



**MINNEHAHA COUNTY & CITY OF SIOUX FALLS
PLANNING COMMISSION
MEETING MINUTES**

MAY 24, 2021

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
May 24, 2021**

A joint meeting of the County and City Planning Commissions was held on May 24, 2021 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building and in the Zoom Personal Meeting Room ID 728 439 8039.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Adam Mohrhauser, Doug Ode, Ryan Vandervliet, and Jeff Barth.

Commissioner Erik Nyberg chaired the City of Sioux Falls Planning Commission, and called for roll call of City of Sioux Falls Planning Commission members present to determine quorum.

CITY PLANNING COMMISSION MEMBERS PRESENT: Sean Ervin, Dana Fisher, Kurt Johnson, Janet Kittams, Larry Luetke, John Paulson, and Erik Nyberg.

STAFF PRESENT:

Scott Anderson and Kevin Hoekman - County Planning
Eric Bogue – States Attorney’s Office
Albert Schmidt – City Planning

The County Planning Commission was presided over by Commissioner Bonnie Duffy. The City Planning Commission was chaired by Erik Nyberg.

Chair Duffy called the joint Minnehaha County and City of Sioux Falls Planning Commission meeting to order at 7:15 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment.

Emmett Reistroffer, 1905 S. 7th Ave, Sioux Falls, discussed medical cannabis. He noted that he has worked in the industry elsewhere and now does consulting. He would like to help in any way possible with how the industry is run elsewhere.



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ITEM 1. Approval of Minutes – April 26, 2021

Chair Duffy called for any comments or amendments to the minutes. Nobody raised any comments or additions.

A motion was made for the County by Commissioner Barth and seconded by Commissioner Mohrhauser to **approve** the meeting minutes from April 26, 2021. The motion passed unanimously.

The same motion was made for the City by Commissioner Johnson and seconded by Commissioner Luetke to **approve** the meeting minutes from April 26, 2021. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 2. CONDITIONAL USE PERMIT #21-37 to allow a Dog Training Facility – Scent Discrimination on the property legally described as Lot 8 in Block 2 of Blue Meadows, NW1/4, Section 34- T101N-R50W.

Petitioner: Roger Lutt

Property Owner: same

Location: 8209 W. 46th St. Located Southwest Sioux Falls

Staff Report: Scott Anderson

General Information:

Legal Description – Lot 8 in Block 2 of Blue Meadows, NW1/4, Section 34- T101N-R50W

Present Zoning – Rural Residential

Existing Land Use – residential

Parcel Size – less than ½ acre

Staff Report: Scott Anderson

Staff Analysis: The applicant is requesting a conditional use permit to operate a dog training facility out of his home as a home occupation. The applicant has provided a narrative explaining the type and scope of the training activities. He will not be boarding any dogs overnight. Generally he would be holding classes approximately twice weekly that run for approximately 1 hour long. He works with the dogs and owners on scent training. He would also offer limited private individual sessions during the day. The training would be conducted in his basement with some training also being done in the rear coach house and garden shed. The applicant’s narrative has been included for the Planning Commission’s review. In addition more information about scent training can be found at the applicant’s website: www.K9NoseSports.com.

Conditional Use Permit Criteria:

(a) 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.

Generally this type of home occupation has limited effect and impact on neighboring properties. The hours of operation are limited and will be set in the conditions of approval. Many other home occupations operate in the County, such as day cares, gun sales, crafts productions and sales and others. While the training will occur indoors, it should have minimal impacts.

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



Parking is a major consideration when evaluating a home occupation. The applicant has indicated that the class size is limited to 5 dogs. It is likely that each dog will be accompanied by its trainer and that all five trainers and dogs will arrive in separate vehicles. The applicant has an attached triple stall garage with a cement and gravel apron large enough to accommodate 6 cars. Staff will make a condition that at least 6 off-street parking spaces be provided and that no parking be allowed on West 46th Street.

(c) 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.

