

Codington County/City of Watertown
Joint Planning Commission/Joint Board of Adjustment Minutes
September 25, 2024

The Codington County/City of Watertown Joint Planning Commission/Board of Adjustment met on September 25, 2024, at the Codington County Extension Complex. Members of the Joint Planning Commission/Board of Adjustment participating were: Brenda Hanten, Mark O'Neill, Myron Johnson, Blake Dahle and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer). Liam Culhane was absent.

Others present: Ryan Engels, Randy Allen, Paul Johnson, Joni Price, Caitlin Riley, Thomas Riley, Jack Beutler, Mel Ries, Calvin Mack, Rodney Klatt, Gloria Zwieg, Albert Zwieg, and Becky Goens.

Chair Hanten brought the meeting of the Joint Board of Adjustment to order at 7:31 pm.

Motion by Johnson, second by Dahle, to approve the minutes of the July 15, 2024 meeting. Motion passed unanimously.

Motion by O'Neill, second by Dahle, to approve the agenda as stated by Staff. Motion passed unanimously.

Motion by Dahle, second by O'Neill, to approve the Conditional Use Permit request by Soil Science Properties, LLC to construct a 300 square foot two-sided, digital off-premise sign in that portion of SE1/4 of Section 10-T116N-R52W, lying East and North of Interstate Highway 29 (Lot H-1 of the said SE1/4) except the plat of Emil Mack Addition located in the SE1/4 of said Section 10, all in Codington County, SD, subject to all existing easements, reservations, restrictions, highways, and rights-of-way of record, if any; and That portion of the S1-1/2 rods of the NE1/4 of Section 10-T116N-R52W, lying E of the Interstate Highway 29 (Lot H-2 of the said NE1/4) all in Codington County, SD, subject to all existing easements, reservations, restrictions, highways, and rights-of-way of record, if any. Muller reviewed Staff Report (attached). No one was present to speak on this request. Public hearing closed. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously subject to the applicant maintaining compliance with the Joint Jurisdiction Zoning Ordinance and requirements of the SD Department of Transportation.

Motion by Johnson, second by O'Neill, to approve the Conditional Use Permit request by Ryan Engels to construct a garage with 16' sidewalls in Engels Addition in Section 11-T116N-R53W and 10-T116N-R53W, Codington County, SD. Muller read the Staff Report (attached). Engels spoke on behalf of his request. No one was present to speak on this request. Public hearing closed. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Johnson, second by Dahle, to approve the variance request for Albert and Gloria Zwieg, as read by Staff. Zwieg's are requesting to have more than one house per quarter-quarter

section in S1/2 NW1/4 less W375' S238' less Lots 5&6, and Lot 9 LaQua's Addition and Lot 5 LaQua's Subdivision, Section 17-T117N-R52W, Codington County, SD. Muller read Staff Report (attached). Adjoining Landowner, Joni Price, has concerns about additional houses creating a higher density of houses in the county, the property being too low to build due to water, doesn't want fill coming in as it will cause water problems to other neighbors, cost-prohibitive of building, detrimental to the county, and would like to protect the integrity of the county. Randy Allen, adjoining landowner directly to the north, opposes the request as well due to potentially increasing the water issues that he already has if Fill is brought in to construct a new home; where will the excess water run? No one else was present to speak. Public hearing closed. Muller read the Findings of Fact. There were no questions or objections. Motion failed unanimously. Board agreed denial was in accordance with potential reasons for denial as in Staff Report (attached).

Motion to adjourn made by Johnson, second by O'Neill. Motion passed unanimously. Meeting adjourned at 8:30 pm.

