



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

AUGUST 23rd, 2021

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
August 23rd, 2021**

A joint meeting of the County and City Planning Commissions was held on August 23rd, 2021 at 7:00 p.m. in the Commission room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Adam Mohrhauser, Ryan VanDerVliet, Mike Ralston, 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, Larry Luetke, John Paulson, and Erik Nyberg.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Eric Bogue – States Attorney's Office
Fletcher Lacock – 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 7:07 p.m.

PUBLIC COMMENT

Chair Duffy opened the floor for public comment and nobody moved to speak.

CONSENT AGENDA

ITEM 1. Approval of Minutes – July 26th, 2021

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

As part of the consent agenda, a motion was made for the County by Commissioner Randall and seconded by Commissioner Barth to approve the meeting minutes from July 26th, 2021. The motion passed unanimously.

The same motion was made for the City by Commissioner Johnson and seconded by Commissioner Paulson to **approve** the meeting minutes from July 26th, 2021. 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 #21-58 to transfer one (1) building eligibility from the SW¹/₄ (Ex. S300' E475' & Ex. N66' W968' & Ex. Fred Assam Memorial Park Addn. & Ex. Pt in City Limits) & TR 6 (Ex. TR 4 & TR 5 Willow Ridge Addn.) 17-101-48 Split Rock Township to N ¹/₂ SE¹/₄ & SE¹/₄ NE¹/₄ (Ex. N300' W581' & Ex. TR 1 Assam's Add.) & Kolbrek TRS 1A & 2A (Ex. TR 1B & Ex. H-1) & W¹/₂ NE¹/₄ (Ex. TRS 1 & 3 & Ex. PT N363' NW¹/₄ NE¹/₄ E of TR 3 & Ex. S30') 17-101-48 Split Rock Township.

Petitioner: Norsam, Inc.

Property Owner: Same

Location: Along Madison Street, approximately ½ mile east of Six Mile Road

Staff Report: Mason Steffen

General Information:

Legal Description – N ¹/₂ SE¹/₄ & SE¹/₄ NE¹/₄ (Ex. N300' W581' & Ex. TR 1 Assam's Add.) & Kolbrek TRS 1A & 2A (Ex. TR 1B & Ex. H-1) & W¹/₂ NE¹/₄ (Ex. TRS 1 & 3 & Ex. PT N363' NW¹/₄ NE¹/₄ E OF TR 3 & Ex. S30') 17-101-48 Split Rock Township.

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 183.12 acres

Staff Report: Mason Steffen

Staff Analysis: The sending and receiving parcels for this request are located along Madison Street approximately ½ mile west of Six Mile Road. The petitioner is requesting to transfer one building eligibility from a newly acquired property to the property directly to the east, which currently has three building eligibilities. The petitioner states in their narrative that they plan to arrange these four building eligibilities together on the receiving parcel, which will allow them to better develop the property. They also explained that the farming that currently takes place on the receiving parcel is on a rent basis, and they do not expect it to continue into the near future as residential development grows in the area. In addition, even though there has been considerable residential development surrounding the property, a right-to-farm notice covenant should still be required before the issuance of a building permit because the property is currently zoned for agriculture. Finally, the receiving parcel has one access point onto Madison Street, and a private road (N Blue Spruce Place) that stretches about ½ mile into the property. So, the petitioner will be required to obtain any applicable driveway permits before a building permit will be issued for a single-family dwelling.

Since the subject properties are located within the joint jurisdiction for the city of Sioux Falls, this request was sent to the city planning staff for comments. They commented that this area will likely see city services within the next six to fifteen years, and the future land use in the area will be residential. Also, they explained that the future land use for this section of Madison Street will be as a Minor Arterial Street, and that the area will likely be developed in an urban setting. Finally, city staff recommended approval of this application based on the submitted materials and future growth plans for the city of Sioux Falls.



Conditional Use Permit Criteria:

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 area surrounding the subject property has become increasing residential in use, and this will likely continue as Sioux Falls expands next to this property. So, having four building eligibilities on one property will not affect the enjoyment and use of the surrounding properties. However, a right-to-farm notice covenant should still be required to notify potential buyers to the realities of being located in an area that is still zoned as A-1 agricultural district.

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

The property is currently located in the transition area between the city of Sioux Falls and the rural county. The predominant use of agriculture in this area will likely not continue into the near future due to rapid residential development, so this cluster of building eligibilities will have little impact on the future development of the area.

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

The petitioner will be required to obtain all necessary utilities for the property. The petitioner will need to obtain the proper driveway permits before a single-family dwelling can be constructed.

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

Two off-street parking spaces are required for a single-family dwelling. The off-street parking requirements will be provided for once a single-family residence is constructed on the subject property.

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.

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance. The property will have to comply with the public nuisance ordinance.

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

The proposed conditional use will have a no effect on the health, safety and general welfare of the public. Placing this building eligibility in this location will move it closer to other building eligibilities, and allow for better development of this transitional area.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #21-58 with the following conditions:

- 1) A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for a single-family dwelling.



- 2) That all applicable driveway permits be obtained prior to the issuance of a building permit for a single-family dwelling.

Action

As part of the consent agenda, a motion was made by the County to approve Conditional Use Permit #21-58 with staff recommended conditions by Commissioner Randall and seconded by Commissioner Barth. The motion passed unanimously.

As part of the consent agenda, the same motion was made by the City to approve Conditional Use Permit #21-58 with staff recommended conditions by Commissioner Johnson and seconded by Commissioner Paulson. Commissioner Luetke asked if the vote included the two recommended conditions, and Commissioner Duffy stated that it did. A roll call vote was taken, and the motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #21-58 – Approved

ITEM 3. ZONING TEXT AMENDMENT #21-04 to amend the 2002 Revised Zoning Ordinance for Minnehaha County and the City of Sioux Falls to add Medical Cannabis Dispensary Regulations.