The training will take place primarily inside the dwelling. Furthermore, the applicant has indicated in his narrative that barking dogs are not allowed. The applicant has a fully fenced yard, providing screening for the surrounding houses. The interior training will eliminate noise.

(d) The proposed use shall not adversely affect the public.

The proposed use should not adversely affect the public. Contrary, the training of dogs for scent may have benefits to the community at large.

(e) Health, safety, general welfare of the public and the Comprehensive Plan should be considered as part of the request.

Generally a home occupation does not harm the health or safety of the community. The welfare of the public may even be enhanced by allowing dog scent training. The zoning of the area remains intact, respecting the intent of the Comprehensive Plan.

Recommendation: Minnehaha County planning staff recognizes the proposed use as compatible with the surrounding land uses and the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #21-37 with the following conditions:

1. A minimum of six (6) off street parking spaces must be provided. No parking shall be allowed on West 46th Street.
2. That training class sizes be limited to 5 dogs. No dog boarding shall be allowed.
3. All new and replacement lighting must be pointed downward and of fully shielded and cutoff design as to prevent light from shining on other property.
4. The hours of operation shall be 9 am to 9 pm, Monday thru Saturday.
5. That any signage meets the requires set forth in Article 17 (On-Premise Signs) and obtain a building permit prior to installation.
6. The applicant obtains as SD Sale Tax License and collects sales tax as needed.
7. This Conditional Use Permit is granted to Roger Lutt and non-transferable to any future owner or leasee of the subject property.



8. That the Planning & Zoning Department reserves the right to enter and inspect the site, 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:

Scott Anderson, county planning staff, presented a brief explanation of the staff report and recommendation.

Commissioner Johnson commented that similar permits in the city have not been allowed to limit on street parking. He asked city planning staff if the process is different for the joint area. Albert Schmidt of city planning staff noted that the rules would follow joint jurisdiction regulations and that city staff has no concerns including the parking limitation to let the property owner know how to direct customers of the dog training. Commissioner Johnson further asked if the condition could lead to a no parking zone when the property is annexed into the city. Albert Schmidt responded that all the neighbors would have to request a no parking zone from engineering before a no parking zone would happen.

Commissioner Fisher asked for the size of the lot and if the city or county requires any liability insurance. Scott Anderson responded that the property is about 100 by 200 feet, and that liability insurance has been upon the applicant to determine the need. Commissioner Fisher continued to ask about staff reason for limiting hours from 9:00 am to 9:00 pm. Scott Anderson responded that the narrative includes training classes until 8:30, and the 9:00 pm finish time will allow for the inevitable lingering of customers after classes.

The petitioner was not present for the hearing. And nobody else was present to comment on the item either.

Actions:

Commissioner Barth made a motion to **defer** action on Conditional Use Permit #21-37 to the June 28th Planning Commission meeting. The motion was seconded by Commissioner Ode. The motion passed unanimously.

Commissioner Lueke made the same motion for the city planning commission to **defer** action on Conditional Use Permit #21-37 to the June 28th Planning Commission meeting. The motion was seconded by Commissioner Johnson. A roll call vote was taken and the motion passed with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-37 – Deferred to the June 28th Planning Commission Meeting



ITEM 3. CONDITIONAL USE PERMIT #21-40 to allow a Group Day Care – In Home Family Day Care on the property legally described as W15', Lot 30 and all Lot 31, Block 2, Sioux Gardens Subdivision, Section 22-T102N-R49W.

Petitioner: Tammy Zenner

Property Owner: Rick & Tammy Zenner

Location: 1300 E. Beverly St. Located Approximately 0.5 mile north of Sioux Falls

Staff Report: Kevin Hoekman

General Information:

Legal Description – W15', Lot 30 and all Lot 31, Block 2, Sioux Gardens Subdivision, Section 22-T102N-R49W

Present Zoning – A1-Agriculture

Existing Land Use – Residential lot

Parcel Size – Approximately 0.28 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to have a group daycare inside the home on the property. A group daycare is defined as having seven to twelve children under the age of fourteen including the provider's own children six years and under.

