



**MINUTES OF THE JOINT MEETING  
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS  
November 23, 2020**

A joint meeting of the County and City Planning Commissions was held on November 23, 2020 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.

David Heinold, County Planning Department, read aloud the instructions for Zoom attendees on how to raise their hands to speak on an agenda item.

Commissioner Bonnie Duffy chair the County Planning Commission, and called for roll call of County Planning Commission members present to determine quorum.

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

Commissioner Sean Ervin 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, Janet Kittams, Larry Luetke, John Paulson, and Erik Nyberg.

**STAFF PRESENT:**

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning  
Drew DeGroot – States Attorney  
Albert Schmidt – City Planning

The County Planning Commission was presided over by Commissioner Bonnie Duffy. The City Planning Commission was chaired by Sean Ervin.

Chair Duffy called the joint City of Sioux Falls and Minnehaha County Planning Commission meeting to order at 7:01 p.m.

**PUBLIC COMMENT.**

Commissioner Duffy opened the floor for public comment and nobody moved to speak or no hands were raised in the Zoom Personal Meeting Room.



MINNEHAHA COUNTY & CITY OF SIOUX FALLS  
PLANNING COMMISSION  
MEETING MINUTES

NOVEMBER 23, 2020

**ITEM 1. Approval of Minutes** – October 26, 2020

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 VanDerVliet and seconded by Commissioner Barth to **approve** the meeting minutes from October 26, 2020. 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 same motion was made for the City by Commissioner Nyberg and seconded by Commissioner Kittams to **approve** the meeting minutes from October 26, 2020. A roll call vote was taken, and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.



**ITEM 2. CONDITIONAL USE PERMIT #20-54 to allow Temporary Retail Sales of Fireworks on the property legally described as Tract 1, Lammer's Addition, S1/2 NE1/4, Section 33-T101N-R50W.**

Petitioner: Mike Denning

Property Owner: Alphonse C. Lammers Rev. Liv. Trust

Location: 4001 S. Ellis Rd.

West Sioux Falls

Staff Report: Kevin Hoekman

**General Information:**

Legal Description – Tract 1, Lammer's Addition, S1/2 NE1/4, Section 33-T101N-R50W.

Present Zoning – A1-Agriculture

Existing Land Use – Vacant/Agricultural

Parcel Size – 45.82 acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The petitioner is requesting to operate a fireworks stand for 9 days a year on the subject property along Ellis Road. The proposed use is allowed within the A1-Agricultural zoning district with approval of a conditional use permit. The application notes that sales will take place during the normal season allowed by the state from June 27<sup>th</sup> To July 5<sup>th</sup>.



The application for the fireworks stand was submitted with only a sketch plan of the site. The sketch plan shows that sales will be done out of a tent with a temporary portable toilet, and a camper located on the site for staff. The camper will presumably be used as a deterrent of overnight theft through an easily accessible temporary tent. The tent is shown to be setback from property lines with the remaining property to be used as potential parking.



Figure 1: Gas Easement Location

Sioux Falls Planning Staff has submitted comments and recommendation for denial of this proposed fireworks stand. Concerns include traffic concern for increased traffic and for future development of

the site and area. In addition, the proposed fireworks stand is located over an easement for a high pressure gas line (see Figure 1). It is suggested to require the petitioner to obtain approval from the easement holder prior to any hearing for this request. Alternatively, the tent could likely be placed on another part of the property where the easement is not located.

The Ellis Road area has a history of permitted fireworks stands taking advantage of the close proximity to the City of Sioux Falls. Most recently a permit was issued in 2018 for a fireworks stand to be located at the intersection of Ellis Road and 12<sup>th</sup> Street. The applicant operates several fireworks stands within Minnehaha County., and until recently, one of the stands was located approximately 1.5 miles north of the proposed site. The previous location was annexed into the City of Sioux Falls. Sunset conditions have been used to limit the duration previous permitted fireworks stands in the joint jurisdiction area. A sunset condition could be used again for this request to allow the use with a review period set as the city expands west.

**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 general area around the property includes residential acreages and subdivisions located along a busy highway. To the west of the site is largely agricultural land. The proposed land use will create a commercial business location for 9 days a year. The highway is large enough to accommodate additional customer and setup traffic. Nearby subdivisions have some separation to buffer the proposed use, adjacent acreages may experience increased traffic, lights from vehicles and the site, and potential noise from generators and customers. These potential problems will be reduced by the short duration of the 9 days of activities, and it can be further reduced by limiting hours of operation to stop at 10:00 pm. The 10:00 pm close will reduce problems with vehicles lights at night as the daylight during summer months is long.

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

The proposed use is temporarily set up and taken down each year for the 9 day selling season. Conditions can be placed on the permit to further reduce duration of the use on the property for setup and teardown of the tent and other facilities.

**(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.**

A fireworks sales tent will not directly create significant noise, odor, or pollution. Traffic will increase for the 9 days of selling season. Ellis Road is capable of absorbing increased traffic and other nuisances can be limited with limiting hours of operation.

