



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

FEBRUARY 28th, 2022

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
February 28th, 2022**

A joint meeting of the County and City Planning Commissions was held on February 28th, 2022 at 7:00 p.m. in the Commission room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Adam Mohrhauser, Mike Ralston, Ryan VanDerVliet, and Jeff Barth.

CITY PLANNING COMMISSION MEMBERS PRESENT: Sean Ervin, Aaron Norman, John Paulson, Kurt Johnson, and Janet Kittams.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Eric Bogue and Maggy Gillespie – 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 Kurt Johnson.

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

PUBLIC COMMENT

Chair Duffy opened the floor for public comment. Rick Bonander from Valley Springs raised concerns over carbon dioxide pipelines which are planned to travel through Minnehaha County. He was concerned about the depth and setbacks of the pipeline itself and liability of the pipeline too. He requested that the county create new regulations for pipelines which would be more restrictive than the federal regulations.

Consent Agenda

Commissioner Duffy read each item on the consent agenda, and county planning staff requested Item 2 to be moved to the regular agenda.

ITEM 1. Approval of Minutes – January 24th, 2022

As part of the consent agenda, a motion was made for the County by Commissioner VanDerVliet and seconded by Commissioner Barth to **approve** the meeting minutes from January 24th, 2022. The motion passed unanimously.

The same motion was made for the city by Commissioner Ervin and seconded by Commissioner Aaron Norman to **approve** the meeting minutes from January 24th, 2022. The motion passed unanimously.



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Regular Agenda

ITEM 2. CONDITIONAL USE PERMIT #22-09 to transfer five (5) building eligibilities from the N½ NW¼ (Ex. W½ N½ Lot 2 & Ex. H2 & H-4) of Section 19 T101N-R50W & the W½ N½ of Lot 2 NW¼ (Ex. H-1, H-2, H2, & H4) of Section 19 T101N-R50W & the S½ SW¼ & S½ SE¼ (Ex. Lot H-1 & H-2) Section 18 T101N-R50W to the SE¼ SE¼ of Section 18 T101N-R50W Wayne Township.

Petitioner: Robert Nielson

Property Owner: Same

Location: Located along SD Highway 42, approximately 2 miles west of Ellis Road

Staff Report: Scott Anderson

General Information:

Legal Description – SE¼ SE¼ Section 18 T101N-R50W Wayne Township.

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 152.26 Acres

Staff Report: Scott Anderson

Staff Analysis: The current locations of the five building eligibilities are located near the west city limits of Sioux Falls within the joint jurisdiction. The proposed eligibility transfer would move the eligibilities closer to the city of Sioux Falls and place them along 467th Avenue. The proposed site is located across the street from West Acres, a well-established residential development.

The applicant has proposed a six (6) lot residential subdivision. The subject property is located within the Sioux Falls platting jurisdiction. The City commented that should the application create a subdivision of 5 or more lots, a preliminary subdivision plan will need to be submitted to the City for review and approval. The lots will need to meet all of the city's subdivision standards and pay all necessary platting fees.

On February 10, 2022, staff conducted a site visit of the sending and receiving parcels for the building eligibilities. The sending parcels for the building eligibilities are cropland. The receiving parcel was pasture. There was an existing residence near the location where the building eligibilities would be moved and utilized. Staff observed that the existing residence has been demolished and all trees in the area cleared.

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 east of the subject property has been developed residentially. Transferring five building eligibilities on one property will not affect the enjoyment and use of the surrounding properties. In addition, a right-to-farm notice covenant should be required in order to notify potential owners to the realities of being located in an area that is still zoned for agriculture.



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

The properties are 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 commercial/industrial development between this site and the city, 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. The proposed development plan shows a new subdivision road accessing 467th Avenue. The future single-family dwellings will have minimal effect on the drainage in the area.

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

Two off-street parking spaces are required for each single-family dwelling. The off-street parking requirements will be provided for once the single-family dwellings are constructed on the subject properties.

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 no effect on the health, safety and general welfare of the public. It will cluster the eligibilities and allow for better use of the remaining farm ground.

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 #22-09 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. Applicable approach permits must be obtained from Wayne Township for the location of any driveways or new road before a building permit is issued.
3. Creation of a 5 lot or more subdivision shall require a preliminary plan to be submitted to the City of Sioux Falls for review and approval.

