



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

JULY 24, 2023

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
July 24, 2023**

A joint meeting of the County and City Planning Commissions was held on July 24, 2023 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

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

STAFF PRESENT:

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

The County Planning Commission was chaired by Commissioner Bonnie Duffy. The City Planning Commission was chaired by Commissioner Janet Kittams.

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

PUBLIC COMMENT

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

Consent Agenda

Commissioner Duffy read each item on the consent agenda and no items were requested to be moved to the regular agenda

A motion was made for the County by Commissioner Ralston and seconded by Commissioner Randall to **approve** the consent agenda consisting of Items 1 & 2. The motion passed unanimously.

The same motion was made for the City by Commissioner Paulson and seconded by Commissioner Nyberg to **approve** the consent agenda consisting of Items 1 & 2. The motion passed unanimously.



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ITEM 1. Approval of Minutes – June 26, 2023

As part of the consent agenda, a motion was made for the County by Commissioner Ralston and seconded by Commissioner Randall to **approve** the meeting minutes from June 26, 2023. The motion passed unanimously with 5 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 Nyberg to **approve** the meeting minutes from June 26, 2023. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.



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Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #23-32 to allow a Mini Storage Facility on the property legally described as Part Tract 4 (Ex. H-1) Lot 7 Pleasant View Acres N½ SE¼ & S½ NE¼ Section 19 T101N-R48W Split Rock Township.

Petitioner: Dutch Dirt LLC.

Property Owner: Same

Location: 1002 S Hillside Drive

Staff Report: Mason Steffen

General Information:

Legal Description – Part Tract 4 (Ex. H-1) Lot 7 Pleasant View Acres N½ SE¼ & S½ NE¼ Section 19 T101N-R48W Split Rock Township

Present Zoning – C Commercial

Existing Land Use – Equipment Sales & Rental

Parcel Size – 1.66 Acres

Staff Report: Mason Steffen

Staff Analysis: Currently, the northern portion of this property is being utilized by ABC Rentals, as a tool and equipment rental location. The petitioner is requesting to expand the development on this property, by constructing rentable storage units on the south portion of the lot. Mini-warehousing, such as the proposed storage units, are a conditional use within the C Commercial Zoning District of the Joint Sioux Falls Zoning Ordinance, and therefore a conditional use permit is required.

The petitioner has submitted a site plan and narrative for the proposed operation. The site plan shows three storage unit buildings on the property, two 48' x 70' buildings with smaller storage units, and a 48' x 164' building with larger storage units. The site plan also indicates that the driving areas within the proposed operation will mostly be gravel surfaced, except for a portion directly in front of the larger storage building, which will be concrete surfaced. Finally, since the property will be accessed via the gravel surfaced S Hillside Drive, the operation is not required to meet the hard surfacing requirements of the Joint Sioux Falls Zoning Ordinance.

On July 5, 2023, staff conducted a site visit of the subject property and surrounding area. Most of the development in the area around this property is commercial/industrial in nature, and the addition of storage units will largely fit with the existing uses. This includes an existing storage unit operation on the property directly to the east that was approved via a conditional use permit in 2021. This request was also sent to the city of Sioux Falls planning staff for comments. City staff stated that the operation does not currently need city services and is an appropriate land use for this area. Additionally, city staff commented that this commercial subdivision along E Arrowhead Parkway should not be annexed one property at a time, but that the applicant should be aware that they will eventually be expected to connect to city services and annex the property, when the time comes to annex the entire subdivision.

Conditional Use Permit Criteria:



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

The property is located within a commercial subdivision along E Arrowhead Parkway that has many warehouses and contractor buildings, include the adjacent property to the east, which is an existing storage unit operation. Therefore, mini-storage units are similar to the other uses surrounding the property, and should not have any anticipated negative impacts on these properties.

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

The area surrounding the subject property is mostly developed with similar land uses and buildings to the proposed storage units. Additionally, a majority of the vacant land in the area is within the city limits of Sioux Falls, and is currently being developed into a mix of uses including commercial type uses. Therefore, the addition of more warehousing structures on this property will not impact the continued development of this surrounding vacant land.