Respectfully Submitted,

Becky Goens

**SEPTEMBER 2024
CODINGTON COUNTY/CITY OF WATERTOWN
JOINT BOARD OF ADJUSTMENT STAFF REPORT**

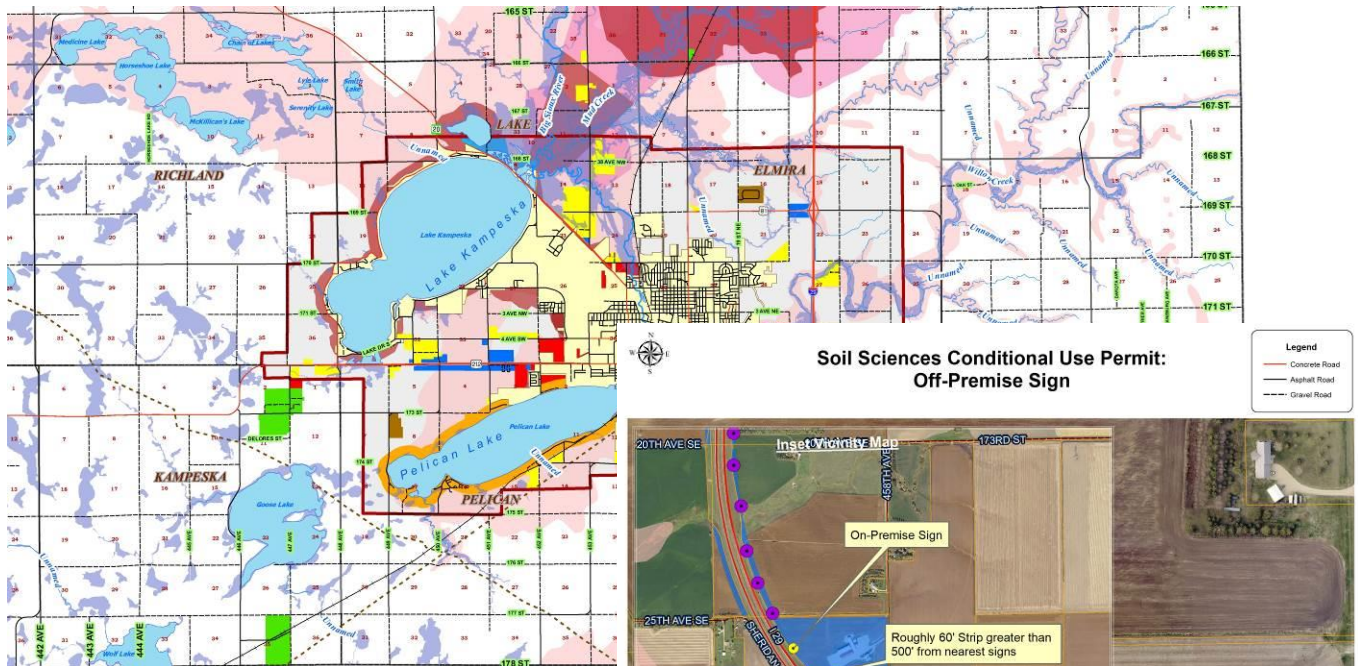
ITEM #1 CONDITIONAL USE PERMIT

Applicant/Owner: Soil Science Properties, LLC

Property Description: in that portion of SE1/4 of Section 10-T116N-R52W, lying East and North of Interstate Highway 29 (Lot H-1 of the said SE1/4) except the plat of Emil Mack Addition located in the SE1/4 of said Section 10, all in Codington County, SD, subject to all existing easements, reservations, restrictions, highways, and rights-of-way of record, if any; and That portion of the S1-1/2 rods of the NE1/4 of Section 10-T116N-R52W, lying E of the Interstate Highway 29 (Lot H-2 of the said NE1/4) all in Codington County, SD, subject to all existing easements, reservations, restrictions, highways, and rights-of-way of record, if any. (Sheridan Township).