The property is located in a subdivision located north of the City of Sioux Falls. Beverly Street functions as a dead end road that serves only the subdivision. It is also narrow and composed of gravel surfacing. All the attributes of the road cause traffic to naturally travel slowly down the street.

The petitioner submitted a brief narrative with the application. In the narrative, the petitioner explains that she provided registered daycare services in the past and has worked with children on various levels. She states in the narrative that she desires to be a registered daycare again and that she is taking classes in preparation for the in home daycare. The narrative further explains that the plan is to ha up to 12 children from the working hours of 6:30 am. to 5:30 pm. The backyard is already fenced in with play equipment.

City planning staff reviewed the request and submitted a letter with recommendation for approval. The letter notes that the daycare will be required to submit paperwork with the city once the property is annexed into Sioux Falls.

Conditional Use Permit Criteria:



(a) 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 will take place within a single family dwelling in a single family neighborhood. Additional traffic will take place in the mornings and afternoons for pick up and drop off, and physical changes will likely be limited to additional play structures in the rear yard. The use of the property as a daycare is generally compatible with the adjacent properties.

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

The use of the property for a group daycare will require little to no alteration to the property or the neighborhood.

(c) 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.

The use of the property as a group daycare will not produce significant negative effects and add minimal additional traffic.

(d) The proposed use shall not adversely affect the public.

The proposed use will have no adverse effect on the public. Daycares are a needed service for many working parents. A well operated daycare is a valuable asset for the public.

Health, safety, general welfare of the public and the Comprehensive Plan should be considered as part of the request.

The health safety and general welfare of the public will not be negatively affected by the proposed use.

It is important to note that a daycare with 12 or fewer children is not required to register with the state of South Dakota. State registration with the Department of Social Services provides basic assurances of safety including, but not limited to, background checks of care providers, trainings, meal requirements, and discipline requirements. The Planning Commission should include conditions of approval for children safety, and the Planning Commission may further consider requiring state registration with the Department of Social Services. The petitioner stated in the narrative that state registration is part of her plan for operating the daycare.

The property has an existing conditional use permit for a bed and breakfast. The petitioner has stated to staff that they have not pursued operation of the bed and breakfast and do not plan to use it. Staff recommends approval of this conditional use permit voids conditional use permit 20-45 in order to avoid conflicting property uses in the same dwelling.

Recommendation:

Staff recommends **approval** of Conditional Use Permit #21-40 with the following conditions:



- 1.) The number of children taken care of on the site may not exceed 12 children under the age of 14. No more than 4 of the 12 children may be less than 2 years of age, and no more than 2 children may be less than 1 year of age.
- 2.) Any firearms, archery equipment and kitchen sharps must be inaccessible to children.
- 3.) The petitioner shall provide proof of CPR certification to be filed with the Planning Department and continually maintained/renewed every two years.
- 4.) The petitioner shall provide proof of minimum \$300,000 of liability insurance to the Planning Department, and insurance must be continually maintained.
- 5.) The dwelling must be equipped with working smoke detectors and carbon monoxide detectors as required by the currently adopted building code.
- 6.) The Planning & Zoning Department reserves the right to enter and inspect the daycare at any time, after proper notice, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.
- 7.) This permit is allowed only while the petitioner resides at the dwelling and operates the daycare, and it is not transferable to any future operator or property owner without approval by the Planning Commission.
- 8.) This conditional use permit nullifies and voids conditional use permit #20-45, and no bed and breakfast activities shall be allowed on the property.

Public Testimony:

Kevin Hoekman, County Planning staff, presented a brief explanation of the staff report and recommendation. He also referenced a letter of opposition from Mapleton Township. Specifically that the township requested dust control to be a condition of approval.

Commissioner Barth asked why condition #8 voids conditional use permit 20-45. Kevin Hoekman explained that the petitioner received a CUP for a bed and breakfast last year but will no longer pursue that permit.

Commissioner Johnson asked if the recommended conditions are pretty standard for operations outside of City jurisdictions. Kevin Hoekman replied that the recommendations follows what was approved by the last few permits and roughly follows state registration requirements.

