



**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
August 27, 2018**

A joint meeting of the County and City Planning Commissions was scheduled on August 27, 2018 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

CITY PLANNING COMMISSION MEMBERS PRESENT: Sean Ervin, Larry Luetke, Sharon Chontos, Andi Anderson, Kurt Johnson, and Steve Gaspar.

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning
Donna Kelly – States Attorney
Diane deKoeper – City Planning

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

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

PUBLIC COMMENT.

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

Consent Agenda

A motion was made for the County by Commissioner Randall and seconded by Commissioner Ode to **approve** the consent agenda. The motion passed unanimously. The same motion was for the City by Commissioner Anderson and seconded by Commissioner Johnson to **approve** the consent agenda. The motion passed unanimously.

ITEM 1. Approval of Minutes – July 23, 2018

As part of the consent agenda, a motion was made for the County by Commissioner Randall and seconded by Commissioner Ode to **approve** the meeting minutes from July 23, 2018. The motion passed unanimously. The same motion was made for the City by Commissioner Anderson and seconded by Commissioner Johnson to **approve** the meeting minutes from July 23, 2018. The motion passed unanimously.



Cpnsent Agenda

ITEM 2. CONDITIONAL USE PERMIT #18-43 to allow Retail Sales of Fireworks on the property legally described as Tract 1 Wittelms 2nd Addition, NW1/4, NW1/4, Section 22-T101N-R50W.

Petitioner: Nalini Jagram-Payer
Property Owner: Rob Langdon
Location: 400 S. Ellis Rd. West Sioux Falls
Staff Report: Kevin Hoekman

This would allow Retail Sales of Fireworks.

General Information:

Legal Description – Tract 1 Wittelms 2nd Addition, NW1/4, NW1/4,
Section 22-T101N-R50W
Present Zoning – I1 - Industrial
Existing Land Use – warehouse and auto body shop
Parcel Size – 1.77 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject site is located approximately 200 feet south of the intersection of W 12th Street and Ellis Road. The closest city border of Sioux Falls is located 150 feet north of the site, and the city border is approximately 200 feet south. The city border to the east of the proposed fireworks stand is approximately ¼ mile away.

The petitioner is requesting operate a temporary retail fireworks sales on the property. In accordance with SDCL 34-37-10, the 9-days of sales will take place from June 27th through July 5th. The site was previously permitted to have temporary fireworks sales for the last two years of 2017 and 2018. The short duration of the previous permit was due to a sunset condition that required the application to apply for this conditional use permit request. The approval of this permit would allow the petitioner to operate a fireworks stand in this location for subsequent years, as long as the conditions of the permit are met.

The petitioner has submitted a hand written project narrative which describes some of the functional aspects of the proposed fireworks sales. The narrative describes that the intent is to follow all state, federal, and local regulations in a 20 foot by 20 foot tent that is depicted on the site plan. The petitioner notes in the narrative that the traffic flow will be low and that the proposed hours of operations will be open from 8:00 am to 12:00 am (Midnight). The previous permit that allowed fireworks sales on this site allowed sales to take place from 8:00 am to 10:00 pm. The narrative includes a description some safety precautions such as notifying the fire



department and having fire extinguishers present on site.

The petitioner has submitted a site plans that reflects what has been used in the last two years of operation. Some of the items on the site plans are described in greater detail in the project narrative. The proposed 20 foot by 20 foot tent for sales is proposed to be located in the southwest corner of the parking lot. The plan indicates it at 10 feet from the right-of-way. The required setback for the I1 – Industrial zoning district is 30 feet from the right of way. The 30 foot setback is approximately located in line with the west wall of the auto body shop to the south of the tent. The close proximity to the highway may pose a problem in the future when the city enlarges the highway. Roadway construction is proposed along Ellis Road within the City of Sioux Falls’ capital budget. The final design isn’t complete at this time; however, the full width urban street section stopped at Stoney Creek and then is proposed to transition north to a two lane rural section with turning lanes at the intersection of Ellis Road and 12th Street. In order to complete this roadway construction, extensive grading, right of way needs, and access restriction issues will need to be addressed with the final design and the abutting property owners.

