



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

JANUARY 22, 2024

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
January 22, 2024**

A joint meeting of the County and City Planning Commissions was held on January 22, 2024 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, Doug Ode, Mike Ralston, and Joe Kippely.

CITY PLANNING COMMISSION MEMBERS PRESENT: Bradyn Neises, John Paulson, Kurt Johnson, Erik Nyberg, and Mike Gray.

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. The City Planning Commission was chaired by Commissioner Bradyn Neises.

Chair Duffy called the Joint Minnehaha County and City of Sioux Falls Planning Commission meeting to order at 7:02 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 – November 27, 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 November 27, 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 Paulson and seconded by Commissioner Nyberg to **approve** the meeting minutes from November 27, 2023. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.



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Consent Agenda

ITEM 2. MINOR AMENDMENT #24-01 to the Laurel Ridge Planned Development District to update the list of “Other Regulations” in Subareas A and B to reflect the road authority change and pavement of Slip Up Creek Road on the properties legally described as Lot A Tract 1 Laurel Ridge Addition & 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: 47675 Slip Up Creek Road

Staff Report: Mason Steffen

General Information:

Legal Description – Lot A Tract 1 Laurel Ridge Addition & 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: Mason Steffen

Staff Analysis: The subject property is located north of Sioux Falls along Slip Up Creek Road and is composed of two separate parcels. The first rezoning to occur on these properties was approved in February of 2019, and this rezoning created the Laurel Ridge Planned Development District. At that time, Slip Up Creek Road was a gravel road that was maintained and controlled by Mapleton Township. In the original adoption of the Laurel Ridge Planned Development District, there are regulations that relate to dust control being applied on Slip Up Creek Road, as well as to Mapleton Township being the road authority of Slip Up Creek Road. The specific articles where these are referenced are Article 14.0610 (A)(6)(c), Article 14.0610 (A)(6)(g), & Article 14.0619 (B)(6)(c) of the 2002 Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls. In the Fall of 2023, the Minnehaha County Highway Department paved Slip Up Creek Road between 476th Avenue and the entrance of the South Dakota Veterans Cemetery. This portion of road that is now paved specifically overlaps with the portion of road that the petitioner was required to dust control. Since pavement has been installed on this portion of the road, dust control measures are no longer needed from the petitioner, and therefore they are requesting that Article 14.0610 (A)(6)(g) be removed for the Laurel Ridge Planned Development District. In addition, on December 5, 2023 the County Commission adopted Resolution 23-42, and accepted ownership of Slip Up Creek Road (County Highway 134). Due to the adoption of this resolution, Article 14.0610(A)(6)(c) & Article 14.0610(B)(6)(c) need to be updated to reflect the Minnehaha County Highway Department as the new road authority of Slip Up Creek Road. I have included a copy of the original regulations for the Laurel Ridge Planned Development District, as well as a copy of the proposed changes to the regulations.

Recommendation: Staff recommends **approval** of Minor Amendment #24-01.



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Action

As part of the consent agenda, a motion was made for the County by Commissioner Ralston and seconded by Commissioner Randall to **approve** Minor Amendment #24-01. The motion passed unanimously with 4 votes in favor of the motion and 0 votes against the motion.

As part of the consent agenda, the same motion was made for the City by Commissioner Paulson and seconded by Commissioner Nyberg to **approve** Minor Amendment #24-01. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

Minor Amendment #24-01 – Approved



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Regular Agenda

ITEM 3. CONDITIONAL USE PERMIT #24-01 to allow a Short-Term Rental on the property legally described as Tract 3 Andy's Acres NE¼ SW¼ Section 23 T102N-R49W Mapleton Township.

Petitioner: Don't Ask Holdings, LLC.

Property Owner: Same

Location: 47644 Slip Up Creek Road

Staff Report: Scott Anderson

General Information:

Legal Description – Tract 3 Andy's Acres NE¼ SW¼ Section 23 T102N-R49W Mapleton Township.

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – .74 Acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is seeking a conditional use permit to allow the residence at 47644 Slip Up Creek Road to be used for short term rental. The existing residence has six (6) bedrooms, five (5) bathrooms, and two (kitchens) spread out over two levels. In addition, there is a three stall attached garage and detached double stall garage, along with the concrete driveway leading up to the garages and additional gravel parking area in the back of the property. The applicant has included a short narrative that explains more on the proposed short-term rental and their vision for the home, which is included for the Planning Commission's review.