Commissioner Paulson asked if there is any reason the Planning Commission should not consider requiring state registration of the daycare. Kevin Hoekman replied that there are reasons daycare providers may not want to register with the state and the county has not required other daycares to register. He further stated that it is allowable to require the daycare to become registered.



Eric Bogue, States Attorney Office, explained that the county has not adopted daycare requirements. The city has and the state has adopted requirements, but the state requirements are optional. He discussed conditions of approval and the county's ability or not to add condition to the requirements.

Tammy Zenner, 1300 E Beverly Street, was available for conditions. Commissioner Paulson asked about plans for state registration. Tammy Zenner responded that she is getting the requirements of registration completed and plans to register to provide some professionalism to her daycare.

Commissioner Ralston asked Tammy Zenner if she was opposed to any of the conditions of approval. She responded that she is ok with all the conditions and have accomplished several of them already.

Commissioner Barth commented that a condition for state registration would cover many of the aspects for the other conditions of approval. Eric Bogue responded with guidance regarding conditions that go beyond what is required by the state.

Actions:

Commissioner Barth motioned to approve conditional use permit 21-40 with recommended conditions plus a ninth condition to require state registration of the daycare. The motion was seconded by Commissioner Ralston. Commissioner Johnson Commented that he is in support of the daycare, but would not be in favor of superseding state law with the additional condition. Commissioner Randall agreed with Commissioner Johnson and raised that the condition regarding dust control should be considered. A roll call vote was taken and the motion passed with 4 votes in favor of the motion and 3 votes against the motion. Commissioners Barth, Ralston, VanDerVliet, and Duffy voted in favor of the motion and Commissioners Mohrhauser, Ode, and Randall voted against the motion.

The same motion was made for the city Planning Commission by Commissioner Paulson to approve conditional use permit 21-40 with recommended conditions plus a ninth condition to require state registration of the daycare. The motion was seconded by Commissioner Kittams. A roll call vote was taken and the motion failed with 2 votes in favor of the motion and 4 votes against the motion. Commissioners Kittams and Paulson voted in favor of the motion and Commissioners Ervin, Fisher, Johnson, and Luetke voted against the motion.

Commissioner Barth asked if there was a way to revote on the item. Staff explained the process to reconsider the item and take another action.

Commissioner Barth motioned to reconsider the action taken on conditional use permit 21-40. The motion to reconsider was seconded by Commissioner Ralston. The motion passed unanimously.



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Final Action:

Commissioner Barth made a motion to **approve** Conditional Use Permit #21-40 with staff recommended conditions. The motion was seconded by Commissioner Randall. The motion passed unanimously.

Commissioner Johnson made the same motion for the city Planning Commission to **approve** Conditional Use Permit #21-40 with recommended conditions. The motion was seconded by Commissioner Ervin. A roll call vote was taken and the motion passed with 5 votes in favor of the motion and 1 vote against the motion. Commissioners Kittams Ervin, Fisher, Johnson, and Luetke voted in favor of the motion and Commissioner Paulson voted against the motion

Conditional Use Permit #21-40 – Approved



ITEM 4. CONDITIONAL USE PERMIT #21-43 to allow storage units on the property legally described as Part Tract 4 Lot 5 Pleasant View Acres in the N1/2 SE1/4 and S1/2 NE1/4, Section 19- T101N-R48W.

Petitioner: Explosive Ventures, LLC (TJ Cameron)

Property Owner: Todd Voss

Location: 7401 E Arrowhead Pkwy. Located east of Sioux Falls

Staff Report: Kevin Hoekman

General Information:

Legal Description – Part Tract 4 Lot 5 Pleasant View Acres in the N1/2 SE1/4 and S1/2 NE1/4, Section 19- T101N-R48W

Present Zoning – C-Commercial

Existing Land Use – Commercial Building Under Construction

Parcel Size – 1.08 acres

Staff Report: Kevin Hoekman

Staff Analysis:

This property was recently approved to allow fireworks sales within a building located along the northeast side of the property. The petitioner is requesting to further develop the property with rentable storage units further back on the property to the southwest. Mini-warehousing is allowed within the C-Commercial zoning district with a conditional use permit.

