



**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
October 26, 2020**

A joint meeting of the County and City Planning Commissions was held on October 26, 2020 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building and in the Zoom Personal Meeting Room ID 728 439 8039.

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

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

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Adam Mohrhauser, Doug Ode, Mike Ralston, 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: Kati Johnson, Kurt Johnson, Janet Kittams, Bradyn Neises, John Paulson, and Erik Nyberg.

STAFF PRESENT:

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

The County Planning Commission was presided over by Commissioner Bonnie Duffy. The City Planning Commission was chaired by Erik Nyberg.

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

PUBLIC COMMENT.

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



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ITEM 1. Approval of Minutes – September 28, 2020

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

A motion was made for the County by Commissioner Mohrhauser and seconded by Commissioner Barth to **approve** the meeting minutes from September 28, 2020. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

The same motion was made for the City by Commissioner Kurt Johnson and seconded by Commissioner Kati Johnsons to **approve** the meeting minutes from September 28, 2020. A roll call vote was taken, and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.



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ITEM 2. CONDITIONAL USE PERMIT #20-45 to allow a Bed & Breakfast Establishment on the property legally described as W15', Lot 30 and All of Lot 31, Block 2, Sioux Gardens Subdivision, Section 22-T102N-R49W.

Petitioner: Rick Zenner

Property Owner: same

Location: 1300 E. Beverly St. Located approximately 0.5 mile north of Sioux Falls

Staff Report: Kevin Hoekman

General Information:

Legal Description – W15', Lot 30 and All of Lot 31, Block 2, Sioux Gardens Subdivision, Section 22-T102N-R49W

Present Zoning – A1 Agriculture

Existing Land Use – Residential Lot

Parcel Size – Approximately 0.28 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to utilize a portion of their single family dwelling for short term rentals such as what is done through the website AirBnB. Minnehaha County has classified such use as a bed and breakfast which requires a conditional use permit. The location of the property is within a subdivision north of Sioux Falls.

The petitioner submitted a narrative along with sketch plans of the house and property. The narrative explains that the petitioner will live in the dwelling while renting out the top floor of the house, and that the upstairs will be rented to one guest/family at a time, and guest parties and events will not be allowed. The narrative also explains that although the request is for a bed and breakfast, no meals will be served to the guests of the residence.

Staff from the City of Sioux Falls provided comments on the proposed bed and breakfast, and recommended approval of the permit.

Conditional Use Permit Criteria:

(a) The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

Short term rentals such as this proposal, are generally compatible with residential sites because traffic is low and the property owner lives on site with the guests. The primary use of the property will remain a single family dwelling. This can be a condition of approval for this request.



Roads within the subdivision are surfaced with gravel and built rather narrow. Parking on the street should be discouraged. The petitioner should make available a dedicated off-street parking space for guests.

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

The property will remain a single family dwelling. The visible aspect of the request will be a small sign that is visible for identification of the property for guests. The character of the neighborhood will not change with the presence of the proposed bed and breakfast.

(c) The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks and orientation.

The petitioner explains in the narrative that parties and events will not be allowed. Not allowing parties should be a condition of approval to limit concerns of noise and disturbances in the neighborhood. To further limit parties, consideration should be given to limit the number of guests to seven, because there are shown in the site plan rooms enough for up to seven guests. More than seven guests would resemble a party.

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

The proposed bed and breakfast/short term rental should have no adverse effect on the public as the property will still be used as a primary residence by the petitioner, and traffic will not significantly increase. The dwelling is connected to Renner Sanitary Sewer District, and therefore additional water usage will easily be accommodated rather than a septic system.

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

The proposed use should have minimal to no negative effect on the public. Meals should not be allowed to be served without a state approved kitchen. Short term rentals such as proposed, allows property owners to supplement income and utilize space that may otherwise not be needed.

In order to protect the public, the petitioner should maintain a list of guests who stay at the bed and breakfast. The list shall be maintained and available for law enforcement if needed.

Recommendation:

Staff finds that the proposed bed and breakfast establishment is an appropriate land use for the surrounding area consistent with the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #20-45 with the following conditions:

- 1.) That CUP #20-45 shall allow a bed and breakfast establishment.



- 2.) That a sign may be posted on the property, with a building permit, not to exceed 16 square feet.
- 3.) That all new or replacement outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 4.) The house must have functioning smoke and carbon monoxide detectors as required by the building code as adopted by Minnehaha County.
- 5.) The proprietor must obtain any applicable South Dakota Sales Tax that is required.
- 6.) The proprietor must obtain the required Lodging License with the South Dakota Department of Health.
- 7.) That the proprietor shall maintain a guest list and make such list available at the request of law enforcement.
- 8.) The establishment shall be limited to a total of seven guests of the same family at one time.
- 9.) Guests shall have at least one dedicated off street parking space.
- 10.) That the Planning & Zoning Department reserves the right to enter and inspect the bed and breakfast establishment at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony:

Kevin Hoekman, county planning staff, presented the staff report and stated the staff recommendation. He noted that a letter of opposition was received by a neighbor which was sent to the planning commissions through email. Kevin Hoekman also stated that condition #2 was incorrectly written based on the County Zoning Ordinance and not the Joint Zoning Ordinance, and change the staff recommendation to allow a sign not to exceed 2 square feet rather than 16 square feet.

