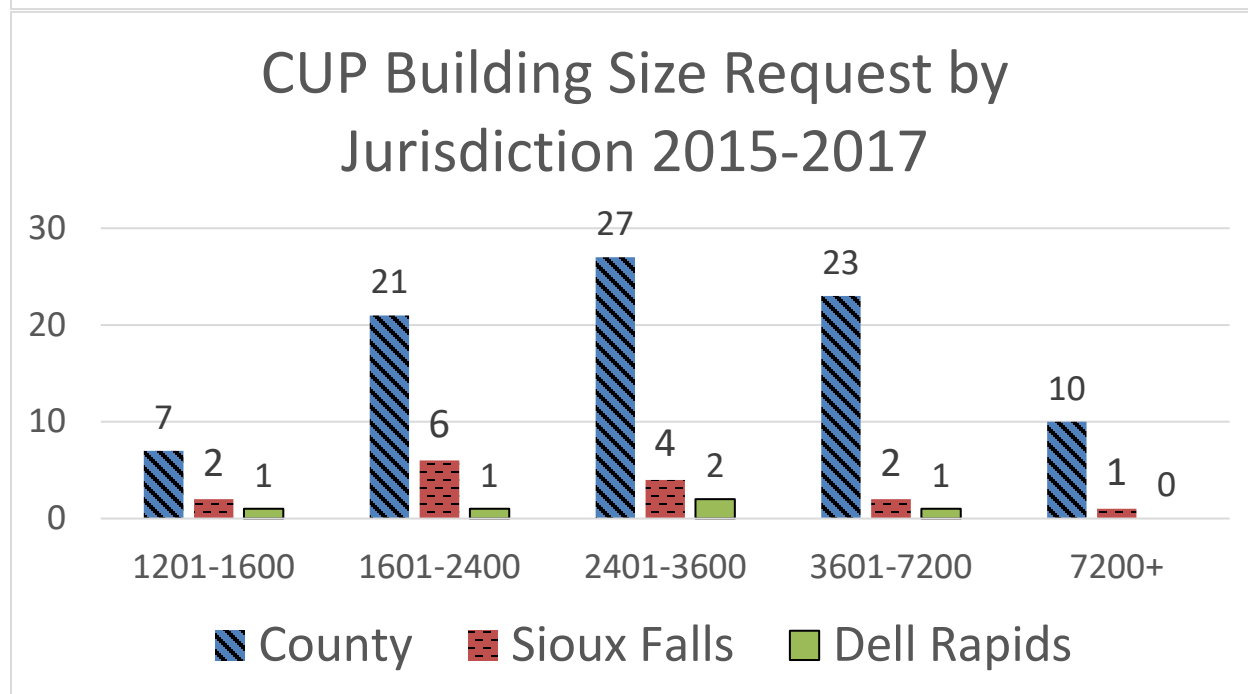
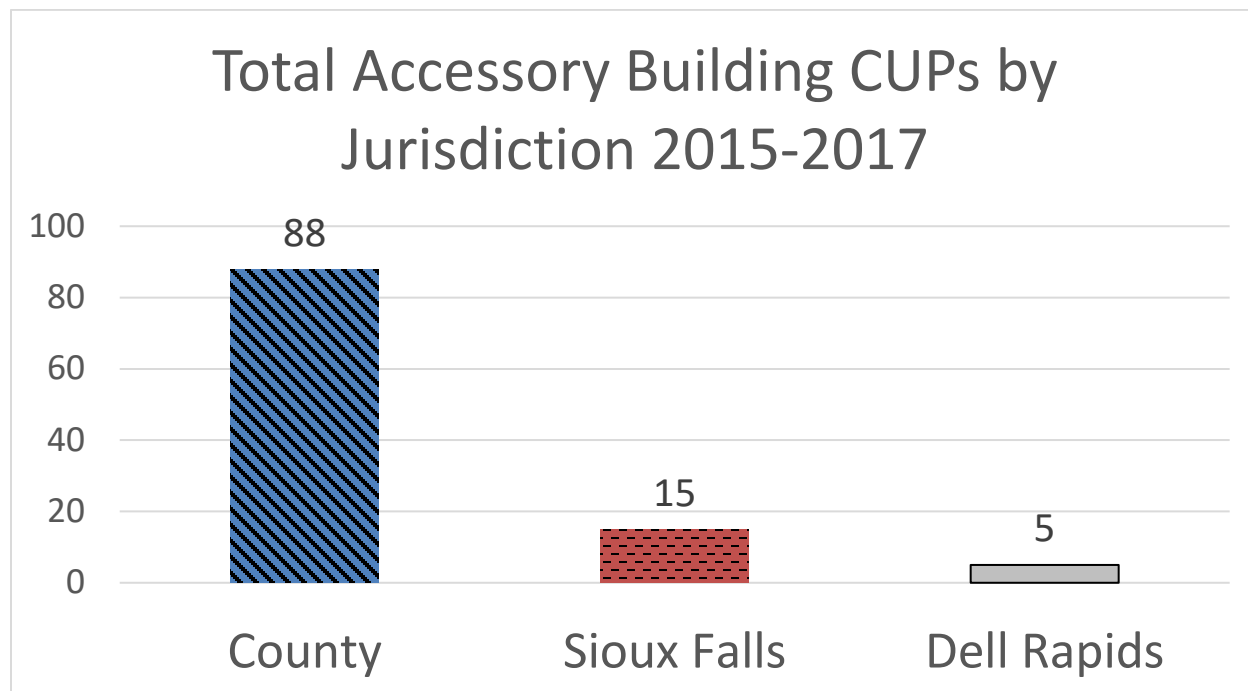
Over the last few months, the Planning Commissions for the county and Sioux Falls have requested planning staff to review possible updates to the allowable size of accessory buildings in the joint jurisdiction area of the county. The primary concern with the current ordinance is that the planning commission has been approving many permits and some concern over the time each commission takes to review accessory building requests for smaller sized requests. County planning staff has worked with staff from the City of Sioux Falls to develop a range of possible building sizes based on the size of the parcel. The proposed table of accessory building size is below:

Table 4 Total Permissible Area of Accessory Buildings	
Size of Parcel	Total Permissible Area of Accessory Building Footprint
1.0 acres or less	1,600 Square Feet
1.1 to 3.0 acres	2,400 Square Feet
3.1 acres or more	3,600 Square Feet

Planning staff reviewed the last three years of conditional use permit requests for larger accessory buildings. The review covered data of what jurisdiction permits were issued and what size of accessory building was requested. Below are two charts with results of the review.

Note: the planning commission for the City of Dell Rapids also asked for a review. The CUP requests for Dell Rapids are included in the review charts.





A review of planning commission decisions was also done for the past three years for the joint jurisdiction. In the last three years there were 15 CUP applications for larger accessory buildings. 11 applications were approved with the area of building that was requested. One CUP application was denied. And three CUP applications were approved with an area that was smaller than what was requested (example: requested 3,000 square feet and approved 2,400

square feet).

The building size request chart reflects what has been a concern from the Planning Commissions; larger buildings are generally being approved for sizes well above the current 1,200 square foot threshold. A shift to allowable size based on parcel size will relieve some of the CUP applications.

In addition to the table of permissible area for accessory buildings, one minor clarification amendment is proposed. The amendment is to clarify that accessory buildings are allowed in the RC-Recreational/Conservation Zoning District with the same regulations as any other district that allows single family dwellings. This amendment does not change how the ordinance is enforced.

The entire proposed ordinance is included with this staff report. The first copy includes amendments that are underlined for additions and struck through for items for removal. The second copy has the ordinance with all amendments made.

**Recommendation:**

Staff considers recent year's accessory building requests and the request of planning commissions for a revised ordinance, and staff recommends **approval** of Zoning Text Amendment # 17-04.

**Public Testimony**

Kevin Hoekman, County Planning, presented a brief summary of the staff report and recommendation for the text amendment. Kevin noted that the item will move forward to the Joint County Commission and City Council meeting on January 23<sup>rd</sup> 2018.

**Action**

A motion was made by Commissioner Kostboth and seconded by Commissioner Ode to **approve** Text amendment #17-04. The motion passed unanimously. The same motion was made for the City by Commissioner Paulson and seconded by Commissioner Luetke. The motion passed unanimously.

**Text Amendment #17-04 – Recommended for Approval**

**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 Paulson and seconded by Commissioner Chontos. The motion passed unanimously.

The meeting was **adjourned** at 7:10 pm.