Staff has concerns regarding the driveway for the proposed fireworks stand. The site plan shows the driveway location for the fireworks stand to move the driveway north of the existing driveway. The existing driveway should be used and if a new driveway is desired a driveway permit must be obtained from the appropriate department which maintains the highway. The existing driveway is currently a dirt driveway used as a field approach. The driveway needs improvements to allow traffic in both directions and to prevent mud from being dragged into the highway. Staff suggests that a 24 feet wide gravel driveway be installed which extends from the pavement of the highway to a minimum of 15 feet onto the property.

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

Adjacent to city limits, the proposed use will sell a product that is illegal to use within the city. The use of consumer fireworks is allowed outside of city limits and the location of sales would likely be beneficial to be located near the customers.

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

The sale of fireworks will be regulated by state law, and the petitioner must comply with the safety aspects within his submitted narrative. Some of the state safety requirements include posting signage for no smoking within 25 feet of fireworks (SDCL 34-37-10.3), posting signage for no discharge of fireworks within 150 feet of the premises (SDCL 34-37-10.4), prohibition of



open flames (SDCL 34-37-10.5), and a requirement for a fire extinguisher on the premises (SDCL 34-37-10.5). The nature of fireworks carries risk to nearby properties. The many different regulations for fireworks sales, including conditions for this permit should aid in minimizing the risk.

The Envision 2035 Comprehensive Plan has a goal to coordinate growth and land use planning among Minnehaha County, cities, townships, and other relative organizations. The use will have to stop once the city annexes the land where the use is located. Sioux Falls Planning Staff is recommending denial of the conditional use permit request.

**Recommendation:**

Minnehaha County planning staff finds the requested fireworks sales consistent with recently approved fireworks sales in the area. Staff recommends **approval** of Conditional Use Permit #20-54.

- 1.) The property shall contain all elements shown on the site plan and either receive approval for placement on the easement or move the use to locate outside of the easement area.
- 2.) No permanent structures or utilities shall be built and used for the use.
- 3.) No outside storage shall be allowed at any time.
- 4.) The retail sales of fireworks must abide by all applicable SD laws and regulations.
- 5.) The retail sales of fireworks may only be marketable for nine (9) days per calendar year.
- 6.) All outdoor lights in use for the building or to illuminate the parking area or tent shall be directed away from single family dwellings.
- 7.) Temporary signage must be limited to a maximum of 3 signs, not to exceed 32 square feet for any one sign, and not to exceed 75 square feet total temporary signage.
- 8.) Temporary signs for the business are allowed to be placed no earlier than June 13<sup>th</sup> and must be taken down by July 10<sup>th</sup>.
- 9.) Flags that are used for advertising shall be located on the subject property, not block the view of traffic entering or exiting the property, and shall only be placed during the regular nine (9) day selling period of June 27<sup>th</sup> through July 5<sup>th</sup>.
- 10.) No parking or stacking of vehicles shall be allowed in the right-of-way at any time.
- 11.) The hours of operation for the public will be between 8:00 am and 10:00 pm. Set up and tear down activities outside of the nine day sales period must take place between 8:00 am and 8:00 pm.
- 12.) No storage of fireworks is allowed from July 10<sup>th</sup> through June 13<sup>th</sup>.
- 13.) The driveway shall utilize the existing driveway and be configured to have a minimum of 24 feet wide driving area. Gravel must be placed on the driveway and meet the minimum improvement and maintenance standards in article 16.04 of the ordinance from the shoulder of the road to 15 feet onto the property.



- 14.) That the Planning & Zoning Department reserves the right to enter and inspect the fireworks stand 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:**

Kevin Hoekman, county planning staff, explained that the petitioner is unable to make the planning commission meeting and requests deferral until the next planning commission meeting on January 25, 2021.

Commissioner Barth asked if there was anyone that would like to testify on this item.

Merlyn Tieszen, 8316 W. 46<sup>th</sup> St., stated concerns about locating a fireworks stand in a residential area, fireworks over a gas line easement, and duration of fireworks sales. He continued to mention that the fireworks stand should be located in a commercial area or near an Interstate interchange.

**Action:**

Commissioner Barth made a motion to **defer Conditional Use Permit #20-54 until January 25, 2021 planning commission meeting**. The motion was seconded by Commissioner Ralston. 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. Commissioner Luetke made the same motion for the city planning commission to **defer Conditional Use Permit #20-54 until January 25, 2021 planning commission meeting**. The motion was seconded by Commissioner Nyberg. A roll call vote was taken and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

**Conditional Use Permit #20-54 – Deferred until January 25, 2021 Planning Commission**



MINNEHAHA COUNTY & CITY OF SIOUX FALLS  
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**Old Business**

None.

**New Business**

None.

**Adjourn**

A motion was made for the County to **adjourn** by Commissioner Ode and seconded by Commissioner VanDerVliet. 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 same motion was made for the City to **adjourn** by Commissioner Luetke. Commissioner Ervin adjourned the meeting.

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