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

The operation will be utilizing a new access point off of S Hillside Drive, and this access will need to be approved by Split Rock Township prior to development of the storage units. This property already has access to electrical services, and should not need access to city water or sewer services prior to the city annexing the property in the future.

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

The buildings are spaced wide enough to allow for temporary parking. No permanently parked vehicles will be allowed as outdoor storage. Given that the operation will be accessed via the gravel surfaced S Hillside Drive, the parking areas and driveways are not required to be hard surfaced.

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.

Lighting and glare from this type of operation does have the potential to be a nuisance to neighboring properties. However, lighting is also needed on the property to maintain the proper site visibility and for security. Therefore, any new lighting that is installed on the property for this request should be designed to direct light so that it does not spill off of the property. Finally, commercial businesses will also not be allowed to operate in the storage units, which will reduce the chances of any other types of nuisance being created by this facility.

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

The proposed storage unit operation will not affect the health, safety, and general welfare of the public. Given the existing land uses in the area, and the fact that storage units require little to no utilities, this proposed operation is an appropriate use for the subject property. Finally, this operation conforms to the goals of the 2035 Envision Comprehensive Plan by encouraging commercial expansion in existing locations at the intersections of major arterial roads.



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Recommendation: Staff recommends **approval** of Conditional Use Permit #23-32 with the following conditions:

- 1) That no outdoor storage shall be allowed at any time.
- 2) That all signage shall conform to Article 17.00 of the Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls, and a sign permit must be obtained prior to the placement of any signage.
- 3) That no commercial businesses shall be allowed to operate within the storage units.
- 4) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 5) That all buildings must be engineered and the plans must be stamped by a professional engineer and submitted to the County Builder Inspector for review prior to the issuance of any building permits.
- 6) That building permits shall be required for each building and sign on the property, prior to being constructed.
- 7) That approval from Split Rock Township shall be obtained for the location of a new driveway onto S Hillside Drive, prior to a building permit being issued.
- 8) That the Planning & Zoning Department reserves the right to enter and inspect the site 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

As part of the consent agenda, a motion was made for the County by Commissioner Ralston and seconded by Commissioner Randall to **approve** Conditional Use Permit #23-32. The motion passed unanimously with 5 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 Nyberg to **approve** Conditional Use Permit #23-32. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-32 – Approved



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Regular Agenda

ITEM 3. CONDITIONAL USE PERMIT #23-13 to allow a Public Utility Facility (Collector Well) on the property legally described as Tract 1 & 2 (Ex. H-1) NE¼ SW¼ Section 29 T102N-R49W Mapleton Township.

Petitioner: City of Sioux Falls

Property Owner: Same

Location: Located North of Sioux Falls, along N Ditch Road

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 1 & 2 (Ex. H-1) NE¼ SW¼ Section 29 T102N-R49W

Mapleton Township

Present Zoning – RC Recreation/Conservation District

Existing Land Use – Woodland

Parcel Size – 26.74 Acres

Staff Report: Mason Steffen

Staff Update: This item was scheduled to be heard by the Joint Planning Commission on April 24, 2023. At that meeting, the States Attorney's Office explained that a Public Utility Facility was not a listed conditional use within the RC Recreation/Conservation Zoning District. Therefore, this item was deferred to this meeting, in order for planning staff to amend the Joint Zoning Ordinance to include Public Utility Facility as a conditional use within the RC Zoning District. However, after the item was deferred, the city of Sioux Falls elected to move forward with annexing the property, so that they could begin construction sooner than this permit would allow. So, given that the subject property has been annexed into the city limits of Sioux Falls, this item is being withdrawn from consideration. Therefore, the planning commission will only need to recognize the withdrawal of the permit and will not need to take any additional action.