Commissioner Mohrhauser asked staff if there was enough room for additional parking. Staff replied that with the two stall garage and side yard additional parking can be accommodated.

Commissioner Duffy asked staff who is responsible for maintaining roads. Staff responded that it was likely Mapleton Township.

Rick and Tammy Zenner, the petitioners, were available for questions. Commissioner Duffy asked if the petitioner will live on the property. Mr. Zenner responded that they will live on site.

Commissioner Nyberg asked how many years of experience the petitioner has with short term rentals. Mr. Zenner responded that this is the first time as they are entrepreneurial with several projects including an fourplex building.



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Commissioner Barth Commented that he spoke with Wayne Steinhaur who owns a hotel west river. Commissioner Barth noted that the area may need more of these type of operations to cover large events where hotels get full. He added that anybody can have a bad neighbor.

Commissioner Ode asked staff what the definition of short term rental. Staff responded that the ordinance does not define short term rental, but the term is often used to describe facilities such as those hosted on Airbnb. The county will consider this a Bed and Breakfast which does not have a direct limit to duration of stay.

Commissioner Randall commented that the street is so narrow if and additional parking space may be required. Tammy Zenner, the petitioner, responded that the driveway is deep enough and wide enough to fit 4 cars in the driveway.

Commissioner Barth added if having two dedicated parking spaced would be an excessive burden. Rick and Tammy Zenner replied that there is room for the two parking spaces.

Commissioner Barth mad a motion to approve the conditional use permit with changes made to conditions #2 and #9. The motion was seconded by Commissioner Randall.

The City of Sioux Falls Planning Commission continued discussion.

Commissioner Paulson brought up that references to the property being a single family dwelling was not part of the conditions nor was there a condition to limit parties. Kevin Hoekman of planning staff responded that it would be difficult to regulate parties directly so staff limited the number of guests instead. And that single family dwelling requirement was not included, but the conditions could be amended if requested.

Action:

Commissioner Barth made a motion to **approve** Conditional Use Permit #20-45 with changes made to the recommended conditions #2 and #9. The motion was seconded by Commissioner Randall. A roll call vote was taken and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion. Commissioner Kurt Johnson made the same motion for the city planning commission to **approve** Conditional Use Permit #20-35 with changes made to recommended conditions #2 and #9. The motion was seconded by Commissioner Kittams. A roll call vote was taken and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #20-45 – Approved with conditions as follows:

- 1.) That CUP #20-45 shall allow a bed and breakfast establishment.
- 2.) That a sign may be posted on the property, with a building permit, not to exceed 2 square feet.



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- 3.) That all new or replacement outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 4.) The house must have functioning smoke and carbon monoxide detectors as required by the building code as adopted by Minnehaha County.
- 5.) The proprietor must obtain any applicable South Dakota Sales Tax that is required.
- 6.) The proprietor must obtain the required Lodging License with the South Dakota Department of Health.
- 7.) That the proprietor shall maintain a guest list and make such list available at the request of law enforcement.
- 8.) The establishment shall be limited to a total of seven guests of the same family at one time.
- 9.) Guests shall have at least two dedicated off street parking spaces.
- 10.) That the Planning & Zoning Department reserves the right to enter and inspect the bed and breakfast establishment 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.



ITEM 3. CONDITIONAL USE PERMIT #20-46 to exceed 1,600 square feet of total accessory building area – requesting 2,400 sq. ft. on the property legally described as Tract 2, Hiebert Greenhouse Addition, SW1/4, Section 9-T101N-R50W.

Petitioner: CAJIN LLC (Jolene Masloski)

Property Owner: same

Location: 46842 264th St.

Located approximately 1.5 miles west of Sioux Falls

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 2, Hiebert Greenhouse Addition, SW1/4, Section 9-T101N-R50W.

