

# Minutes

Monday, January 26, 2009



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## Land Use Committee

4:57 p.m.  
Carnegie Town Hall  
235 W. 10<sup>th</sup> Street

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Members Present: Greg Jamison, Bob Litz and Kermit Staggers

Staff Present: Debra A. Owen, City Clerk; and Denise D. Tucker, Assistant City Clerk

Guests: Mike Cooper, Director of Planning and Building Services

### 1. Call to Order

A. Committee Chair Greg Jamison called the meeting to order at 4:57 p.m.

### 2. Approval of Minutes

A. A motion was made by Litz and seconded by Staggers to approve the December 1, 2008, minutes. Jamison called for a voice vote. All committee members voted yes.  
**Motion Passed.**

### 3. Discussion

#### A. Discussion of City Policy on Notification of a Zoning Change

- Jamison said his intention for this meeting was to do a better job of communicating, in regards to rezoning notification. He said with large facilities, like hospitals, there has to be a better way to communicate. Jamison wanted to know what was currently being done. He said the last case involving Sanford, followed law and procedure. And added that the City did an extra ordinary effort in clarifying things.
  - Litz said he received a lot of phone calls and people thought signs needed to be on their property. He said he was a little uneasy with the way things turned out. Litz said there were a lot of questions about eminent domain.
  - Staggers said the current system doesn't hack it at all. He said many times people don't know what it's about when they see the signs. Staggers said you shouldn't rezone people's property unless they want to.
  - Jamison said maybe there could be additional steps implemented: more signs and direct mailing with postcards.
  - Litz said Sanford is blocks away from where he lives and people assume the signs are about land being cleared, because there have been a lot of rezones. He said people have seen a lot of signs and assume the information is about the property, where the sign is. Litz said those circumstances aggravated the situation.
  - Owen stated overall the zoning system works. However when Council Members hear from frustrated residents, like in the recent case, there is evidence that the system
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needs some tweaking. She stated that Council Member Jamison had asked her to pull and review current zoning rules. Owen commented that it seemed like the complaints – when notice is an issue – rarely comes from land owners in a commercial area. These landowners generally have an expectation and/or know something is going to happen on the land. In residential areas, people need more notice. Someone driving down the street passing an orange sign might think it (the sign) is for a garage sale. Owen wondered if the problem could be requiring more notice be given to landowners who have residential zoning.

### B. Review of current policy, by Mike Cooper, Director of Planning and Building Services

- Cooper passed out Public Notification information sheets and explained that the sheet was the result of previous meetings with the City Council. He said the City provides signs to the applicant, who is responsible for putting up the signs, and an affidavit of posting is required.
- Cooper discussed Neighborhood Notification procedures. He said the City encourages neighborhood meetings and the applicants are required to contact any church, school or public park. Cooper said in the case of Sanford, they were required to hold a neighborhood meeting and were given a list of (property owners) names.
- What can be different in the future, Cooper said, is if there is a rezoning of a boundary then the City needs verification that the (property) owners agree.
- Discussion occurred on notification of landowners.
- Cooper offered to require all landowners in the proposed rezone to sign the application – which is turned into the Planning Department.
- Committee agreed to have all affected landowners in a proposed rezone be required to sign the application for a zoning reclassification.
- Cooper agreed to bring the proposed changes to the Council in the form of an amended ordinance. All of the committee members liked the idea of an amendment to the ordinance.
- An amendment to the zoning ordinance will be done by the Planning Department and then given to the City Attorney. And then it will be presented to the City Council, Cooper said.

### Committee Member Staggers left the meeting at 5:22 p.m.

#### 4. Open Discussion

There was none.

#### 5. Adjournment at 5:23 p.m.

A. A motion was made by Litz and seconded by Jamison to adjourn. Jamison called for a voice vote. All committee members present voted yes. **Motion Passed.**

Denise D. Tucker, CMC  
Assistant City Clerk

# PUBLIC NOTIFICATION

## Neighborhood Notification

Planning staff strongly encourages all applicants to contact the surrounding property owners and conduct an informational neighborhood meeting about the nature of their specific land use request and scheduled public meetings prior to the City Planning Commission meeting.