Public Testimony

Scott Anderson, County Planning Director, briefly explained that the petitioner requested to transfer only four building eligibilities rather than all five on the property. The building eligibility in the southwest southwest quarter of Section 18 would stay at the petitioner's request, and the recommended conditions of approval will remain the same.



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Commissioner Johnson clarified with staff that condition #3 will remain the same. Scott Anderson replied that there is still a possibility of 5 lots being subdivided because of the existing building eligibility in the southeast southeast quarter.

Robert Nielson, the petitioner, was present for questions. He explained that he is consolidating building eligibilities to reduce debt and to cluster building sites away from crop production operations. He asked if a road can be constructed over the Lewis and Clark water easement. Scott Anderson stated that staff can work with him on platting and easement issues. Robert Nielson explained that he had the old building site demolished.

Action

A motion was made for the County by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #22-09 with staff recommended conditions. The motion passed unanimously.

The same motion was made for the city by Commissioner Kittams and seconded by Commissioner Paulson to **approve** Conditional Use Permit #22-09 with staff recommended conditions. The motion passed unanimously.

Conditional Use Permit #22-09 – Approved



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ITEM 3. CONDITIONAL USE PERMIT #22-08 to allow a Medical Cannabis Dispensary on the property legally described as Lot A (Ex. H-2) of Lots 1, 2, & 3 Blk. 3 Pleasant View Acres N½ SE¼ & S½ NE¼ Section 19 T101N-R48W Split Rock Township.

Petitioner: Genesis Farms, LLC.

Land Owner: Johnson Properties, LLC.

Location: 7605 E Arrowhead Parkway

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot A (Ex. H-2) of Lots 1, 2, 3 Blk. 3 Pleasant View Acres N½ SE¼ S½ SE¼ Section 19 T101N-R48W.

Present Zoning – C Commercial

Existing Land Use – Vacant Lot

Parcel Size – .96 Acres

Staff Report: Kevin Hoekman

Staff Overview:

Minnehaha County chose to allow one licensed medical cannabis dispensary location in the unincorporated areas of the county. Four applications were received by the County Auditor, and applications were selected at random to receive the one license if all requirements of the ordinance are met. If the first selected application does not meet requirements, the next selected application may receive a chance to meet requirements, and so on.

At this joint planning commission meeting, there are three conditional use permit applications for medical cannabis dispensaries. Two applications share the same location. Neither of the two sites (three applications) meet required setbacks from residential uses to allow a dispensary as a permitted special use through the zoning ordinance. A maximum of one of the requests will receive a license from the County.

In 2020 the Joint County Commission and Sioux Falls Council adopted an ordinance for requirements for siting a medical cannabis facility in the joint jurisdictional area. There are eleven requirements a facility must meet to be approved as a permitted special use, which would allow for administrative approval. If one or more requirements are not met, then a conditional use permit is required to permit a medical cannabis dispensary. None of the submitted locations for medical cannabis dispensaries meet all of the requirements.

Staff Analysis:

This conditional use permit is to allow a medical cannabis dispensary on the described property. The location of the property is at the intersection of SD Highway 42 and Six Mile Road. The property is located in a commercial development where one side of the highway is in the county and the other side of the highway is annexed into the city of Sioux Falls. City development and annexations extend approximately an additional one and a half miles east of this site.



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The petitioner submitted site plans, building layout plans, a comprehensive business plan, and a brief narrative describing the operation. Plans submitted by the petitioner indicate that the property will largely remain as it is. The current bar and grill will be converted into the dispensary location and the parking will continue to take up the remaining property. The building layout plans show an area for customers, and an area for staff along with other required plan items.

The proposed dispensary meets most of the requirements of the zoning ordinance for a permitted special use. The two requirements the site does not meet is #1 and #3.

Requirement #1 requires South Dakota Department of Health registration or pending registration. County staff cannot determine that a state registration process has started based on the submitted documents. The applicant has applied for the medical cannabis dispensary for Minnehaha County.

Requirement #3 requires a facility to meet a 1,000 feet setback from the property line of a parcel containing a single-family dwelling, church, elementary, middle, or high school licensed by the state, day care, public use facility, park or other medical cannabis dispensary. The proposed dispensary does not meet this requirement. The properties which are located directly west and south of the proposed dispensary have single family dwellings, but these properties are zoned C Commercial and the residential dwellings are non-conforming uses. The other residential dwellings located nearby are over 500 feet away from the property. In addition, the dispensary is located on a busy arterial street; whereas, the residential dwellings are located on local streets.

