



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

JUNE 26, 2023

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
June 26, 2023**

A joint meeting of the County and City Planning Commissions was held on June 26, 2023 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Mike Ralston, Ryan VanDerVliet, Adam Mohrhauser, and Joe Kippely.

CITY PLANNING COMMISSION MEMBERS PRESENT: Kurt Johnson, John Paulson, Erica Mullaly, Erik Nyberg, and Dana Fisher.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, & Mason Steffen – County Planning
Maggie Gillespie – States Attorney's Office
Fletcher Lacock– City Planning

The County Planning Commission was chaired by Commissioner Bonnie Duffy.

Chair Duffy called the Joint Minnehaha County and City of Sioux Falls Planning Commission meeting to order at 7:21 p.m.

The Sioux Falls Planning Commission required an election for a temporary chair for the meeting. Erik Nyberg motioned to elect Kurt Johnson temporary chair for the meeting.

PUBLIC COMMENT

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

ITEM 1. Approval of Minutes – May 22, 2023

Commissioner Paulson asked that the minutes be amended. New business should include that Commissioner Paulson requested planning staff to contact public safety officials to determine options for short term rental home security registration.

A motion was made for the County by Commissioner Ralston and seconded by Commissioner Mohrhauser to **approve** the meeting minutes with amended new business section from May 22, 2023. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

The same motion was made for the City by Commissioner Nyberg and seconded by Commissioner Fisher to **approve** the meeting minutes from May 22, 2023 with amendment to new business section as stated. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.



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

JUNE 26, 2023

ITEM 2. CONDITIONAL USE PERMIT #23-26 to transfer three (3) building eligibilities from the S½ SE¼ (Ex. Tract 1 Laurel Ridge Addition & H-1) Section 23 T102N-R49W and the SE¼ NE¼ Section 26 T102N-R49W and the SW¼ NW¼ Section 25 T102N-R49W to the NW¼ NE¼ Section 26 T102N-R49W Mapleton Township.

Petitioner: Nineteen Flags LLC.

Land Owner: Patrick & Marcia Burke

Location: Located between Slip Up Creek Road & Interstate 90, approximately 1-mile north of Sioux Falls.

Staff Report: Kevin Hoekman

General Information:

Legal Description – NW¼ NE¼ Section 26 T102N-R49W Mapleton Township

Present Zoning: A1 Agricultural

Existing Land Use: Cropland/Pasture

Parcel Size – 40 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

This request is related to the pending Mapleton Golf Planned Development. During planning for the rezoning request, the applicant left a corner of property outside of the planned development area. The applicant kept the corner zoned as agriculture in order to accommodate the building eligibilities for future development and not lose them to the rezoning process. If the transfer request is not approved, the three eligibilities will be lost at the effective date of the rezoning if the rezoning is approved by the joint County Commission and City Council.

The request will transfer three building eligibilities to the same quarter quarter section. The building eligibilities will join with the existing building eligibility for a total of four available building eligibilities in the NW ¼ of the NE ¼. The plan is to develop the building eligibilities sometime in the future, and possibly transfer them one more time before final development.

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 properties are located within an active agricultural area in the transition area of Sioux Falls. A residential subdivision is located to the Northwest of the site, and a wedding and event barn is located to the northeast. These building eligibilities could be developed where they are at, but clustering them together will be better to limit access onto roads. Clustering the building eligibilities will be better for maintaining green space and agricultural land until additional services can reach the development.

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

The property is located within a transition area around Sioux Falls, and in a Tier 3 development



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

JUNE 26, 2023

area of Sioux Falls Plan. This means development utilities will not be available for 15 years or more. The applicant is aware of future utility plans and stated that development will happen in a manner for future hookup. The building eligibilities will likely joint other eligibilities in the future to make a larger development parallel to the Mapleton Golf Club. Requiring a preliminary plan and platting of properties will help ensure the proposed residential units will transition as easy as possible into city limits.

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

The proposed location of the building eligibilities does not have utilities or access roads at this time. The Sioux Falls 2040 tier map for utility development indicates utilities will be available in 15 years or more. City planning staff commented that the building eligibilities are located near the section line which would extend E 72nd Street N. The section line is still the best location for arterial street until the developer works out an alternative route with the city and the section line is vacated. The petitioner was made aware of the concern about the arterial road and the need to vacate the section during the request for rezoning of Mapleton Golf Planned Development. County staff recommends that a preliminary plan be submitted for review by the joint Planning Commission prior to development. The preliminary plan process will allow review and require the proposed development to work with road layout and retrofitting public utilities.