Lat/Long (Proposed Sign): 44.866955°; - 97.051865°

Action Items – Conditional Use Permit – Off-Premise Sign (3.05.02.21)

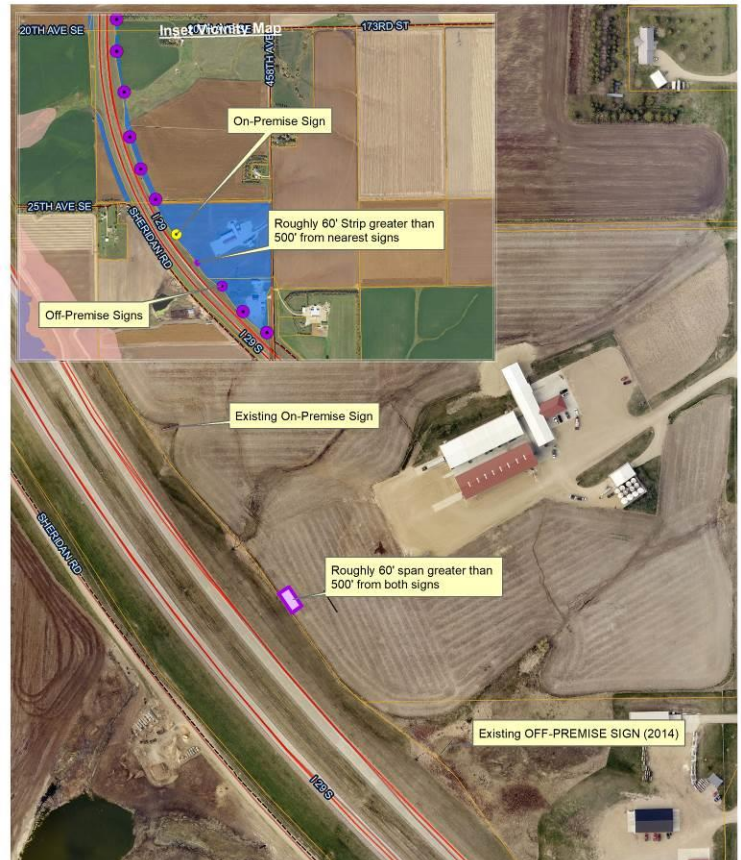


Zoning Designation: C – Commercial

Request: The applicant seeks to construct an off-premise sign.

Specifics of Property/Request:

1. The property was rezoned to Commercial (in the county) prior to 1996, when Hefty Seeds was constructed on site.
2. A nonconforming (sign area), on-site sign is located on the property.



3. A 300' square foot digital off-premise sign is proposed on site, over 500' from the existing on-premise sign, and over 500' from the nearest off-premise sign on the neighboring property (east of the interstate.)
 - a. Applicant originally proposed replacement of the existing nonconforming sign. However, the joint zoning rule prohibits off-premise signs from displaying on-premise messages and vice-versa. Since variance to this requirement would be considered a "use variance" the applicant proposed to build a separate sign for off-premise purposes.
4. In August-September 2014, the adjoining property (south) was granted a conditional use permit for an off-premise sign and variance to construct less than 250' from (Soil Sciences') property on the grounds that JerMar submitted written consent from Soil Sciences.
 - a. As a result, this proposed sign is required to be **greater than 500'** from the south property line.
 - b. Staff recommended placement be greater than 500' from the existing **on-premise sign** to avoid future complications with converting that (existing) sign to an **off-premise sign**.
5. SD-DOT has notified this office that the proposed sign complies with SDDOT Billboard requirements and may be granted a permit, subject to county approval.

Comp Plans and Joint Zoning Ordinance Regarding this Request:

1. County Comp Plan:
 - a. The Codington County Comprehensive Plan lists numerous policies for consideration of off-premise signs (on p.54) which are carried forward in the Joint Jurisdiction Zoning Ordinance.
2. City Comp Plan:
 - a. This property is identified as "existing development" in the city's comprehensive land use plan (future land use map). Surrounding area is anticipated for Industrial or Commercial Growth.
 - b. No specifics are listed regarding off-premise signs in this area for future development.
3. The sign face will not exceed 300 sq ft.
4. The sign will not exceed 30' in height.
5. The sign **will not** be a "stacked sign."
6. The sign will be greater than 300' from an intersection.
7. The sign will be greater than 500' from the nearest on or off-premise signs.
8. The sign will be greater than 10' from the right-of-way.
9. The sign will be greater than 250' from the nearest property line.
10. The sign is proposed to comply with size and lighting standards of SDDOT.
11. The sign will be placed in a location which meets the locational requirements (appropriate zoning designation/not "sham" zoning) according to SDDOT.
12. Applicant agrees to obtain proper licensure with the SDDOT prior to construction.

Staff Summary and Recommendation:

- **Conditional Use – Off-premise sign:** Should the Board approve the request, approval should be subject to the applicant maintaining compliance with the Joint Jurisdiction Zoning Ordinance and requirements of the South Dakota Department of Transportation.

ITEM #2 CONDITIONAL USE PERMIT

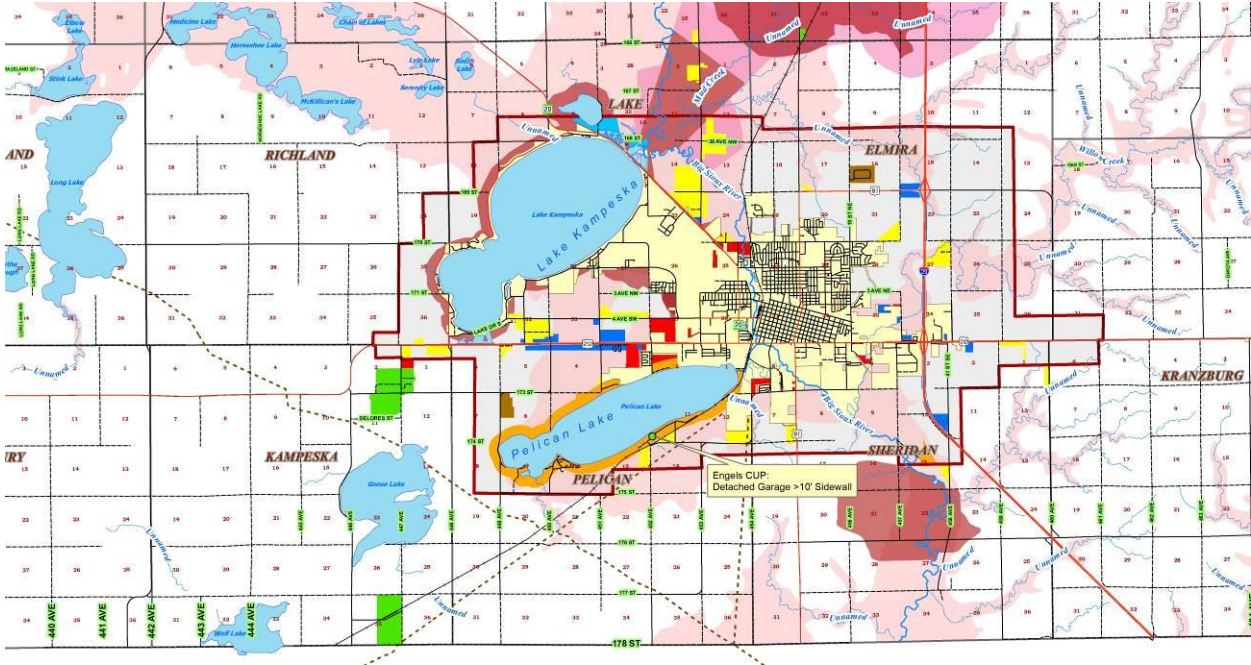
Applicant/Owner: Ryan Engels

Property Description: Engels Addition in Section 11-T116N-R53W and 10-T116N-R53W, Codington County, South Dakota. (Pelican Township).