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 proposed dispensary is located in an existing commercial zoning district at a busy intersection. The existing building is planned for remodel. Traffic to and from the site will not likely increase from its current use as a bar and grill.

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

The proposed dispensary is located in an existing commercial zoning district. Portions of Sioux Falls are changing rapidly in the area. The property to the north of the site is zoned for large retail commercial. The use will be similar to other retail operations in the area.

The property is currently located on the corner of a “island” of unincorporated land surrounded by the city of Sioux Falls. The city has its own limitation on the number of medical cannabis dispensaries allowed within city limitations. Because of the site’s close proximity to Sioux Falls city limits and the city’s dispensary limitations, the property owners will likely desire to remain in the unincorporated area as long as possible. This will likely lead to the prolonging of the “island” effect in the area.

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



The property is already developed with a building and parking. Access to the property may change as alterations are made to SD Highway 42 and the intersection with Six Mile Road. If any more utilities are required, the landowner will be responsible for extending them as needed.

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

A retail building requires one parking space for every 300 square feet. The required parking spaces for the building is 13 spaces. The site plan shows 20 parking spaces available.

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 petitioner submitted a lengthy business plan. A portion of the plan includes odor mitigation through air filtration, security plans, and a policy to be a “good neighbor.” Parking lot and outdoor lighting should be directed downward to prevent spillage onto neighboring properties. Most activities of the business will take place inside the building and not cause nuisance to neighboring properties.

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

Minnehaha County chose to allow one medical cannabis dispensary in the unincorporated area of the county. No locations of the four applications for dispensaries meet all zoning requirements as a permitted special use. The location of this proposed dispensary is within a long established commercial development and at a busy intersection of state and county highways. The petitioner will be required to meet ongoing state and county requirements for licensure plus any conditions of approval for this permit. Many of the ongoing requirements of state and county licenses health and safety of operating a medical cannabis dispensary.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-08 with the following conditions:

- 1). This permit is issued for Genesis Farms, LLC, and it is not transferable to any other company or owner.
- 2). All required state and county licenses for a medical cannabis dispensary must be maintained at all times.
- 3). All new and replacement outdoor lighting must be fully shielded and cutoff to prevent the spillage of light off the property.
- 4). Prior to occupancy of the building, the facility shall provide proof of registration with the South Dakota Department of Health, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.
- 5). The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.
- 6). The facility must operate entirely within an indoor, enclosed, and secure facility. No exterior sales, and no sidewalk displays, shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.
- 7). The facility shall be limited to hours of operation not earlier than 8:00 A.M. and not later than 10:00 P.M.



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- 8). There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.
- 9). No one under the age of eighteen (18) shall be permitted in the facility.
- 10). No use of medical cannabis shall be permitted on the premises of the facility.
- 11). Waste medical cannabis remnants and biproducts shall be disposed of according to the submitted waste management plan, and shall not be placed within an exterior refuse container.
- 12). The facility shall maintain an effective security and fire control plan as submitted to the Planning department. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.
- 13). All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

Public Testimony

Kevin Hoekman presented the staff report and recommendation. Commissioner Paulson asked if this petitioner is the one selected site for the county. Kevin responded that this is the first site drawn by the county to review. Eric Bogue explained that this item is the first pick of a random draw.

Emmet Reistroffer, the petitioner, explained that he is the COO of Genesis Farms. He explained that his business is state wide and has production, manufacturing, and wholesale elsewhere in the state. He explained the business experiences of he and his partner, and how it qualifies the business to be the distributor within the county. He continued to explain that the business will use a “seed to sale” tracking software to track where all product is produced and sold for the facility. Mr. Reistroffer discussed the two requirements which were not met for a permitted special use. He explained that the company has not been approved for a state license, but he did submit an application on January 28th to the state. He explained that he already has state licenses and is familiar with the state process of approval. Mr. Reistroffer further explained that a location which meets setback requirements is very difficult to find. This location was the best available. He stated that he and the current property owner knocked on neighbors’ doors regarding the operation. He provided several signed statements of no opposition. He continued that the Bruggeman’s requested a fence between the property and the dwelling to the south, and that he would be willing to provide the requested fence. Mr. Reistroffer explained that he agrees with the conditions of approval, and he explained how his business plan meets each condition. He finished by commenting that medical cannabis is a new industry and that he wants to build public trust in the industry.

Krissy Johnson, the current owner of the building, was present for the hearing. She explained that they went door to door to try and be a good neighbor. She confirmed that the biggest concern she heard was a request for a privacy fence for the Bruggeman dwelling to the south of the property.