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

Off street parking requirements will be met when individual dwellings are constructed.

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.

Residential dwellings do not typically create nuisances. Any property owner must comply with the public nuisance ordinance.

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

The Envision 2035 comprehensive plan for Minnehaha County lists this request within a transition area. An expectation of the transition area includes that land be maintained until city services can be extended. This transfer will not increase potential development since the eligibilities can be developed in their current locations. By clustering the development together the county and city will have more input on how lots should be developed by requiring a preliminary plan. We can include conditions on this approval to ensure actions are taken such as determining the route of the arterial E 72nd Street N.

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 #23-26 with the following conditions:

1. A right-to-farm notice covenant shall be placed on the deed of each lot prior to the issuance of a building permit for a single-family dwelling.
2. All lots within the subdivision must be platted prior to issuance of a building permit.
3. A preliminary subdivision plan must be submitted and reviewed by the Joint Planning Commission prior to platting any lots.



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

JUNE 26, 2023

Public Testimony & Discussion

Kevin Hoekman, county planning staff, presented a summary of the staff report and recommendation.

Commissioner Kippley asked staff if the transfer was part of the rezoning hearing the previous month. Kevin Hoekman responded that the transfer was always part of the plan, and the petitioner has been working with staff on timing of applications.

Danny Amundson, the petitioner, was available for questions. He confirmed that the transfer was always part of the plan. Developing the eligibilities may be on this site or combining it with other eligibilities on a different site in the future.

Commissioner Kippley noted that the transfer is the logical step and will likely be revisited to complete what needs to be done.

Action

A motion was made for the County by Commissioner Kippley and seconded by Commissioner VanDerVliet to **approve** Conditional Use Permit #23-26 with staff recommended conditions. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

The same motion was made for the City by Commissioner Paulson and seconded by Commissioner Fisher to **approve** Conditional Use Permit #23-26 with staff recommended conditions. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-26 – Approved



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

JUNE 26, 2023

ITEM 3. MINOR AMENDMENT #23-01 to the Laurel Ridge Planned Development District to allow one single family dwelling within Subarea A or Subarea B on the properties legally described as Lot A Tract 1 Laurel Ridge Addition (Ex. H-1) & Lot B Tract 1 Laurel Ridge Addition all in the SE¼ SE¼ Section 23 T102N-R49W Mapleton Township.

Petitioner: Tyler Childress

Property Owner: Same

Location 47677 Slip Up Creek Road

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot A Tract 1 Laurel Ridge Addition (Ex. H-1) & Lot B Tract 1 Laurel Ridge Addition all in the SE¼ SE¼ Section 23 T102N-R49W Mapleton Township.

Present Zoning: PD Laurel Ridge Planned Development

Existing Land Use: Event Barn/Pasture

Parcel Size – Approximately 30.5 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject property is located north of Sioux Falls on Slip Up Creek Road and it is composed of two tracts of land. The larger tract was first zoned into a planned development in 2019. The Laurel Ridge Planned Development was approved to include two subareas. Staff included a map of the subareas as they currently exist as an attachment with this staff report. Subarea A includes one listed permitted use as *Banquet/Reception Hall and Events Facility*. Subarea B also includes one listed permitted use as *Those uses permitted in the A-1 Agricultural zoning district*. At the time of the rezoning, the smaller tract of land remained zoned A1-Agriculture in order to preserve the building eligibility for a single family dwelling. In 2022, the building eligibility was transferred from the small tract of land to be located anywhere in subarea B of the Laurel Ridge Planned Development. The transfer allowed the smaller tract to be rezoned completely into subarea A for the expansion of the banquet/reception hall activities on the property.

The petitioner is requesting to allow the one building eligibility in the planned development to be used on either tract and in either subarea. County planning staff agreed to process the request through a minor amendment process with a public hearing. A building eligibility is a means to track where a single family dwelling may be constructed within the rural area of the county. A building eligibility allows one single-family dwelling to be constructed. A single family dwelling is defined in the ordinance as “a building designed for or occupied exclusively by one family.” Neither subarea of the planned development currently lists any other use of a single family dwelling. A major amendment to the planned development will be required to allow uses such as vacation home or short term rentals.

The property is divided by Slip Up Creek, and about half of the total property is located within the creek’s floodplain. If the building eligibility is to be developed outside of the floodplain in its current restriction of subarea B, then the only possible location of the dwelling would be on



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

JUNE 26, 2023

the east side of the creek. Access to the east side of the creek will require a private bridge and floodplain development review. Allowing the building eligibility to be developed in subarea A would allow a single family dwelling on the small lot on the west side of the creek with existing road access onto the highway.