Staff Analysis: The city of Sioux Falls is proposing to construct a new collector well on the site of an existing well. The city has stated that the current collector well no longer produces at adequate levels, and that the new collector well will allow for better water access at various times throughout the year. Along with the new collector well the city will be constructing a 17' x 25' building, which will house the necessary above ground equipment to operate the well. Due to the project being located within the floodway, the petitioner was required to obtain a flood plain development permit, as well as provide a no-rise certificate to the planning office. These items were received prior to this application and the flood plain development permit for the collector well was approved on February 1st, 2023.

On April 10, 2023, staff conducted a site visit of the subject property and surrounding area. The land in the surrounding area is almost entirely comprised of agricultural land, and is also mostly located within the floodway of the Big Sioux River. Additionally, the proposed collector well will allow for the city to provide adequate water levels, and this location should not affect future development in the area. Finally, the property will be accessed from N Ditch Road and the collector well will be operated remotely, so once construction is complete the only traffic to the



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site will be for maintenance.

Conditional Use Permit Criteria:

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

The proposed facility will be an upgrade to the existing collector well, and therefore it should not have a negative effect upon the uses already permitted in the area. Given the location of the property, a majority of the existing uses in the area are for agricultural purposes, and the continued use of this property as an updated collector well will not affect these uses.

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

The vacant property in the area is predominantly agricultural in use, and this will likely continue into the foreseeable future given the location of the floodway and lack of building eligibilities in the area. Also, the proposed collector well will be a part of the city of Sioux Falls water system and will help provide adequate water to present and future developments within Sioux Falls.

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

This property will be accessed from N Ditch Road and the city will provide all the other necessary utilities to the site. The drainage on the property will need to be properly maintained in order to prevent erosion and sedimentation of the drainage ways and bodies of water in the area. Finally, the city of Sioux Falls and HDR Engineering submitted a flood plain development permit and no rise certificate to the planning office that was approved earlier this year, so the proposed project should not impact the Big Sioux River or its floodway.

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

The petitioner has stated that the collector well will be operated remotely, and that they will be providing parking spaces to be utilized by maintenance staff. Each parking space provided should measure a minimum of nine feet by eighteen feet, and should be properly maintained in order to limit the potential of dust becoming a nuisance.

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 proposed use should not create any offensive nuisances to the surrounding area, and any increase in traffic to the area will be minimal given the remote operation of the collector well. Additionally, any lighting that is installed in conjunction with the collector well should be of a fully cutoff and shielded design to prevent light pollution from spilling onto adjacent properties.

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

The proposed use will generally benefit the health, safety and general welfare of the public by allowing the city to properly provide adequate water levels throughout the year. Additionally, one of the goals of the 2035 Envision Comprehensive Plan is to, "Coordinate growth and land use planning among Minnehaha County, Cities, Townships, and other relative organizations." The proposed operation meets this goal of the 2035 Envision Comprehensive Plan by providing the city of Sioux Falls with a location to adequately collect water for their municipal use &



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development.

Recommendation: Staff acknowledges that the property has been annexed into the city of Sioux Falls, and therefore recommends that the Planning Commission **acknowledge the withdrawal** of Conditional Use Permit #23-13.

Public Testimony & Discussion

Mason Steffen, of county planning staff, explained the staff report to the commission and stated that the property has been annexed into the city limits of Sioux Falls for development. He then explained that since the property is no longer within the jurisdiction of the joint planning commission, the item is being withdrawn, and the commissions should vote to acknowledge this withdrawal.

Action

A motion was made for the County by Commissioner Randall and seconded by Commissioner Ode to **acknowledge the withdrawal** of Conditional Use Permit #23-13. The passed unanimously with 5 votes in favor and 0 votes against the motion.

The same motion was made for the City by Commissioner Nyberg and was seconded by Commissioner Johnson to acknowledge the withdrawal of Conditional Use Permit #23-13. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

Conditional Use Permit #23-13 – Withdrawn



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ITEM 4. REZONING #23-05 to rezone from the A-1 Agricultural District to the C Commercial District the properties legally described as Lot 1 & Lot 2 Sundermann Addition S½ SE¼ Section 26 T102N-R50W Benton Township.