Nick Mosure stated that he is the legal representative for Genesis Farms along with seven or eight clients in the industry. He explained that he has experience with highly regulated industries.



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TJ Cameron, 2821 E Daybreak Circle, Brandon, spoke to let the Planning Commission know that he is present for the later CUP request.

Todd Egge, 7101 E. Arrowhead Parkway, explained that he is owners of Jay Egge Automotive. He explained that he is not against free enterprise, but he finds problems with parking lots becoming places for other activities. He noted that this business will have an affect on neighboring properties.

Commissioner Barth asked if we approved this permit if the Planning Commission had to listen to the other two requests. Eric Bogue responded that explained that listening to the other to is up to the planning commission. He advised not to take action on one and have others return at a later date. He also advised a change in condition number 2 to have the wording state the licenses must be obtained and maintained rather than just maintained.

TJ Cameron returned to note that he is there for item number 5, and wished to be heard at this meeting.

Commissioner Barth stated that he was in favor of more than one dispensary in the county. He said that Emmet presented the project well and he is inclined to support the request.

Commissioner Paulson noted that he supports allowing the Commission to choose among the available applications.

Action

A motion was made for the County by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #22-08 with staff recommended conditions and amendment to condition #2. The motion passed unanimously.

The same motion was made for the city by Commissioner Paulson and seconded by Commissioner Ervin to **approve** Conditional Use Permit #22-08 with staff recommended conditions and amendment to condition#2. Sean Ervin discussed that the South Dakota Voters overwhelmingly voted in favor for the industry and that this location seems appropriate for the use. The motion passed unanimously.

Conditional Use Permit #22-08 – Approved with the following conditions:

- 1). This permit is issued for Genesis Farms, LLC, and it is not transferable to any other company or owner.
- 2). All required state and county licenses for a medical cannabis dispensary must be obtained and maintained at all times.
- 3). All new and replacement outdoor lighting must be fully shielded and cutoff to prevent the spillage of light off the property.
- 4). Prior to occupancy of the building, the facility shall provide proof of registration with the South Dakota Department of Health, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration



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be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.

- 5). The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.
- 6). The facility must operate entirely within an indoor, enclosed, and secure facility. No exterior sales, and no sidewalk displays, shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.
- 7). The facility shall be limited to hours of operation not earlier than 8:00 A.M. and not later than 10:00 P.M.
- 8). There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.
- 9). No one under the age of eighteen (18) shall be permitted in the facility.
- 10). No use of medical cannabis shall be permitted on the premises of the facility.
- 11). Waste medical cannabis remnants and byproducts shall be disposed of according to the submitted waste management plan, and shall not be placed within an exterior refuse container.
- 12). The facility shall maintain an effective security and fire control plan as submitted to the Planning department. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.
- 13). All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.



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ITEM 4. CONDITIONAL USE PERMIT #22-16 to allow a Medical Cannabis Dispensary on the property legally described as Lot 5A in Tract 4 Pleasant View Acres N½ SE¼ & S½ NE¼ Section 19 T101N-48W Split Rock Township.

Petitioner: Emmett Reistroffer

Land Owner: Todd Voss

Location: 7401 E Arrowhead Parkway

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 5A in Tract 4 of Pleasant View Acres N½ SE¼ & S½ NE¼ Section 19 T101N-48W Split Rock Township.

Present Zoning – C Commercial

Existing Land Use – Vacant Lot

Parcel Size – 2.09 Acres

Staff Report: Kevin Hoekman

Overview:

Minnehaha County chose to allow one licensed medical cannabis dispensary location in the unincorporated areas of the county. Four applications were received by the County Auditor, and applications were selected at random to receive the one license if all requirements of the ordinance are met. If the first selected application does not meet requirements, the next selected application may receive a chance to meet requirements, and so on.

At this joint planning commission meeting, there are three conditional use permit applications for medical cannabis dispensaries. Two applications share the same location. Neither of the two sites (three applications) meet required setbacks from residential uses to allow a dispensary as a permitted special use through the zoning ordinance. A maximum of one of the requests will receive a license from the County.

In 2020 the Joint County Commission and Sioux Falls Council adopted an ordinance for requirements for siting a medical cannabis facility in the joint jurisdictional area. There are eleven requirements a facility must meet to be approved as a permitted special use, which would allow for administrative approval. If one or more requirements are not met, then a conditional use permit is required to permit a medical cannabis dispensary. None of the submitted locations for medical cannabis dispensaries meet all of the requirements.

