



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

JANUARY 24th, 2022

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
January 24th, 2022**

A joint meeting of the County and City Planning Commissions was held on January 24th, 2022 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, Doug Ode, Mike Ralston, Ryan VanDerVliet, and Jeff Barth.

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

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 John Paulson.

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

PUBLIC COMMENT

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

Consent Agenda

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

A motion was made for the County by Commissioner Barth and seconded by Commissioner Ralston to **approve** the consent agenda consisting of Item 1. The motion passed unanimously.

A motion was made for the City by Commissioner Ervin and seconded by Commissioner Fisher to **approve** the consent agenda consisting of Item 1. The motion passed unanimously.

ITEM 1. Approval of Minutes – September 27th, 2021

As part of the consent agenda, a motion was made for the County by Commissioner Barth and seconded by Commissioner Ralston to **approve** the meeting minutes from September 27th, 2021. The motion passed unanimously.

The same motion was made for the city by Commissioner Ervin and seconded by Commissioner Fisher to **approve** the meeting minutes from September 27th, 2021. A roll call vote was taken, and the motion passed unanimously with 5 votes in favor and 0 votes against the motion.



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ITEM 2. CONDITIONAL USE PERMIT #22-03 to transfer four (4) building eligibilities from the NE¼ & All Parts of the SE¼ N of H-1 (Ex. Tract 1 Granite Valley 2nd Addition) to the NE¼ NE¼ all in Section 27 T102N-R49W Mapleton Township.

Petitioner: Al Spencer

Property Owner: Interstate Crossings, LLC.

Location: Southwest corner of E 72nd Street N & County Highway 125

Staff Report: Scott Anderson

General Information:

Legal Description – NE¼ NE¼ Section 27 T102N-R49W Mapleton Township

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 40 Acres

Staff Report: Scott Anderson

Staff Analysis: The current locations of the four building eligibilities are directly adjacent to the city of Sioux Falls within the joint jurisdiction. The proposed eligibility transfer would move the eligibilities further away from the city of Sioux Falls and place them along 72nd Avenue. In addition, the current location of the eligibilities is in an area that Sioux Falls has designated for future residential growth, so building eligibilities will be obsolete in this area within the near future.

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 January 3, 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 that has already been designated for future residential growth to the city of Sioux Falls, and the receiving parcel is pasture that will remain in the agricultural district into the near future. The petitioner has indicated that there are preliminary development plans for all of the subject property, which is adjacent to the Interstate and city limits. The transfer will move the eligibilities further from the city of Sioux Falls and preserve them as the area to the south is developed and annexed into the city.

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 south and west of the subject property has been developed commercially. Transferring four 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, 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 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. Placing these building eligibilities on this location will move them further away from annexed portions of the city of Sioux Falls, 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 #22-03 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 driveway permits must be obtained for the location of the driveways before a building permit is to be issued.
3. Creation of a 5-lot subdivision shall require a preliminary plan to be submitted to the City of Sioux Falls for review and approval.



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Public Testimony

Scott Anderson, of county planning staff, presented a brief overview of the staff review and recommendation to the commission.

Jim Soukup, a representative for the petitioner, was present and available for questions, but the commissioners did not have any questions for him at this time.

Dean Shemon, of 2500 E 72nd Street N, came to the podium to address his concerns with the commission. He stated that he did not understand why the petitioner is moving the building eligibilities to the east corner of their land, as opposed to the west corner, which is adjacent to annexed portions of the city of Sioux Falls. He further explained that if the transfer is approved he would like to see the accesses for the properties to be off of the County Highway and not E 72nd Street because he believes there is already too much traffic on this road. Finally, he stated that if the access were to come off of E 72nd Street then the west corner of the property makes more sense because there is already an access in this location.

Jim Soukup returned to the podium to address the neighbor's concerns. He explained that the purpose of the request is to move the building eligibilities further from the city of Sioux Falls, so placing the eligibilities in the west corner does not fit with that plan. Additionally, he stated that the access issue is not what is being approved by this permit, and that any access would be approved a later date after the eligibilities were transferred.

Commissioner Barth asked Scott Anderson if the petitioner would be allowed to construct an apartment on the property once the eligibilities are transferred. Scott explained that this would not be allowed because that would be considered a duplex or fourplex, which are not allowed in the A-1 Agricultural District of the county.

Dean Shemon, then revisited the podium to ask planning staff what the proposed lot sizes would be for the building eligibilities. Scott Anderson stated that there is not a definitive lot size for the eligibilities, but that the lots will have to be a minimum of 1 acre.