Petitioner: Tad Fiegen

Property Owner: Highway 38 Sundermann Land LLC.

Location: Along SD Highway 38, approximately ½-mile west of N Marion Road

Staff Report: Scott Anderson

General Information:

Legal Description – Lot 1 & Lot 2 Sundermann Addition S½ SE¼ Section 26 T102N-R50W Benton Township

Present Zoning – A-1 Agricultural

Existing Land Use – Vacant Lot

Parcel Size – 8.00 Acres

Staff Report: Scott Anderson

Staff Analysis: The applicant has submitted a rezoning request to rezone the above described 8-acre parcel from A-1 Agriculture to C Commercial District. The applicant has indicated that they wish to develop the site commercially.

On June 28, 2023, staff conducted a site visit to the subject property. The site is currently vacant. At one time, it appears to have been a residential lot. All structures have been removed from the parcel. It is heavily wooded. It is adjacent to the Sioux Falls city limits on the east, south and north sides. The SD DOT Office and shops and Highway Patrol Offices are located adjacent to the east and the ADP data processing facility along with a utility substation are located directly south. The property directly north is currently being developed as a commercial site.

The property is located on Highway 38 approximately 1,900 feet west of the intersection of Marion Road and SD Highway 38. There has been recent commercial development along this corridor with the construction of a new Walmart, Aldi's and other commercially related businesses.

Comments from the City of Sioux Falls indicate that this parcel is in the Tier 3 Growth Area, which means city services are projected to be available within a 16 to 25-year time horizon. Sioux Falls Public Works has stated that gravity sewer is not available to the property. The City of Sioux Falls is recommending the rezoning request be denied because it is located in Tier 3 and no City services are available. The City has submitted comments on the rezoning request which more fully explain their annexation and growth policies. The comments are included for your review.

Recommendation: Staff finds that the proposed rezoning does not conform to the goals and policies of the City of Sioux Falls and recommends **denial** of Rezoning #23-05 to rezone the subject property from the A-1 Agricultural District to the C Commercial District.



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Public Testimony

Scott Anderson, the County Planning Director, explained the staff report, city comments, and recommendation to the commission.

The petitioner, Tad Fiegen of 47993 252nd Street, Garretson, SD, was present and addressed the commission with his reasons for this request. Mr. Fiegen explained that his business is the Western Housing mobile home operation that is current operating on W 12th Street, and that he is looking to move away from that location mostly due to vandalism. He also explained that he has discussed this subject property with the city in the past, and that originally the city was willing to work with him on developing the property outside the city. However, that that has changed since this rezoning request. Mr. Fiegen also stated that he would be willing to connect to city services once available, and that the operation can operate without city services due to the low water and sewer usage on the property.

The property owner, Paul Sundermann of 47045 249th Street, Baltic, SD, explained to the commission that the area surrounding the property is a mixed-use area with Walmart, an implement dealership, and a bank. Therefore, Mr. Sundermann stated that the proposed mobile home operation would fit in with these exists use in the area. Mr. Sundermann also commented that the operation is mostly run by two employees, and so a holding tank would be adequate to handle the sewage on the property. Finally, Mr. Sundermann stated that the existing city water line to the north of the property was extended to the SDN Communications building to the west through his property, and that he was never compensated for that water line construction.

Fletcher Lacock, Urban Planner for the city of Sioux Falls, explained the city's recommendation, and stated that the city has discussed the annexation process with the petitioner. Mr. Lacock also stated that it might be best for the petitioner to continue to work with the city Public Works Office, and that the city cannot force annex the property. However, Mr. Lacock also stated that if a property is adjacent to the city and requesting a rezoning, the city can recommend denial of the permit so that the petitioner goes through the proper process for annexation. Finally, Mr. Lacock stated that since the property is within the Tier 3 growth area, the property should remain rural until it is connected to city services and annexed.