Staff Analysis:

The petitioner is requesting to allow a medical cannabis dispensary on the described property. This application is not the first application chosen by the Auditor's Office and it does not meet all permitted special use requirements. If this application for a Conditional Use Permit is approved, staff recommends a requirement to obtain and maintain the County license for medical cannabis dispensary. If the applicant does not receive the license, then the conditions of approval cannot be met and the operation cannot begin.



A medical cannabis dispensary is allowed by the ordinance as a permitted special use if it meets eleven requirements. Most of the eleven special use permit requirements of a medical cannabis dispensary involve how the dispensary operates such as hours of operation and age restrictions. Other requirements include setbacks, documentation, and plans. This proposed medical cannabis dispensary does not meet two of the requirements for a permitted special use. A description of each missed requirement is listed below.

Requirement #1 requires South Dakota Department of Health registration or pending registration. County staff cannot determine that a state registration process has started based on the submitted documents. The applicant has applied for the medical cannabis dispensary for Minnehaha County.

Requirement #3 requires a facility to meet a 1,000 feet setback from the property line of a parcel containing a single-family dwelling, church, elementary, middle, or high school licensed by the state, day care, public use facility, park or other medical cannabis dispensary. The proposed dispensary does not meet this requirement. Several single family dwellings are located on nearby commercial properties including the property intended for the dispensary. The Split Rock Township Fire Department is located approximately 280 feet to the northwest of the subject property. Other nearby existing nearby dwellings are located between 550 and 700 feet to the southwest and southeast. The land across Arrowhead Parkway to the north is designated as C4 commercial zoning district in the city. C4 commercial is intended for establishments with a regional draw such as department stores. Despite the proximity of several dwellings, the dwellings are separated on different street accesses or zoned for commercial use.

Conditional Use Permit Criteria:

uses already permitted, and upon property values in the immediate vicinity.

The proposed medical cannabis dispensary generally conforms with the commercial and industrial uses existing in the area. Nearby dwellings are accessed by separate roads from the dispensary other than those dwellings which are non-conforming on commercial zoned properties. The property located across Arrowhead Parkway is at this point undeveloped.

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

The area around the proposed dispensary is zoned for commercial use in the county and zoned for regional commercial use in the city. The land within the city limits is not yet developed at all, and the land within the county includes several nearby undeveloped lots. Many of the developed lots in the unincorporated area are developed with warehouse style buildings for services rather than retail style building which will likely be developed in the city. The proposed dispensary would generally conform with the future uses of the area.

The property is currently located along the edge of a “island” of unincorporated land surrounded by the city of Sioux Falls. The city has its own limitation on the number of medical cannabis dispensaries allowed within city limitations. Because of the site’s close proximity to Sioux Falls city limits and the city’s dispensary limitations, and the existing fireworks sales permitted on the



property, the property owners will likely desire to remain in the unincorporated area as long as possible. This will likely lead to the prolonging of the “island” effect in the area.

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

The proposed use is within an existing built facility with existing parking and road access. The petitioner will be responsible for obtaining any utilities needed for the facility.

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

The petitioner has submitted a parking plan which includes enough parking for the facility and the adjacent approved fireworks stand. The fireworks stand will be working seasonally with high demand near the week before July 4th. Staff suggests that if the proposed facility is approved and selected that several parking spaces be dedicated for the dispensary.

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 facility will be located within an enclosed retail building with required hours of operation. The narrative includes description of how odor will be contained on the property. Any outside lights should be fully cutoff and directed downward to prevent spillage of light onto other properties.

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

Minnehaha County has determined that one medical cannabis facility should be licensed to operate in the rural area of the county. No locations of the four applications for dispensaries meet all zoning requirements as a permitted special use. The location of this proposed dispensary is within a long established commercial development and at a busy intersection of state and county highways. The petitioner will be required to meet ongoing state and county requirements for licensure plus any conditions of approval for this permit. Many of the ongoing requirements of state and county licenses health and safety of operating a medical cannabis dispensary.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-16 with the following conditions.

- 1). This permit is issued for Genesis Farms, LLC, and it is not transferable to any other company or owner.
- 2). All required state and county licenses for a medical cannabis dispensary must be maintained at all times.
- 3). All new and replacement outdoor lighting must be fully shielded and cutoff to prevent the spillage of light off the property.
- 4). Prior to occupancy of the building, the facility shall provide proof of registration with the South Dakota Department of Health, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.