Action

Commissioner Barth made a motion to approve Conditional Use Permit #22-03 with staff recommended conditions. The motion was seconded by Commissioner Ralston. The motion passed unanimously.

Commissioner Johnson made the same motion for the city to **approve** Conditional Use Permit #22-03 with staff recommended conditions. The motion was seconded by Commissioner Luetke. Commissioner Ervin commented that moving the building eligibilities to the proposed corner makes sense in order to move them further from the city limits and near an existing residence. A vote was taken and the motion to **approve** was passed unanimously with 6 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-03 – Approved



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ITEM 3. 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

Staff Analysis:

The petitioner is requesting to allow a medical cannabis dispensary on the described property. In 2020 the Joint County Commission 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 has to meet to be approved as a permitted special use. If one or more requirements are not met, then a conditional use permit is required to site a medical cannabis dispensary.

Minnehaha County Commission has decided to allow one medical cannabis facility in the unincorporated area of the county. Four applications were received, and one applicant was chosen by lottery. The remaining three applicants were placed in draw order to take the place if the first applicant cannot comply with license requirements. This application is not the first application chosen by the Auditor's Office. Sioux Falls Planning staff have submitted a recommendation letter which includes the primary concern that the applicant is not currently selected as the one medical cannabis dispensary in the county at this point, and recommended denial. The letter suggests the applicant can reapply for a conditional use permit if they are selected for the license at a later date. The Minnehaha County planning staff will support the city recommendation for denial.

The remaining staff report breaks down the application and how it relates to the zoning ordinance and conditional use permit criteria.

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 restriction. Other requirements include setbacks, documentation, and plans. As a permitted special use, if all requirements are met, the Planning Department may permit a location of dispensary administratively. A conditional use permit is required if one or more of the requirements are not met.



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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.

The petitioner submitted a detailed narrative and several related plans. It would be difficult to summarize all the work completed in the narrative and plans other than the few local zoning requirements which would require addressing as listed above.

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.

If the applicant was picked as the first candidate for a medical cannabis dispensary and this is the propose location for the dispensary, the use would generally conform 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 city land is not yet developed at all and the county land has several lots which are not yet developed too. Many of the developed lots in the county land of this area are developed with warehouse style buildings for services rather than retail style



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building which will likely be developed in the city. The proposed dispensary would generally conform with the future uses of 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 parking and access already to the property. 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. The proposed medical cannabis dispensary has applied for the one license, but is not the first selected dispensary chosen by lottery by the County. The applicant may be chosen if the candidates ahead of him does not meet county requirements to obtain a license. City planning staff presented a recommendation for denial for the proposed dispensary. The denial recommendation is based on the application not being the top pick of the County license lottery. If the joint planning commission considers approving the application, then staff suggests that conditions are added to the proposal as needed.

Recommendation: Staff recommends **denial** of Conditional Use Permit #22-04.

Public Testimony & Discussion

Commissioner Duffy explained to the audience that petitioner for this medical cannabis dispensary has requested that the item be deferred to the February 28th, 2022 meeting.

Kevin Hoekman, of county planning staff, explained to the commission that the planning office had received another application for a medical cannabis dispensary, so there will be two medical cannabis dispensary requests at the February 28th meeting.

Commissioner Duffy asked the audience if anyone wished to address the commission on this item tonight, due to not being able to attend the February meeting.

Michael Nelson, of 401 E 8th Street, Suite 214-2014, Sioux Falls, addressed the commission with his comments on the proposed request. He explained that he is the trustee for land adjacent to the



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subject property, and that he would like to know the plans for traffic control in the area around the subject property. He stated that this area is growing exponentially and that there is currently only the one gravel access road off of Arrowhead Parkway.

Action

Commissioner Barth made a motion to **defer** Conditional Use Permit #22-4 to the **February 28th, 2022** meeting. The motion was seconded by Commissioner Ode. The motion passed unanimously with 5 votes in favor of the motion, and 0 votes against the motion.

Commissioner Johnson made the same motion for the city to **defer** Conditional Use Permit #22-04 to the **February 28th, 2022** meeting. The motion was seconded by Commissioner Luetke. A vote was taken and the motion to **defer** was passed unanimously with 6 votes in favor and 0 votes against the motion

Conditional Use Permit #22-04 – Deferred to February 28th, 2022

Old Business

None.

New Business

None.

Adjourn

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

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

The meeting was **adjourned** at 7:22 p.m.