On January 9, 2024, staff conducted a site visit. The area consists of a residential development. There are approximately 35 residences in Andy's Acres. Staff noted that a recreational vehicle was located in driveway of the subject property. It is unclear if the RV is being used to house short term renters.

This conditional use permit request was provided to the City of Sioux Falls for review and comment. Their review finds that the request does not meet the criteria set forth in Chapter 159.397 and therefore the City of Sioux Falls is recommending denial. The City's review comments are included for the Planning Commission's review.

On January 23, 2023, the Joint Planning Commission denied a conditional use permit request to operate a bed and breakfast establishment on the subject property. The applicant applied for a conditional use permit to operate a bed and breakfast on the subject property after being contacted by the Planning Department upon receiving a zoning complaint. At that time, there was no definition for a vacation home rental/short term rental nor was that use identified in the zoning ordinance. A bed and breakfast establishment was the land use that best fit what the applicant was requesting and an application was submitted.



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After the Planning Commission action, the applicant did not appeal the recommended denial and continued to operate short term rentals from the subject property. Two additional zoning enforcement letters were sent to the applicant requesting the use to cease. In August of 2023, the County Commission authorized the States Attorney to proceed with legal action to enforce the Zoning Ordinance. A trial was held on November 30 and December 12, 2023. On December 15, 2023, Judge Houwman issued a preliminary injunction against Don't Ask Holdings.

The applicant applied for a short-term rental on November 30, 2023, which was the day an ordinance amendment addressing Vacation Home Rental/Short Term Rental became effective.

Staff has continued to receive complaints from the neighbors, who provide material showing that the house is still listed on short term rental sites and actively seeking bookings. Complaints have been made to the Planning Office as recent as January 8, 2024. It appears that despite Judge Houwman's order granting the motion for preliminary injunction, the applicant continues to offer the subject property for short term rentals.

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.

It is likely that the proposed use will not impact the property values in the neighborhood. It is likely that the construction of this residence in 2019 increased the property values in the area, as the house is quite large and has a value that exceeds most houses in the subdivision.

The proposed use as a short-term rental will have an effect upon the use and enjoyment of the property in the immediate vicinity. During 2023, the Minnehaha County Planning Department received more than 25 complaints on the use of the property. The complaints ranged from noise and traffic after 11 p.m., use of fireworks by renters, party buses unload guests after midnight, garbage on the site, traffic and lighting. The neighboring property owners have called the Minnehaha County sheriff to address noise. These issues were reported to the Planning Department on nearly a weekly basis by several of the area residents. These complaints represent how the property is likely to be used and operated in the future and will continue to cause neighborhood conflict. The request to establishment a short-term rental at this property has had and will likely continue to have a negative impact on the use and enjoyment of the properties in the immediate vicinity.

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

This area is close to the north side of city limits of Sioux Falls. The 2040 Future Land Use map shows the land use in the area will be light industrial and future parks. It is also in the Tier 3 annexation area not to be annexed within 16 to 25 years. The subject property is part of the Andy's Acres Subdivision. This subdivision is located to the north, east and west of the subject property. The area to the south has recently been zoned as the Mapleton Golf Course Planned Development and is currently under construction. There is a potential that a land use which



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disturbs the existing uses could have a negative impact on any surrounding vacant properties. Any vacant property may not wish to develop due to noise, traffic and public disturbances such as fireworks or groups of partying renters.

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

The property is already developed with a single-family dwelling and street access onto Slip Up Creek Road. Slip Up Creek road was recently paved and is now on the County's highway system and maintained by the County Highway Department. No new utilities will be needed, and drainage will not change on the site.

This property is located on a rural lot with an on-site wastewater disposal system designed for 600 gallons per day of water usage. The Planning Commission and the Petitioner should be aware that the proposed use may create water usage problems for the property. The Zoning Ordinance allows a maximum occupancy of three people per bedroom for a total of 18 people on site at any one time. The USGS.gov website estimates that the average daily water usage for a person is 80 to 100 gallons. If each person at the house uses 80 gallons of water the system could only support 7.5 people. Even if average water use per person is divided in half (such as the state on-site wastewater design requirement for a rooming house), the septic system would not support 18 people. The Planning Commission should consider the total maximum occupancy of the property and how the proposed occupancy might impact the septic system.