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- 5). The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.
- 6). The facility must operate entirely within an indoor, enclosed, and secure facility. No exterior sales, and no sidewalk displays, shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.
- 7). The facility shall be limited to hours of operation not earlier than 8:00 A.M. and not later than 10:00 P.M.
- 8). There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.
- 9). No one under the age of eighteen (18) shall be permitted in the facility.
- 10). No use of medical cannabis shall be permitted on the premises of the facility.
- 11). Waste medical cannabis remnants and biproducts shall be disposed of according to the submitted waste management plan, and shall not be placed within an exterior refuse container.
- 12). The facility shall maintain an effective security and fire control plan as submitted to the Planning department. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.
- 13). All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

Public Testimony

Kevin Hoekman explained the request and this request is similar in request and location to CUP 22-08. The recommendation for approval is the same with the change to condition #2.

Commissioner Paulson asked why the petitioner is different on this item than the last one, and does it matter. Staff responded that Emmet is the representative and responsible party for the application.

Emmet Reistroffer explained that he has applied as another LLC at this site. He stated that he will not restate everything heard before. He further explained the process of the drawing for applications.

TJ Cameron explained that he owns the land for both applications for Item 4 and 5. All the conditions are the same and similar business plans.

Commissioner Barth asked if he did similar neighbor contact for this location as the other. Emmet explained that the two properties are visible from each other and they are largely the same neighbors.

Commissioner Ralston commented that this is in the same geographic area and substantially the same application.

Action



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MEETING MINUTES**

FEBRUARY 28th, 2022

A motion was made for the County by Commissioner Ralston and seconded by Commissioner Mohrhauser to **approve** Conditional Use Permit #22-16 with staff recommended conditions and amendment to condition #2. The motion passed unanimously.

The same motion was made for the city by Commissioner Paulson and seconded by Commissioner Norman to **approve** Conditional Use Permit #22-16 with staff recommended conditions and amendment to condition #2. Sean Ervin discussed that he is in support of the operation even though this site may not have quite as good of access to the property. The motion passed unanimously.

Conditional Use Permit #22-16 – Approved with the following conditions.

- 1). This permit is issued for Genesis Farms, LLC, and it is not transferable to any other company or owner.
- 2). All required state and county licenses for a medical cannabis dispensary must be obtained and maintained at all times.
- 3). All new and replacement outdoor lighting must be fully shielded and cutoff to prevent the spillage of light off the property.
- 4). Prior to occupancy of the building, the facility shall provide proof of registration with the South Dakota Department of Health, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.
- 5). The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.
- 6). The facility must operate entirely within an indoor, enclosed, and secure facility. No exterior sales, and no sidewalk displays, shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.
- 7). The facility shall be limited to hours of operation not earlier than 8:00 A.M. and not later than 10:00 P.M.
- 8). There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.
- 9). No one under the age of eighteen (18) shall be permitted in the facility.
- 10). No use of medical cannabis shall be permitted on the premises of the facility.
- 11). Waste medical cannabis remnants and byproducts shall be disposed of according to the submitted waste management plan, and shall not be placed within an exterior refuse container.
- 12). The facility shall maintain an effective security and fire control plan as submitted to the Planning department. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.
- 13). All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.



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ITEM 5. CONDITIONAL USE PERMIT #22-04 to allow a Medical Cannabis Dispensary on the property legally described as Lot 5A in Tract 4 Pleasant View Acres N½ SE¼ & S½ NE¼ Section 19 T101N-48W Split Rock Township.

Petitioner: Shangri-La, SD, LLC.

Land Owner: Todd Voss

Location: 7401 E Arrowhead Parkway

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 5A in Tract 4 of Pleasant View Acres N½ SE¼ & S½ NE¼ Section 19 T101N-48W Split Rock Township.

Present Zoning – C Commercial

Existing Land Use – Vacant Lot

Parcel Size – 2.09 Acres

Staff Report: Kevin Hoekman

Overview:

Minnehaha County chose to allow one licensed medical cannabis dispensary location in the unincorporated areas of the county. Four applications were received by the County Auditor, and applications were selected at random to receive the one license if all requirements of the ordinance are met. If the first selected application does not meet requirements, the next selected application may receive a chance to meet requirements, and so on.