Also, as the applicant, you shall deliver a copy of the application request to the designated representative of any church, school, or public park located within 600' of the subject property informing them of the nature of your request and scheduled public meetings. To verify that you have done so, the notification certificate must be signed and returned to the Planning Office prior to the public meetings or the application request will be removed from the agenda.



*For further information contact:*

City Planning Office, 224 West 9th Street, Sioux Falls, SD 57104  
Ph: 605-367-8888

*Or visit our web site at:*  
[www.siouxfalls.org](http://www.siouxfalls.org)

*Updated September 2002*

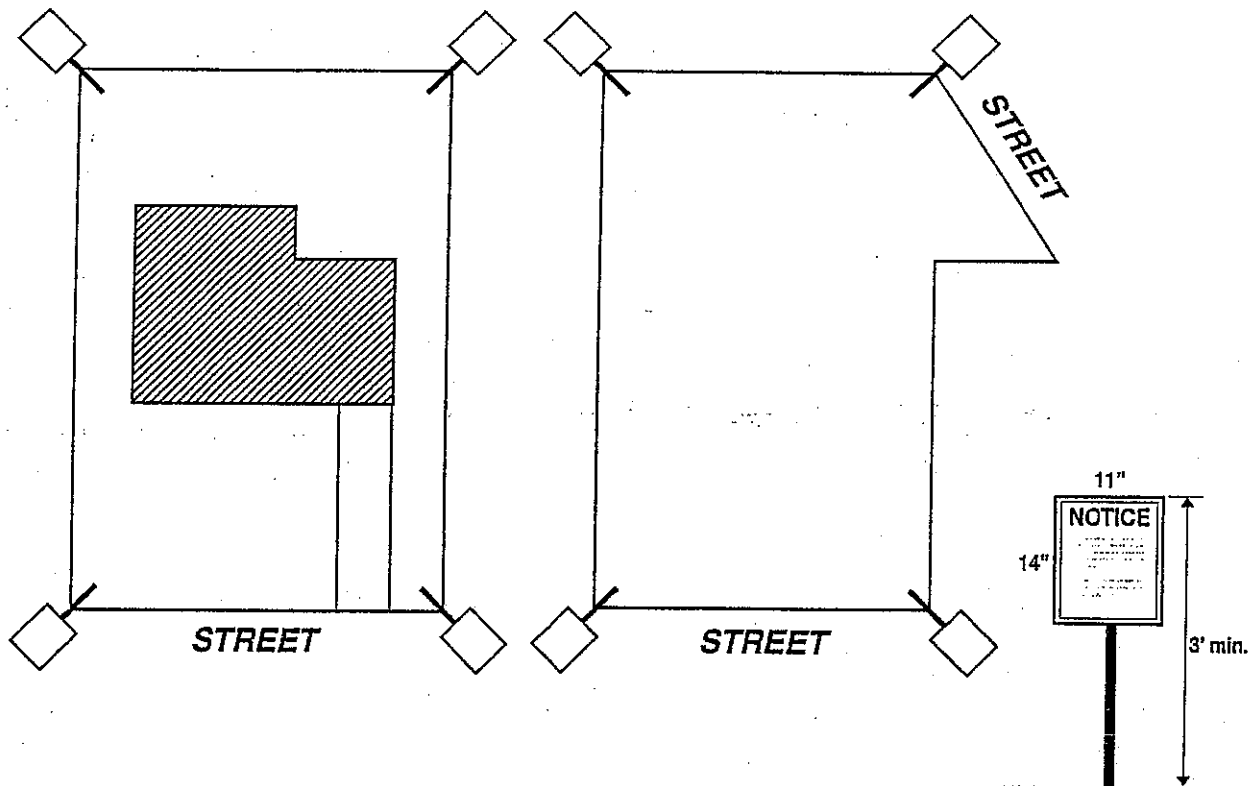
# PUBLIC NOTIFICATION

## Sign Posting

City Ordinance requires that a minimum of four signs announcing an application for a zoning change, conditional use permit, major amendment, minor amendment, or final development plan be posted on the subject property for a continuous period of seven days prior to any public hearing held by the City Planning Commission or City Council. For large property areas or remote locations, additional public notice sign postings located along street frontages may be required.