The Planning Commission may place conditions on an approval of a minor amendment. Four conditions were placed on the development of the building eligibility during the 2022 transfer of the building eligibility. The conditions are listed below.

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. Access to dwelling must use one of the two existing driveways currently addressed 47675 or 47677 Slip Up Creek Road.
3. The new septic system for the future residential dwelling must be engineered and approved by the DANR prior to issuance of a county septic permit.
4. The county septic permit must be obtained prior to obtaining a building permit for the single family dwelling.

The conditions approved for the 2022 transfer will still be applicable for the building eligibility regardless of the final development location. City planning staff commented that access has not been approved for the land area east of the creek, and that the city owned bridge will not be allowed for access to the east side. Condition #2 requires that any final dwelling location use road access from one of the existing approved driveways to the two properties. Staff recommends including the conditions of approval from 2022 with this minor amendment.

Recommendation: Staff recommends **approval** of Minor Amendment #23-01 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. Access to dwelling must use one of the two existing driveways currently addressed 47675 or 47677 Slip Up Creek Road.
3. The new septic system for the future residential dwelling must be engineered and approved by the DANR prior to issuance of a county septic permit.
4. The county septic permit must be obtained prior to obtaining a building permit for the single family dwelling.

Public Testimony & Discussion

Kevin Hoekman, planning staff, presented the staff report and recommendation. Commissioner Nyberg asked why the transfer is needed now to be placed on either lot. Kevin Hoekman responded that it may be best to ask the petitioner why the location of the building eligibility would be best to move.

Commissioner Paulson asked staff why a short-term rental would need a major amendment. Kevin Hoekman responded that a major amendment would allow the text of the planned development to be changed like adding a new proposed use.



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

JUNE 26, 2023

Commissioner Ralston noted that the proposed transfer is only approving the single family residence on the property, and nothing more.

Tyler Childress, the petitioner, explained that the road connection to the east side of the creek was proving difficult. The house on the site is intended for a personal dwelling.

Tina Beck, of 47645 Surrell Street, pointed out that Tyler Childress was denied a CUP for a bed and breakfast at a nearby house and that she is the neighbor. She explained that Tyler is operating despite the denial, and this house will be no different. She asked why another permit would be approved when this would be just another problem.

Kylie Beck explained that she used to live at 47645 Surrell Street. She explained that denial of the permit for the other property did not stop the applicant from continuing his business. She said that the minor amendment is not in a vacuum, and that the petitioner's track record shows that he will not comply with conditions.

Commissioner Paulson asked how to process the request with the cease and desist letter. Scott Anderson, planning staff, stated that this is not on the same parcel and it is a separate action from the bed and breakfast.

Christie Childress stated that the proposed dwelling will be a separate resident for personal use. She explained that the neighborhood has not been kind to the family.

Commissioner Kippley agreed that the violation and the request for minor amendment are two separate issues. He asked if there could be any additional conditions placed on the request to add checks to the approval.

Commissioner Ralston stated that a track record of not listening is unfortunate, but the land use request is appropriate.

Commissioner Nyberg stated that the Sioux Falls Planning Commission can consider past actions. He suggested that action could be deferred 60 days to see how enforcement works out before a decision is made.

Commissioner Kippley asked again if any conditions could be placed on the permit.

Commissioner Ralston noted that this is approving the dwelling, and anything else needs a major amendment.

Commissioner Paulson raised concern that approval would leave more opportunity to break the rules.

Commissioner Kippley explained that there is a need for an executive body to enforce the law regardless of who is the petitioner.

Commissioner Fisher asked if changing the subarea boundaries would be possible. Kevin



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

JUNE 26, 2023

Hoekman, planning staff, stated that a boundary change would require a major amendment.

Commissioner Duffy explained that land use is up to the commission to decide and that prolonging the action would not likely change the outcome.

Action

A motion was made for the County by Commissioner Ralston and seconded by Commissioner VanDerVliet to **approve** the Minor Amendment 23-01. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

The same motion was made for the City by Commissioner Fisher and seconded by Commissioner Nyberg to **approve** Minor Amendment 23-01. The motion passed with 3 votes in favor and 1 vote against the motion. Commissioner Paulson voted against the motion.

Minor Amendment #23-01 – Approved



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

JUNE 26, 2023

Old Business

None.

New Business

None.

Adjourn

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

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

The meeting was **adjourned** at 8:05 p.m.