At this joint planning commission meeting, there are three conditional use permit applications for medical cannabis dispensaries. Two applications share the same location. Neither of the two sites (three applications) meet required setbacks from residential uses to allow a dispensary as a permitted special use through the zoning ordinance. A maximum of one of the requests will receive a license from the County.

In 2020 the Joint County Commission and Sioux Falls Council adopted an ordinance for requirements for siting a medical cannabis facility in the joint jurisdictional area. There are eleven requirements a facility must meet to be approved as a permitted special use, which would allow for administrative approval. If one or more requirements are not met, then a conditional use permit is required to permit a medical cannabis dispensary. None of the submitted locations for medical cannabis dispensaries meet all of the requirements.

Staff Analysis:

The petitioner is requesting to allow a medical cannabis dispensary on the described property. This application is not the first application chosen by the Auditor's Office and it does not meet all permitted special use requirements. If this application for a Conditional Use Permit is approved, staff recommends a requirement to obtain and maintain the County license for medical cannabis dispensary. If the applicant does not receive the license, then the conditions of approval cannot be met and the operation cannot begin.



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A medical cannabis dispensary is allowed by the ordinance as a permitted special use if it meets eleven requirements. Most of the eleven special use permit requirements of a medical cannabis dispensary involve how the dispensary operates such as hours of operation and age restrictions. Other requirements include setbacks, documentation, and plans. This proposed medical cannabis dispensary does not meet three of the requirements for a permitted special use. A description of each missed requirement is listed below.

Requirement #1 requires South Dakota Department of Health registration or pending registration. County staff cannot determine that a state registration process has started based on the submitted documents. The applicant has applied for the medical cannabis dispensary for Minnehaha County.

Requirement #3 requires a facility to meet a 1,000 feet setback from the property line of a parcel containing a single-family dwelling, church, elementary, middle, or high school licensed by the state, day care, public use facility, park or other medical cannabis dispensary. The proposed dispensary does not meet this requirement. Several single family dwellings are located on nearby commercial properties including the property intended for the dispensary. The Split Rock Township Fire Department is located approximately 280 feet to the northwest of the subject property. Other nearby existing nearby dwellings are located between 550 and 700 feet to the southwest and southeast. The land across Arrowhead Parkway to the north is designated as C4 commercial zoning district in the city. C4 commercial is intended for establishments with a regional draw such as department stores. Despite the proximity of several dwellings, the dwellings are separated on different street accesses or zoned for commercial use.

Requirement #11 requires a site plan and floor plan of the proposed facility. The petitioner has an existing strip mall which is intended to include the proposed dispensary. The strip mall has parking available as shown on the site plan. The building plans, however, show the dispensary location in a portion of the building with only bathroom facilities specifically sited. The narrative describes in detail how products will be stored and displayed, where customers will be allowed, and where employees will be allowed. But the building plans do not include any depiction of how the narrative will be accomplished.

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 proposed medical cannabis dispensary generally conforms with the commercial and industrial uses existing in the area. Nearby dwellings are accessed by separate roads from the dispensary other than those dwellings which are non-conforming on commercial zoned properties. The property located across Arrowhead Parkway is at this point undeveloped.

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

The area around the proposed dispensary is zoned for commercial use in the county and zoned for regional commercial use in the city. The land within the city limits is not yet developed at all,



and the land within the county includes several nearby undeveloped lots. Many of the developed lots in the unincorporated area are developed with warehouse style buildings for services rather than retail style building which will likely be developed in the city. The proposed dispensary would generally conform with the future uses of the area.

The property is currently located along the edge of a “island” of unincorporated land surrounded by the city of Sioux Falls. The city has its own limitation on the number of medical cannabis dispensaries allowed within city limitations. Because of the site’s close proximity to Sioux Falls city limits and the city’s dispensary limitations, and the existing fireworks sales permitted on the property, the property owners will likely desire to remain in the unincorporated area as long as possible. This will likely lead to the prolonging of the “island” effect in the area.

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

The proposed use is within an existing built facility with existing parking and road access. The petitioner will be responsible for obtaining any utilities needed for the facility.

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

The petitioner has submitted a parking plan which includes enough parking for the facility and the adjacent approved fireworks stand. The fireworks stand will be working seasonally with high demand near the week before July 4th. Staff suggests that if the proposed facility is approved and selected that several parking spaces be dedicated for the dispensary.

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 facility will be located within an enclosed retail building with required hours of operation. The narrative includes description of how odor will be contained on the property. Any outside lights should be fully cutoff and directed downward to prevent spillage of light onto other properties.