Commissioner Ode asked the petitioner what they thought about the city's plan for service extension and annexation of the property. Tad Fiegen explained to the commission that he is a small business owner and that the fee just to extend city sewer to the property is \$95,000, which he cannot afford. Mr. Fiegen also explained that he has looked for land everywhere in the area to move this operation to, and that this is the only property that he can afford that is close to his residence. Finally, Mr. Fiegen stated that the plan would be to leave the perimeter trees on the property, in order to screen the operation from the highway and surrounding properties.

Commissioner Ode then asked the petitioner if their current location on 12th Street has security cameras. Tad Fiegen explained that they do have security cameras, but that the city police department has not been able to make any arrests.



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Discussion

Commissioner Mohrhauser asked planning staff if approval or denial of this request was the only option available to the commission. Scott Anderson stated that those are the only two options unless the commission wanted to defer action in order gain more information. Mr. Anderson also commented that even though the applicant has stated they are willing to have an agreement with the city regarding annexation, conditions cannot be placed on rezonings, and therefore any agreement would be separate from this rezoning issue.

Commissioner Ralston then asked Scott Anderson if the rezoning is attached to Western Housing or to the property. Mr. Anderson stated that the rezoning is applicable to the land, and that if the rezoning is approved, any uses listed in the C Commercial District could take place on the property in the future.

Commissioner Randall asked if there is a conditional use permit process that would allow for the mobile home operation to operate on the property. Scott Anderson explained that the property is current zoned A-1 Agricultural, and that there are no conditional uses in that zoning district that would allow for this use.

Commissioner Randall commented that she wants to believe that this is a good location for this business, but that based on the city comments she is not comfortable with approving the request.

Action

A motion was made for the County by Commissioner Randall to **recommend denial** of Rezoning #23-05. Commissioner Ralston commented that this property may be a good location for this use, but that the commission should be conscious that this rezoning could allow other commercial uses as well. Commissioner Ralston then seconded the motion to **recommend denial** of Rezoning #23-05. The motion passed with 4 votes in favor and 1 vote against the motion. Commissioner Ode voted against the motion.

Commissioner Johnson then asked the city attorney if the city planning commission were to motion to approve the request, and that motion were to fail, would that be a split decision given that the county planning commission voted to recommend denial. Paul Bengford, the Senior Assistant City Attorney, explained that the city commission should motion for approval and if that motion were to fail, it would be seen as the same decision as the county planning commission and not a split decision.

A motion was made for the City by Commissioner Johnson and seconded by Commissioner Nyberg to **recommend approval** of Rezoning #23-05 for the purpose of discussion.

Commissioner Johnson commented that it is unfortunate that the zoning would stay on the property regardless of if the current intended use continues in the future. Commissioner Johnson also commented that since city services are not available, this property would not be appropriate for commercial zoning in this growth tier.

Commissioner Nyberg stated that many times properties appear suitable on the surface, but that



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on every property there is something that makes it unique, and in this case that is the lack of services. Commissioner Nyberg also commented that he appreciates that this issue is coming to light now in the early stages of the project, and that the right process for this property is to begin the annexation process.

The motion for the City to **recommend approval** of Rezoning #23-05 failed to pass with a vote of 0 votes in favor and 4 votes against the motion.

Rezoning #23-05 – Denial Recommended



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ITEM 5. ZONING TEXT AMENDMENT #23-04 to amend the Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls to add Vacation Home/Short Term Rental Regulations.

Petitioner: County Planning Staff

Staff Report: Scott Anderson

Staff Report: Scott Anderson

Staff Analysis: The need to address, accommodate and regulate vacation homes and short-term rentals has come to light over the past several months. This use will continue to present itself throughout the county and this proposed ordinance amendment attempts to provide a fair framework on how the use can be accommodated. The ordinance amendment identifies vacation homes and short-term rentals as a use that should be handled through the permitted special use process. It identifies specific zoning districts where the use will be allowed as a permitted special use. The proposed text amendment sets up criteria that the petitioner will need to meet. If the criteria can't be met, the applicant can then apply for a conditional use permit. The applicant will need to identify which criteria can't be met and ask the Planning Commission to approve the new request. The public will be notified of the request for a short-term rental/vacation home and will have 14 days after a notice is mailed to object.