Lat/Long (Existing Approach): 44.864170°; - 97.167021°

Action Items – Conditional Use Permit – Detached Garage with sidewalls greater than 10' in

height (3.07.03.5)



Zoning Designation: LP – Lake Park

Request: The applicant seeks to build a detached garage with greater than 16’ sidewalls.

Specifics of Property/Request:

1. The applicant obtained this lot containing 3.2 acres in 2024.
2. He request to construct an additional detached shed which meets maximum size requirements (40’ x 104’) with 16’ sidewalls.
3. The applicant seeks to construct a 3,495 sq ft detached garage with 16’ sidewalls in a location that meets setbacks.
4. Air Haven Road was vacated in January 2011 as it traversed across/through the property (and replatted into Engels Addition.)
5. The Board then authorized the construction of the existing shed to be constructed greater than the maximum allowable size due to lack of objection and being in the “back” of the lot.”
6. This proposal is to construct a similar, but smaller shed with the same size sidewalls.
7. A LOMR was obtained for this property in 2008 indicating the property was above BFE despite



**Ryan Engels CUP:
Detached Garage with >10' Sidewalls**



display as in floodplain.

Ordinance/Land Use Plan:

1. Both land use plans are silent with reference to garages/sheds with greater than 10' sidewalls.
2. There are no specific requirements listed in the ordinance for detached garages with greater than 10' sidewalls.
3. The applicant will not make any changes to parking, access, lighting, garbage, sanitary sewer/septic, nor provisions of utilities as a result of this application.
4. The Board has allowed similar sized structures on *this lake front* lot due to the location of the shed being well beyond the viewshed of any adjoining residence.
5. Certain restrictions are listed on sidewall height of detached structures for the LP and RR Districts.

Staff Summary and Recommendation:

- **Conditional Use – Accessory structure with greater than 10' sidewalls:** Should the Board approve the request, approval should be subject to the applicant signing a letter of assurance agreeing to the following conditions (the conditions in italics below are carried forward from the variance above.
 1. The proposed structure shall not be used for dwelling purposes.
 2. A conditional use permit shall be required prior to the operation of any business in the proposed structure.
 3. Maximum sidewall height shall be limited to sixteen (16) feet.
 4. Lowest floor at or above base flood elevation.