The area around this intersection has a long history of conditional use permit applications for fireworks stands. The joint planning commissions have both approved and denied past request. Most recently, Conditional Use Permit #17-76 was approved in October, 2017 for retail fireworks sales east of this site. The approval of CUP #17-76 kept many of the same conditions as approved two years ago with the exception of removing the sunset clause. County Planning staff will not recommend a sunset condition, but it may be considered by the joint planning commissions.

Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.

The proposed use will create a busy retail business for a temporary time period. The property of the site is currently zoned for industrial uses and the surrounding area includes a mix of urban and rural land uses. The sales tent will be placed north of an auto body shop. The auto body shop will provide buffer from the nearest residential use of apartments located south of the site. Much of the operations surrounding the fireworks stand will take place around the week before Independence Day. The property has had a fireworks stand on it for the past two years, and County planning staff have not received any complaints regarding the land use.

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

The proposed land use is located on an industrial zoned parcel that is very close to the city limits of the City of Sioux Falls. As Sioux Falls continues to grow, more residences and businesses will encroach on the proposed property. The business has the potential to become surrounded by



city limits and hold out from annexation in order to maintain a location within the city but in the county jurisdiction. This may become problematic as the City of Sioux Falls does not allow the sale of fireworks within city limits. The Sioux Falls Planning Department has expressed their concern regarding future growth of the area. One way to remove the risk of the stand holding out is to have a sunset condition for a maximum amount of time the fireworks sales is allowed to operate at the location. The most recent nearby fireworks stand was approved for operation without such sunset condition.

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

Access is shown on the site plan using the existing paved access for the warehouse off of Ellis Road. As noted earlier, the city has roadway construction plans along Ellis Road that may affect the access to the property. The short term use of the property will not significantly affect drainage off the site. All necessary facilities and utilities will have to be obtained by the property owner/petitioner as needed.

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

The petitioner indicated parking, including two spaces for handicap parking on the site plan. Staff finds that the site would have adequate parking on the north side of the lot. It may be beneficial for the applicant to utilize signage or painted lines to direct parking on the site.

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 presence of a busy retail business has the potential to disturb residents of nearby single family housing developments. The site is however, buffered on two sides by industrial buildings and located across a busy intersection from other residential uses. By limiting the hours of operation, many potential nuisances will be minimized to reasonable hours during a short sales season. The most recent fireworks stand in the area was permitted to 10:00 pm, and staff finds this time to be reasonable for this location too. The petitioner, however, has requested sales to run from 8:00 pm to 12:00 am (midnight).

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

The site is located on an industrially zoned and used parcel. 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.



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 #18-43.

- 1.) The property shall adhere to the submitted site plan and narrative.
- 2.) No outside storage shall be allowed at any time.
- 3.) The retail sales of fireworks must abide by all applicable SD laws and regulations.
- 4.) The retail sales of fireworks may only be marketable for nine (9) days per calendar year.
- 5.) All outdoor lights in use for the building or to illuminate the parking area or tent shall be directed away from single family dwellings.
- 6.) 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.
- 7.) Temporary signs for the business are allowed to be placed no earlier than June 13th and must be taken down by July 10th.
- 8.) Flags that are used for advertising shall be located on the subject properties, 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 27th through July 5th.
- 9.) No parking or stacking of vehicles shall be allowed in the right-of-way at any time.
- 10.) 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.
- 11.) No storage of fireworks is allowed from August 1st to June 10th.
- 12.) 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.

Action

A motion was made to **approve** Conditional Use Permit #18-43 for the County by Commissioner Randall and seconded by Commissioner Ode to **approve** the consent agenda. The motion passed unanimously. The same motion was for the City by Commissioner Anderson and seconded by Commissioner Johnson to **approve** Conditional Use Permit #18-43. The motion passed unanimously.



**SIOUX FALLS AND MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

August 27, 2018

Old Business

None.

New Business

None.

Adjourn

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

The meeting was **adjourned** at 7:04 pm.