Petitioner: County Planning Staff

Staff Report: Scott Anderson

Staff Report: Scott Anderson

Staff Analysis: IM-26, the ballot measure approved in November 2021, took effect on July 1, 2021. The South Dakota Department of Health is working through the administrative process and procedures and anticipates the rules will become effective by October 29, 2021. While the State of South Dakota is working on the administrative process, local zoning must be adopted to address the land use issues associated with medical cannabis.

A task force made up of local elected and administrative officials met 3 times in July to discuss how introduction of medical cannabis into our community would be addressed. Based on the general direction from the task force, staff has prepared an ordinance amendment that would allow medical cannabis in the C Commercial and I1 Light Industrial Districts as a Special Permitted Use. This means that if the proposed use meets the criteria set forth in the Zoning Ordinance it would be permitted in those two zoning districts. Those requests not meeting the criteria could seek a Conditional Use Permit. The ordinance amendment also creates a definition for a Medical Cannabis Dispensary or Dispensary.

The proposed zoning ordinance amendment should be effective close to the October 29, 2021 date that the State's rules will go into effect. The County will be adopting a separate ordinance that will address the licensing of a Medical Cannabis Dispensary. The separate ordinance will address the number of licenses issued, the cost, renewal information and transferability among other things.



Recommendation: Staff recommends **approval** of Zoning Text Amendment #21-04 adding Articles 9.03(E), 11.03(G), and 24.02(472) to the Joint Minnehaha and City of Sioux Falls Zoning Ordinance.

Public Testimony

Scott Anderson, of county planning staff, presented a brief summary of the staff report. This included explaining the new definition for Medical Cannabis Dispensary, the zoning districts these facilities would be allowed in, and the criteria they must meet in order to qualify as a special permitted use.

Commissioner Luetke asked Scott why there were eleven criteria in the ordinance, but the PowerPoint only had ten listed criteria. Scott replied that the PowerPoint was only an overview of the criteria and that there are eleven criteria that must be met for a special permitted use.

Commissioner Johnson asked if the County was only looking to allow the dispensing of medical cannabis, or would they be allowing the manufacturing of it as well. Scott explained four different facility types. A testing facility for medical cannabis would determine the chemical makeup of the cannabis, a cultivating facility would grow the raw cannabis plant, and a manufacturing facility would process the raw plant into products for sale. Scott further explained that the cultivation, manufacturing, and testing of medical cannabis would not be allowed in the County, only the dispensing at a licensed Medical Cannabis Dispensary. This is the minimum required by State law and anything above allowing dispensaries is at the discretion of the local jurisdiction.

Commissioner Fisher asked for Scott to further explain the differences between the cultivating and manufacturing of medical cannabis. Scott explained that cultivation is the growing of the cannabis and that manufacturing is the processing of the cannabis into useable products.

Commissioner Luetke then asked Scott about the requirement for a 24-hour video security system. Scott explained that any potential petitioner for a Medical Cannabis Dispensary would need to submit a security plan that explains how they will protect the building 24/7, but that 24/7 video recordings with security cameras is not specifically required.

Commissioner Paulson asked the city attorney about the city security plan, and if the differences here were significant. The city attorney responded from the audience that the city ordinance proposal requires a security plan for medical cannabis dispensaries.

Commissioner Ode asked where did the 1,000 feet number originate for the ordinance setbacks. Scott Anderson responded that the setback distance was created through the task force of regional governments working together to form similar ordinances for the surrounding areas. Commissioner Ode responded that he would like to see the setback increased to something more like 1,500 feet.

Commissioner Barth asked how the setback could be reduced if a location did not meet requirements. Scott Anderson responded that the setbacks can be reduced if a conditional use permit is obtained by the operator. Commissioner Barth added that there are no separation requirements for a dispensary from a bar.



Commissioner Randall asked what is the definition of “public use facility”. Scott Anderson responded that there is no definition in the ordinance, and that there are many terms which don’t have definitions.

Commissioner Lutke commented that he would like to recommend a setback minimum. Commissioner Fisher added that there is a 1000 feet setback from another dispensary. Commissioner Lutke asked if the 1000 feet setback from schools could even be reduced. The City Attorney commented that the 1000 feet setback from a school is part of state law.

Commissioner Barth asked if a dispensary could put up a sign with how the ordinance is worded. Scott Anderson responded that the wording does not allow exterior sales but signs would be governed by the sign ordinance.

Action

Commissioner Barth made a motion to approve Zoning Text Amendment #21-04 as written. The motion was seconded by Commissioner Ralston. The motion passed with 5 votes in favor and 1 vote against the motion. Commissioner Ode voted against the motion.

Commissioner Johnson made the same motion for the city to approve Zoning Text Amendment #21-04 as written. The motion was seconded by Commissioner Paulson. Commissioner Luetke stated that he would like to see a setback minimum. Commissioner Ervin commented that the proposed ordinance parallels what is happening in Sioux Falls. Commissioner Paulson added his support because the proposed ordinance is consistent with other dispensary ordinances. A roll call vote was taken and the motion passed unanimously with 5 votes in favor and 0 votes against the motion

Zoning Text Amendment #21-04 – Approval Recommended

Old Business

none

New Business

none

Adjourn

A motion was made by the County to adjourn by Commissioner Ode and seconded by Commissioner Randall. The motion passed unanimously.

The same motion to adjourn was mad for the city by Commissioner Lutke and seconded by Commissioner Fisher. The motion passed unanimously.

The meeting was adjourned at 7:35 pm.