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

Minnehaha County has determined that one medical cannabis facility should be licensed to operate in the rural area of the county. No locations of the four applications for dispensaries meet all zoning requirements as a permitted special use. The location of this proposed dispensary is within a long-established commercial development and at a busy intersection of state and county highways. The petitioner will be required to meet ongoing state and county requirements for licensure plus any conditions of approval for this permit. Many of the ongoing requirements of state and county licenses health and safety of operating a medical cannabis dispensary.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-04 with the following conditions.

- 1). This permit is issued for Shangri-La, SD, LLC, and it is not transferable to any other company or owner.



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- 2). All required state and county licenses for a medical cannabis dispensary must be maintained at all times.
- 3). All new and replacement outdoor lighting must be fully shielded and cutoff to prevent the spillage of light off the property.
- 4). Prior to occupancy of the building, the facility shall provide proof of registration with the South Dakota Department of Health, and shall at all times maintain a valid, accurate, and up to date registration with the South Dakota Department of Health. Should registration be denied or revoked at any time, any permitted special use or conditional use shall immediately become void.
- 5). The facility shall at all times operate in compliance with all South Dakota Department of Health regulations pertaining to such facilities.
- 6). The facility must operate entirely within an indoor, enclosed, and secure facility. No exterior sales, and no sidewalk displays, shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.
- 7). The facility shall be limited to hours of operation not earlier than 8:00 A.M. and not later than 10:00 P.M.
- 8). There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the facility is operating.
- 9). No one under the age of eighteen (18) shall be permitted in the facility.
- 10). No use of medical cannabis shall be permitted on the premises of the facility.
- 11). Waste medical cannabis remnants and byproducts shall be disposed of according to the submitted waste management plan, and shall not be placed within an exterior refuse container.
- 12). The facility shall maintain an effective security and fire control plan as submitted to the Planning department. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.
- 13). All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

Public Testimony

Kevin Hoekman explained that this application is in the same location as the last and similar business plans. The operator for this business would be different.

TJ Cameron, 2821 E Daybreak Circle, noted that he has a floorplan with secured entrances and trash disposal. TJ explained how he became interested in the industry with personal experience with family pursuing treatment. He stated that he has been working with the two businesses on this location, and how Shangri-La chose his business as exclusive business partners in the state. He commented that the service road mitigates traffic from the highway. Furthermore, the location on this property may limit annexation problems as one less property opposing annexation as he already has a fireworks store. Mr. Cameron stated that background checks have been submitted but he state permits have not yet been submitted since they require this permit first. He finished with a concern regarding the separation of future potential dispensary with a 1000 feet separation from another dispensary.



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Commissioner Barth asked if a floor plan is required. Kevin Hoekman explained that the floor plan is required as a permitted special use but it is not required to approve the conditional use permit.

Action

A motion was made for the County by Commissioner Barth and seconded by Commissioner Mohrhauser to **approve** Conditional Use Permit #22-04 with staff recommended conditions and amendment to condition #2. The motion passed unanimously.

The same motion was made for the city by Commissioner Paulson and seconded by Commissioner Norman to **approve** Conditional Use Permit #22-04 with staff recommended conditions and amendment to condition #2. The motion passed unanimously.

Conditional Use Permit #22-04 – Approved with the following conditions.

- 1). This permit is issued for Shangri-La, SD, LLC, and it is not transferable to any other company or owner.
- 2). All required state and county licenses for a medical cannabis dispensary must be obtained and maintained at all times.
- 3). All new and replacement outdoor lighting must be fully shielded and cutoff to prevent the spillage of light off the property.
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- 12). The facility shall maintain an effective security and fire control plan as submitted to the Planning department. The security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility.



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- 13). All medical cannabis product, byproduct, and waste shall be stored in an interior secure vault or receptacle in such a manner as to protect against improper dissemination.

Old Business

None.

New Business

Commissioner Barth addressed the Items of the Public concern for the CO2 pipeline. He explained that since there is no agenda item for the pipeline there cannot be any real action taken, but others have been in contact with the County Commission too. The Commission is considering sending a letter to the Pubic Utility Commission regarding concerns.

Adjourn

A motion was made by the County to **adjourn** by Commissioner Barth and seconded by Commissioner Mohrhauser. The motion passed unanimously.

The same motion to **adjourn** was made for the City by Commissioner Ervin and seconded by Commissioner Norman. The motion passed unanimously.

The meeting was **adjourned** at 8:14 p.m.