Present Zoning – A1-Agriculture

Existing Land Use – Residential Acreage

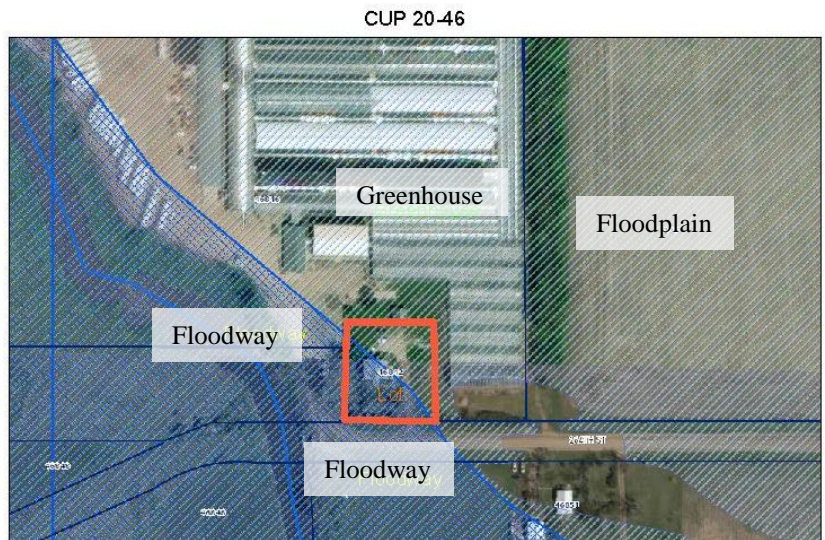
Parcel Size – 0.68 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to build a 2,400 square foot accessory building on the property which does not have any detached buildings. The property is smaller than one acre in size which limits total accessory building area to 1,600 square feet unless a conditional use permit is approved for additional size.

The parcel is located near the end of a long dead end township road. The road once had a bridge continue over Skunk Creek which has been removed and not replaced. The lot is located south of a large commercial greenhouse, and across the street from another farmstead. Its close location to Skunk creek places the entire parcel within the regulatory floodplain, and a portion of the property is within the floodway. The location indicated on the site plan places the proposed structure in the northwest corner of the lot where the land is simply in the floodplain and not the floodway.



Since the proposed building is located within the floodplain, a floodplain development permit is required prior to a building permit and any construction must meet the requirements of the



floodplain ordinance. Planning staff for the City of Sioux Falls have requested that the proposed structure meet city ordinance requirements to either raise or floodproof new structures to 2 feet above the base flood elevation (the water height of the “100 year flood”). The county ordinance requires floodproofing or raising simply at or above the base flood elevation. Minnehaha County Planning staff will write this report with recommendations to meet the County Floodplain Ordinance. The Joint Planning Commissions must come to an agreement of conditions or the CUP request will be referred to the Joint County Commission and City Council meeting to resolve the conditions.

Conditional Use Permit Criteria:

(a) The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

The area around the proposed larger accessory building includes a large commercial greenhouse and a farmstead with many accessory buildings in a rural setting. The addition of another large accessory building is compatible with neighboring uses.

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

The area of the neighborhood is a mix of agriculture, farmsteads, gravel mining, and the adjacent commercial greenhouse. The large accessory building will fit within the character of the neighborhood.

(c) The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks and orientation.

The property will be subject to the Public Nuisance Ordinance. A residential used accessory building will not create any noise, odor, traffic, air and water pollution.

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

The use of a personal shed will not adversely affect the public. Meeting the floodplain development standards will reduce harm due to flood damage of the structure too.

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

The use of a large accessory building doesn't typically affect the health, safety, and general welfare of the public. Since this proposal is located within a floodplain reasonable safeguards should be included to prevent the structure from causing further flooding or causing damage to neighboring properties due to collapse or floatation. The building itself should be reasonably safe from flooding as well to ensure current and future property owners has some protection. County planning staff finds that county requirements for floodplain development are sufficient to protect



from the most common floods while limiting costs of construction for the property owner. The property owner may voluntarily raise flood protections to reduce risk even farther.

Recommendation:

Staff recommends **approval** of CUP #20-46 with the following conditions:

- 1.) The building location shall adhere to the submitted site plan.
- 2.) The total area of all accessory buildings may not exceed 2,400 square feet.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.
- 7.) A floodplain development permit is required prior to the issuance of a building permit.
- 8.) the accessory building must comply with the 2017 Revised Floodplain Ordinance for Minnehaha County.
- 9.) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony:

Kevin Hoekman, county planning staff, introduced the item and stated the staff recommendation.

Jolene Heibert Masloski, the petitioner, was available for questions. Commissioner Duffy asked that the building was for personal storage. Jolene Masloski responded that the building will be used for easier access for her parents from the house and to display a rock collection.

Action:

Commissioner Mohrhauser made a motion to **approve** Conditional Use Permit #20-46 with recommended conditions. The motion was seconded by Commissioner Ralton. A roll call vote was taken and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion. Commissioner Kurt Johnson made the same motion for the city planning commission to **approve** Conditional Use Permit #20-46 with recommended conditions. The motion was seconded by Commissioner Neises. A roll call vote was taken and the motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #20-46 – Approved with conditions



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Old Business

None.

New Business

None.

Adjourn

A motion was made for the County to **adjourn** by Commissioner Barth and seconded by Commissioner Mohrhauser. A roll call vote was taken, and the motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion. The same motion was made for the City to **adjourn** by Commissioner Kurt Johnson and seconded by Commissioner Neises. 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.

The meeting was **adjourned** at 7:38 pm.