The Planning Commissions have heard from both concerned citizens and advocates of this use at several of the past meetings. Areas of concern that have been discussed at past meetings include a registry and complaints procedure. Staff believes that this is not necessary. The proposed amendment would require that current owner and any manager information be kept current at the Planning Department and at the rental. Furthermore, the property owner information is always available through the Director of Equalization's tax data base. There has also been discussion on the need for a complaints process. This process already exists. When conditions of a conditional use permit are not being met, the public can and does contact the Planning Department. This will start a review process on the complaint which can lead up to the revocation of the conditional use permit and legal enforcement of the Zoning Ordinance.

The criteria proposed by staff attempts to be fair to the applicant and surrounding neighborhood in order that the use can be compatible. The proposed ordinance sets guidelines for the number of occupants per bedroom and requires minimum parking requirements. The contact information for the owner/manager will required to be posted on site and provided to the Planning Department for issues to be addressed by both renters and planning staff.

Recommendation: Staff recommends **approval** of Zoning Text Amendment #23-04 adding Articles 3.03(j), 4.03(e), 5.03(d), 6.03(d), 7.03(d), 8.03(f), 13.03(g) and 24.02(733A) to the Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls.

Public Testimony

Scott Anderson, the County Planning Director, explained the proposed ordinance and the criteria for vacation home/short term rentals to the planning commission.



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Commissioner Nyberg asked staff what this ordinance would mean for current vacation home/short term rentals that exist in the joint jurisdiction. Scott Anderson explained that since 2016 the county has approved three bed and breakfasts within the joint area, and that he is working with the State's Attorney Office to ratify those existing conditional use permits as vacation home rentals. Commissioner Nyberg then asked Scott if that means the neighbors to the existing operations do not have an opportunity to object. Scott stated that these neighbors would have already been notified and had input when the original conditional use permits were approved.

Commissioner Paulson asked planning staff what criteria would be involved in the conditional use permit process for a vacation home/short term rental. Scott Anderson explained the six conditional use permit criteria that are used to evaluate every conditional use permit, and stated that planning staff and the commission are not limited on what they can use to evaluate a conditional use permit. Scott also explained that if a petitioner is not able to meet all of the regulations listed in the ordinance, that is when they would apply for a conditional use permit, and explain to the commission why their operation does not need to follow the specified regulations.

Commissioner Paulson then asked Scott Anderson what a neighbor can do if they feel the operation will affect the use and enjoyment of their property. Scott explained that the neighbors will have fourteen days to submit their concerns to the Planning Department, and then it would go to the joint planning commission for their consideration regarding the impact to the neighbors.

Tyler Childress, of 47677 Slip Up Creek Road, Sioux Fall, SD, addressed the commission with his comments on the proposed ordinance. Mr. Childress explained that he is heavily involved in the rental industry, and that within the city of Sioux Falls the application process is the same no matter the length of the rental. Mr. Childress also referenced a South Dakota Supreme Court case that he believes sets short term rentals as a residential use, and that if a single-family dwelling is allowed as a residential use, so should short term rentals. Additionally, Mr. Childress commented that neighbor concerns regarding a short term rental may only be the neighbor's opinion, and that he would like to see a clear process for how the county will handle complaints. Finally, Mr. Childress stated that the joint jurisdiction should have different rules than the overall county, and that short term rentals could be handled differently based on their location with the city's tiered growth areas.

Commissioner Paulson asked the city attorney for clarification on the supreme court case referenced by Mr. Childress, and if that ruling was able to be applied to zoning ordinances. Commissioner Paulson also asked if this was the same case referenced to by Mr. Childress within the minutes from the February planning commission meeting. Paul Bengford, the Senior Assistant City Attorney, stated that he would need to review the minutes from the February planning commission meeting before answering that question.