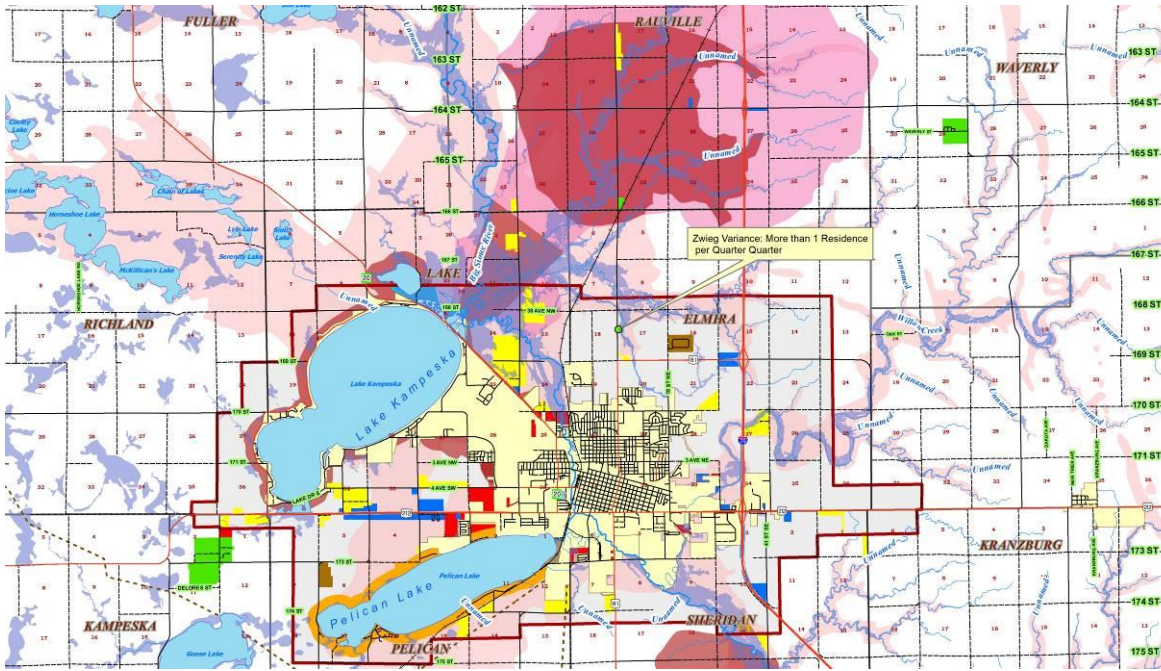
ITEM #3 VARIANCE

Applicant/Owners: Albert and Gloria Zwieg

Property Description: S1/2 NW1/4 less W375' S238' less Lots 5&6, and Lot 9 LaQua's Addition and Lot 5 LaQua's Subdivision, Section 17-T117N-R52W, Codington County, SD. (Elmira Township).

Lat/Long (Existing Approach): 44.942249°; - 97.106433°

Action Items – Variance – Density per Quarter-Quarter Section (3.04.01.2)



Zoning Designation: Agricultural

Request: The applicant seeks to transfer building rights from an internal “40” to a nonconforming lot of record.

History/Issue(s):

1. The Zwiegs own three (3) legal descriptions in the south half of the NW1/4 of this section.
2. The two lots with less than 35-acres were platted prior to the establishment of the county’s 35-acre lot minimum. The Zwieg’s came to possess these and the remainder of the S1/2 of this section separately (three parcels totalling 80 acres – a portion crosses the “Quarter-line.”)
3. The Zwieg’s seek to sell most of the S1/2 of the NW1/4 (that they own), but retain building rights on “Lot 9 Laqua’s Addition.”
4. The southwest quarter of the southwest quarter contains two houses, constructed prior to the adoption of the 35-acre rule. (Existing non-conforming).
5. Lot 9 has been taxed in a manner similar to other lots the same size which ARE buildable for the foreseeable past.
6. All of Lot 9 (proposed to receive the development right) is located in the current, and proposed floodplain. Most of the SE1/4 of the NW1/4 is not, however access would have to traverse the unidentified tributary to Roby Creek that passes through the quarter section.

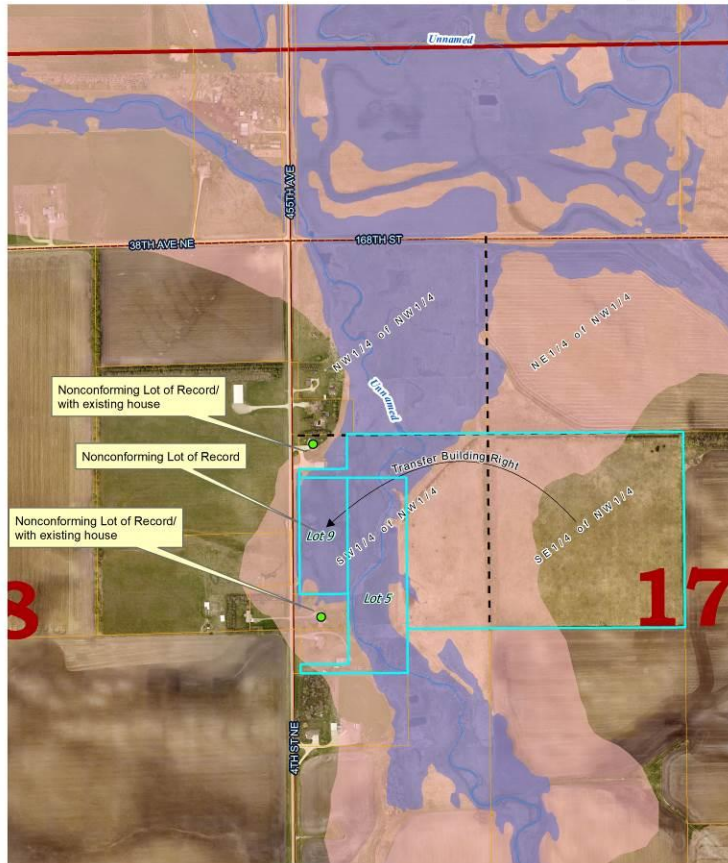
Comp Plans and Joint Zoning Ordinance Regarding this Request:



**Zwieg Variance:
>1 Residence/Quarter-Quarter**



1. County Comp Plan:
 - a. Certain instances for relaxation of minimum lot area and density rules for residences are described on pages 76-80 of the Comp Plan. This area would have qualified as “Rural Residential” and been rezoned in 2012 had Lots 5 and 9 already been occupied by residences.
 - b. This property does not qualify for a farmstead exemption.
 - c. The Board of Adjustment has granted the ability to “transfer a development right) in the case of a property retaining a 35-acre parcel but transferring the ability to have both houses (of the “80”) in the same quarter-quarter. No such transfer to a nonconforming lot of record has been granted in the Joint Area.



2. City Comp Plan:
 - a. This property (Lot 9) is identified as “existing development” in the city’s comprehensive land use plan (future land use map); and “developed area” in the city’s “Future Land Use – by Development Area” map.
 - b. “Existing Development” is anticipated in the City’s Plan to remain developed at the existing density or not to exceed the county’s established rural density.
 - c. Generally, development within the planning area should only be allowed if within the parameters of the agreed upon ordinances (joint jurisdiction ordinance) and other established policies.
3. Lot 9 is a nonconforming lot of record by virtue of lot area. A structure which otherwise complies with the requirements of the ordinance may be constructed on a nonconforming lot of record. Since a residence is not already located on this lot, and the quarter-quarter already has 2 residences in it, a building right would need to be transferred to this property in a manner similar to that of past practices. The county recently did this (to conforming lots) in other portions of the county; but not the joint jurisdiction area.
4. 4th Street Northeast in this location is County maintained and adequate to handle the additional traffic a single residence would generate.

Staff Summary:

This is a request to move the residential building right from in internal quarter-quarter section to a nonconforming lot with less than 35 acres, despite that lot being in the same quarter-quarter as 2 other houses. According to the City’s Land Use Plan, development is only encouraged at the existing/prescribed density in accordance with adopted rules. The county has a history of granting transfers of development right on a case-by-case basis where the property owner has a legal lot of record or an agreement to transfer the development right with someone that does (adjoining in the same section.) In this case, transferring the building right would move it to an area that is in the 100-

year floodplain.

Staff Recommendation:

(Variance) –Density per Quarter-Quarter Section – The Board may Approve the request based upon the following findings:

1. The County Board has a history of granting similar variances to conforming lots or lots where a neighboring property agrees to transfer the development right for a qualifying adjacent quarter-quarter;
2. The proposal will not exceed the maximum number of residences allowed on the property owned by the applicant if not split.
3. The proposal will meet the intent of the comprehensive land use plan if the following conditions are met:
 - a. Applicants agree to record agreement guaranteeing that building right from SE1/4 of the NW1/4 be transferred to Lot 9.

The request could be denied on the grounds that:

1. All 80 acres have been held in common at some point since 1976.
2. More than one residence is already located in the SW1/4 of the NW1/4 of this section.
3. Denial of this variance does not preclude the applicant from building a residence on the SE1/4 of the NW1/4 of this legal description.
4. Development which does not meet the narrowly prescribed parameters of the Joint Jurisdiction Zoning Ordinance should not be encouraged.
5. Therefore granting of this variance would confer some special privilege on this applicant which is denied of other property owner in the Ag District of the Joint Jurisdiction Area.