When an application is filed, public notice signs and a certificate of posting for all public meetings, will be furnished and filled out by the Planning Office. The signs shall be posted by the applicant in the numbers and locations prescribed by the Director or designated staff person. Signs should be posted at a minimum height of three (3) feet above ground and visible to the public. Seasonal grass/weeds or snow piles shall not cover any public notice sign postings.

To verify that public notice signs have been properly posted, the notification certificate must be signed and returned to the Planning Office prior to the public meetings or the application request will be removed from the agenda.



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Updated September 2002

Proposed language change

January 26, 2009

**15.61.030 Planning commission hearing.**

Upon the filing of an application for a request of zoning district classification change with the department of planning accompanied by the deposit to defray the cost in the manner prescribed in chapter 15.71, the department of planning shall set a date for public hearing on such requested change of district classification. The date for a public hearing shall be a day when the planning commission is regularly scheduled to hear zoning district classification change requests as determined by the rules, policies and regulations as adopted or which may hereafter be adopted by the planning commission for holding public hearings on such requests; or the planning commission may designate a special meeting at which to hear a requested change of district classification.

**(a) Notice to landowners:**

*Signs:* Signs shall be posted on the property for a continuous period of seven days immediately prior to any public hearing held by the planning commission or city council to consider any rezoning application.

Said signs shall be furnished by the department of planning and building services and posted by the applicant in the numbers and locations prescribed by the director.

**Notice by mail: The department of planning shall mail written notice to RS-1, RS-2, RD, RA-1, RA-2 property owner(s) notifying said owner(s) of an application for a request of a district classification change.**

Before any action shall be taken by the planning commission, the applicant shall first file with the department of planning and building services a certificate verifying that said signs have been posted at the proper location before the time specified by this section.

**(b) *Planning commission report:*** The planning commission shall submit to the city council a final report containing its recommendations on those applications for zoning district classification changes which it has considered and all other amendments to this chapter. If no report is received from the planning commission in 65 days, it may be assumed that said commission has approved the amendment. Whenever the proposed change of boundaries or regulations affects the area outside the corporate limits of the City of Sioux Falls, no amendment, supplement or change in any such area shall be effective unless the county planning commission of the county in which such area lies shall sit with the city planning commission and both such commissions make a recommendation to the city council and the board of county commissioners.

(Ord. No. 95-95, § 2, 7-3-95; Ord. No. 18-96, § 3, 2-5-96; Ord. No. 120-01, § 4, 12-10-01)

## CHAPTER 15.61 CHANGE OF ZONE

## 15.61.010 Application to city or by city for zoning change.

Any person, firm or corporation desiring a change in regulations, restrictions or boundaries of the zoning map of any property from one zoning district classification to another zoning district classification under this chapter shall make application for such change to the planning commission in writing and by filing such written application with the department of planning and building services of the City of Sioux Falls, requesting a change in zoning district classification. Such application shall be provided by the planning department and be completed in full by the applicant.

The city council may from time to time on its own motion, after public notice and hearing, and after a report by the planning commission, amend, supplement or change the boundaries or regulations herein or subsequently established.

## 15.61.020 Fees.

Upon the filing of any application for a zoning district classification change with the department of planning and building services and the City of Sioux Falls, the applicant shall pay to the City of Sioux Falls the appropriate fee as designated in chapter 15.71.

(Ord. No. 120-01, § 3, 12-10-01)

## 15.61.030 Planning commission hearing.

Upon the filing of an application for a request of zoning district classification change with the department of planning accompanied by the deposit to defray the cost in the manner prescribed in chapter 15.71, the department of planning shall set a date for public hearing on such requested change of district classification. The date for a public hearing shall be a day when the planning commission is regularly scheduled to hear zoning district classification change requests as determined by the rules, policies and regulations as adopted or which may hereafter be adopted by the planning

commission for holding public hearings on such requests; or the planning commission may designate a special meeting at which to hear a requested change of district classification.