Chad Theisen, of 2701 S Phillips Avenue, Sioux Falls, SD, commented his thoughts on the proposed ordinance amendment. Mr. Theisen asked that the commission consider if this



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ordinance will help or hurt home owners make better use of their properties. He also commented that he would urge the commission to listen to the home owners and stakeholders of short term rentals because they will be ones affected by the ordinance, and they are experts in the field of short term rentals.

Kristina Hoobler, of 47648 Surrell Street, Sioux Falls, SD, explained that the subdivision that she lives in is a small community, and that she hopes the commission will take neighbors' concerns into account when making decisions. Mrs. Hoobler also stated that serious action should be taken against anyone who violates the regulations of this ordinance.

John Beck, of 47645 Surrell Street, Sioux Fall, SD, asked the commission what happens if a neighbor has a complaint about a short term rental after the fourteen day period listed in the ordinance. Mr. Beck also asked how the bedroom and parking requirements will be enforced, and questioned if 500 feet is enough for notification due to noise and other nuisances. Finally, Mr. Beck stated that every vacation home/short term rental should be required to obtain a conditional use permit.

Lucas Strom, of 27269 467th Avenue, Tea, SD, explained to the commission that he is a dual resident who has operated short term rentals and also lives in Puerto Rico where short term rentals are not a new idea. Mr. Strom also commented that he understands that many people move out to the country and buy one or two acre lots with the idea that they will never have neighbors, but that is not reality. Finally, Mr. Strom stated that most of the opposition to these short term rentals is based on a fear of change, which leads to a fixation on the potential negatives.

Paul Bengford returned to the podium to address Commissioner Paulson's earlier question regarding the supreme court case and short term rentals. Mr. Bengford explained that the case in question is Wilson vs. Maynard, which was a 2021 decision by the SD Supreme Court regarding restrictive covenants and is not applicable to ordinances.

Tony Bachman, of 48069 267th Street, Brandon, SD, explained to the commission that the focus so far has been on the negatives regarding short term rentals, and that he wants to focus on the positives. Mr. Bachman explained that this includes allowing the property owners to reinvest their earnings back into the property and have a positive impact on the neighborhood. Mr. Bachman also commented that over regulation will kill existing and potential businesses, and that the short term rentals will generally improve property values.

Tina Beck, of 47645 Surrell Street, Sioux Falls, SD, asked the commission when a short term rental becomes an event space and not a residence. Mrs. Beck also questioned why there are limits to the number of unrelated residents within a long term rental, but a short term rental can have three people per bedroom with no cap on the total number of people. Finally, Mrs. Beck stated that noise is a problem with short term rentals and that she wants that to be addressed.

Sara Benson, of 1515 E 30th Street, Sioux Falls, SD, stated that she was one of the first homes to do Airbnb within the city of Sioux Falls, and this allowed the home to stay within her family and



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allowed her to open a business in downtown Sioux Falls.

Scott Anderson came to the podium and reiterated to the commission and audience that this proposed ordinance does not regulate short term rentals within the city limits of Sioux Falls. Scott stated that he wanted to be clear that this ordinance will only impact the short term rentals in the joint jurisdiction outside of the city.

Avery Del Grosso, of 47640 Surrell Street, Sioux Falls, SD, stated that she lives next to the Airbnb that is continuing to operate after being denied, and that some enforcement should be considered in order to respect the neighbors.

Dwayne Wegman, 47634 Surrell Street, Sioux Falls, SD, asked how the complaint procedure would be implemented, and that he believes the system has failed before it has started, due to the lack of action on the denied short term rental. Mr. Wegman stated that there has also been occasions where campers have been brought onto the property by renters, and he does not see how this is allowed.

Macy Del Grosso, of 47640 Surrell Street, Sioux Falls, SD, stated that she has lived in the neighborhood for twenty-four years, and the thought of having neighbors that she does not know is scary for her. Mrs. Del Grosso stated that she will not know who is renting the short term rental, and so she will be concerned for her children's safety.