The petitioner has submitted a sketch plan and narrative to describe the project. The initial phase of the proposed project is to build one 40 feet wide by 180 feet long building with 12 storage units. This first building will go directly behind the retail/office building under construction right now. Future storage units will fill the remaining portion of the property to the south. Phased construction is a common approach for storage units where future buildings are constructed after demand is shown to be large enough to build the next structure.

The property has an existing legal non-conforming residential dwelling. Phase 1 of the proposed storage unit will not reach the dwelling. Planning staff for the City of Sioux Falls have informed county staff that the mix of commercial storage units and the residential dwelling would not be allowed on the same property. City staff recommends demolition of the existing dwelling as a condition for approval. County planning staff will not recommend the same condition and allow the petitioner or landowner to determine when the dwelling should be replaced by future commercial structures.

Conditional Use Permit Criteria:



(a) 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 property is located within a commercial subdivision filled with many warehouses and contractor buildings. Mini-warehousing is similar to the other uses surrounding the property. City planning staff includes in their recommendation that the storage units should be screened from view of the highway. The retail/office building which is under construction will act as a screen to fulfill the city's recommendation.

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

The area around the proposed storage units is mostly developed with warehouses and industrial style steel buildings. The addition of a more warehouse style buildings will not change the character of the area. City staff requires screening of storage units from the right-of-way, and the building under construction will act as the required screening.

(c) 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.

Storage units do not typically create noise, odor, traffic, or pollution in significant quantities. County staff recommends that lighting for the storage units be directed away from any property lines to prevent glare off of the properties. Lights on the periphery of the storage units should be cutoff and directed downwards.

(d) The proposed use shall not adversely affect the public.

The proposed use will not change the neighborhood and will not adversely affect the public. Both county staff and city staff recommend that the storage units are used only for storage and not for any working units. This is to prevent mechanics, wood working, or similar working activities from happening out of the storage units.

Health, safety, general welfare of the public and the Comprehensive Plan should be considered as part of the request.

Staff from the county and city worked together to determine the storage mini-warehouse is an appropriate use for the area. Storage units require little utilities and resources, and the use is relatively simple to replace when more intensive uses fill up the area.

Recommendation:

- 1.) No outside storage shall be allowed at any time.
- 2.) All signage shall conform with Article 17 of the Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls and a sign permit must be obtained prior to placement of any signage.
- 3.) No commercial businesses or workspaces shall be allowed to operate out of the storage units



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- 4.) All driving and parking areas shall be hard surfaced to the standards of Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls. The hard surface is required to be installed once all of the storage units are constructed.
- 5.) All lights shall be cut-off and shielded or directed away from other property lines to prevent spillage of light off the property.
- 6.) All buildings must be engineered and plans must be stamped by a professional engineer and submitted to the Department of Planning and Zoning for review prior to issuing a building permit.
- 7.) Building permits are required for each building and for any signage.

Public Testimony

Kevin Hoekman, County Planning Department, presented a brief overview of the staff report and recommendation.

TJ Cameron, 2821 E Daybreak Cir., was available for any questions. He commented that the house on the property is intended to be removed as storage units are phased in, but since the house is habitable and removal will take expense they would like to keep it.

Actions:

Commissioner Randall made a motion to **approve** Conditional Use Permit #21-43 with conditions as listed. The motion was seconded by Commissioner Barth. The motion passed unanimously.

Commissioner Johnson made the same motion for the city planning commission to **approve** Conditional Use Permit #21-43 with conditions as listed. The motion was seconded by Commissioner Luetke. A roll call vote was taken and the motion unanimously passed with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-43 – Approved



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Old Business

None.

New Business

None.

Adjourn

A motion was made for the County to **adjourn** by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously. The same motion was made for the City to **adjourn** by Commissioner Luetke and seconded by Commissioner Fisher. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

The meeting was **adjourned** at 8:12 pm.