- (a) *Signs:* Signs shall be posted on the property for a continuous period of seven days immediately prior to any public hearing held by the planning commission or city council to consider any rezoning application.

Said signs shall be furnished by the department of planning and building services and posted by the applicant in the numbers and locations prescribed by the director.

Before any action shall be taken by the planning commission, the applicant shall first file with the department of planning and building services a certificate verifying that said signs have been posted at the proper location before the time specified by this section.

*Planning commission report:* The planning commission shall submit to the city council a final report containing its recommendations on those applications for zoning district classification changes which it has considered and all other amendments to this chapter. If no report is received from the planning commission in 65 days, it may be assumed that said commission has approved the amendment. Whenever the proposed change of boundaries or regulations affects the area outside the corporate limits of the City of Sioux Falls, no amendment, supplement or change in any such area shall be effective unless the county planning commission of the county in which such area lies shall sit with the city planning commission and both such commissions make a recommendation to the city council and the board of county commissioners.

(Ord. No. 95-95, § 2, 7-3-95; Ord. No. 18-96, § 3, 2-5-96; Ord. No. 120-01, § 4, 12-10-01)

**15.61.040 City council hearing.**

The city council shall conduct a public hearing to act on all applications which have been processed and forwarded to them for public hearing as provided in this chapter. The city clerk shall cause to be published once prior to the date of the adoption of the ordinance, the time and place, when and where all persons interested shall be given a full, fair and complete hearing.

- (a) *Supplementary notice:* Supplementary to notices provided by SDCL 11-4-4, notice of such hearing may also be required to be given by the posting of not less than four signs provided by the planning and building services department.

Before any action shall be taken by the commission, the applicant shall first file with the commission a certificate verifying that said sign has been posted at the proper location before the time specified by this section.

- (b) *Hearing:* Upon the day of such public hearing, the city council shall review the decisions and recommendations of the planning commission of all applications coming before the city council as provided in this chapter. The city council, in making its determination of such applications, may make changes in the zoning map in accordance with or in rejection or modification of the recommendation of the planning commission.

- (c) *Action and protest.* Approval or denial of any application for a zoning district classification shall be by a majority of all members of the city council. Twenty days after publication of the city council's approval, the zoning district

classification change shall take effect unless the referendum be invoked, or unless a written protest be filed with the city clerk, signed by at least 40 percent of the owners of equity in the lots included in any proposed district and the lands within 250 feet from any part of such proposed district. A corporation shall be construed to be a sole owner, and when parcels of land are in the name of more than one person, owner representation shall be in proportion to the number of signers who join in the petition in relation to the number of owners. If a protest is filed, the ordinance does not become effective unless the ordinance is approved by a resolution by six members of the city council at its next regularly scheduled meeting. The protest provisions of this section do not apply to any ordinance regulating or establishing floodplain areas.

(Ord. No. 55-97, § 2, 8-4-97; Ord. No. 67-98, § 2, 7-6-98)

**15.61.050 Reapplication.**

No application requesting a zoning district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the city council shall again be considered by the planning commission before the expiration of six months from the date of the final action of the city council.

**CHAPTER 15.63 BOARD OF ADJUSTMENT\*****15.63.010 Board established.**

There is hereby established a board of adjustment which may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances, hear appeals or make special

\* Cross References: Administration, ch. 2.

11-6-2. Planning and zoning commission required in municipality--Comprehensive plan to be effected. For the purpose of promoting the health, safety, and general welfare of the municipality, each municipality of the state shall provide by ordinance for a planning and zoning commission, including the appropriation of money to a fund for the expenditures of such commission and to provide by ordinance the qualifications of the members, mode of appointment, tenure of office, compensation, powers, duties of and rules governing such board. Municipalities shall, as soon as possible, make, adopt, amend, extend, add to or carry out a general municipal plan of development, such plan to be referred to as the comprehensive plan.

**Source:** SDCL, § 11-6-2 as enacted by SL 1975, ch 116, § 2; SL 1995, ch 49, § 21.

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