Scott Zwak, of 47646 Slip Up Creek Road, stated that he is the next door neighbor to the Tyler Childress denied short term rental. Mr. Zwak stated the nuisances with the property including loud vehicles, party buses, and late night fireworks.

Kristi Childress, of 2108 E Tamarac Drive, Sioux Falls, SD, stated that this issue has become personal between her and her neighbors, and that if the neighbors get to decide how she can use her land on this issue, what is stopping them from continuing to do so on other issues. Mrs. Childress also commented that long term rentals are not regulated and that she does not see the need to regulate short term rentals.

Discussion

Commission Paulson thanked planning staff for their work on this ordinance and stated that this is a challenging issue for the commission and staff. Commissioner Paulson also commented that poorly managed short term rentals do create a peace of mind issue for neighbors. Commissioner Paulson then stated that the concerns regarding short term rentals is growing throughout the country, and are being restricted in residential neighborhoods. Next, Commission Paulson stated that the county comprehensive plan currently does not have a section that addresses short term rentals, and that he would like to see this ordinance process extended in order to toughen up the language in the ordinance. Finally, Commissioner Paulson commented that the three approved conditional use permits are bed and breakfasts, which differ from short term rentals because an owner lives on site.

Scott Anderson returned to the podium to clarify that the existing permits were processed as bed



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and breakfasts in order to accommodate the requests, but that they are essentially short term rentals where the property owner is not on site.

Commissioner Paulson further commented that he believes this is an opportunity for the ordinance to be a model to the surrounding areas.

Commissioner Ralston stated that these requests are not one-size fits all and each request will be a unique situation with different requirements. Commissioner Ralston also commented that if the conditions are met then the use will be allowed, but if they are not, then this ordinance will allow the planning commission to hear the neighbors' concerns. Commissioner Ralston finished by saying that he believes these guidelines are a good starting point in order to handle short term rentals.

Commissioner Paulson asked planning staff if criteria could be added to the ordinance in the future. Scott Anderson explained that the planning commission always has the ability to amend the joint zoning ordinance, if in the future this ordinance is not regulated short term rentals properly. Scott also commented that each conditional use permit could have additional conditions placed on the permit above what is listed in the ordinance in order to address the potential concerns of neighbors.

Commissioner Johnson asked planning staff what were to happen if a person was to apply for a short term rental conditional use permit and end up being denied. Scott Anderson explained that planning staff would record this denial and in most cases the short term rental would not go unnoticed by neighbors.

Action

A motion was made for the County by Commissioner Ralston and seconded by Commission Randall to **recommend approval** of Zoning Text Amendment #23-04. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

A motion was made for the City by Commissioner Paulson and seconded by Commissioner Johnson to **recommend approval** of Zoning Text Amendment #23-04.

Commissioner Nyberg commented that we currently live in a polarized world and this is one of those cases where people are either in full support or fully against short term rentals. Commissioner Nyberg stated that he believes this ordinance is a middle ground, and is a good start that can be amended in the future if necessary. Finally, Commissioner Nyberg stated that most of the short term rental requests, at first will probably go through the conditional use permit process, and that there needs to be a strong enforcement mechanism for when there are complaints.

Commissioner Paulson stated that he would prefer to take more time to consider the ordinance and draft a stronger version, but that given it is a work in progress he will be supporting the ordinance.



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The motion for the city to **recommend approval** of Zoning Text Amendment #23-04 was approved with 4 votes in favor and 0 votes against the motion.

Zoning Text Amendment #23-04 – Approval Recommended



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Old Business

None.

New Business

Scott Anderson, the County Planning Director, explained to the commission that planning staff is beginning the process of updating in county's 2035 Envision Comprehensive Plan. Mr. Anderson stated that he expects this process to take one and half to two years to complete, and that planning staff will be looking to receive input from the municipalities within the county.

Adjourn

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

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

The meeting was **adjourned** at 8:32 p.m.