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

The zoning amendment that became effective on November 30, 2023 requires 1 parking per guest bedroom. The applicant has indicated that six (6) bedrooms are to be used, which would require 6 parking spaces. There are five (5) garage spaces and the driveway approach to the garages. This meets the off-street parking requirements.

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.

Staff does not feel that this use is an appropriate land use on the subject property. The Planning Commission could attempt to limit any potential nuisance issues with conditions should approval be considered. Items to consider for mitigation would be noise and traffic at typically quiet times such as between 11 pm and 7 am, trash, screening fences, berms, landscaping and the amount and type of security lighting.

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

The general welfare of the public is of concern. The proposed use could have potential health issues with an under designed wastewater system, the safety of the public is at risk with guest using the property arriving to the site late in the evening or early morning hours after celebrating events and potentially impaired by alcohol. The Comprehensive Plan indicates that should reflect the collective goals and values of the current residents and future generations.



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The Joint Planning Commissions may deny a conditional use permit when not in harmony with the purpose and intent of the Zoning Ordinance. Article 1.00 of the Joint Zoning Ordinance states: “The regulations are intended to preserve and protect *existing* property uses and values against adverse or unharmonious adjacent uses... (italics and bolding added). Throughout 2023 the subject property was used as a short-term rental and staff received nearly weekly complaints from many neighbors. The neighborhood concerns and complaints would indicate that the proposed conditional use permit for short term rentals is an unharmonious adjacent land use to the existing residential development in the area. Therefore, staff recommends denial of this request.

Recommendation: Staff recommends **denial** of Conditional Use Permit #24-01.

Public Testimony & Discussion

Scott Anderson, the County Planning Director, presented the staff report and recommendation to the commission.

Drew Duncan, the attorney representing Don’t Ask Holdings, was present and addressed the commission with his comments on the request. Mr. Duncan explained that this property was recommended for approval by staff for a bed & breakfast only a few months ago, and that he believes not much has changed from a planning perspective in order to deny this request. Mr. Duncan explained that his client originally bought this property as an event space that would operate in conjunction with their existing wedding barn in the area. He further stated that the previous owners had large family gathers at this property and also hosted church meetings. Therefore, the petitioner believed he could use this property as an event space upon buying the property, but changed to operating a short-term rental once they were told by planning staff that an event facility would not be allowed. Mr. Duncan then addressed the staff concern regarding the camper that is parked on the site, and explained that the camper is not being used by guests and is being used as a screening buffer to the neighboring properties. Additionally, Mr. Duncan stated that the petitioner did allow a family from Harrisburg to stay at the property after the temporary injunction by the judge, but that they stayed at the property for most of the month of December and therefore was not a short-term rental. Then Mr. Duncan commented that to his knowledge the petitioner had stopped advertising the rental online, but that he would need to confirm this with his client. Next, Mr. Duncan addressed several of the concerns that have been raised by the neighbors in the past. These included a firework incident, rocks being thrown in a neighbor’s lawn, and basketball being played outdoors after 10:00 pm. He then stated that this use does have positives and is compatible with the future Mapleton Golf Course, which will also have short-term visitors. Mr. Duncan also stated that the petitioner has instituted house rules and quiet hours for the guests, and has attempted to work with neighbors on the issue. Finally, Mr. Duncan explained that the property was approved for a lodging license from the State of South Dakota Health Department, and that the Planning Director stated at a previous meeting that the proposed use did not fully fit the bed and breakfast definition. Therefore, he believes all of this added ambiguity as to if the property could operate as a short-term rental.

Commissioner Nyberg questioned Mr. Duncan on if he could provide any further clarification on if the property is currently being advertised online. Mr. Duncan explained that the petitioner stated to him that they had removed the property from the listing websites, but that he had never



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checked to make sure this was accurate.

Commissioner Kippely asked Mr. Duncan to address the septic system issue that was raised by planning staff. Mr. Duncan stated that he did not feel that the septic system was a major concern in regards to the approval or denial of the permit.

Ryan Bechtold, of 47610 Slip Up Creek Road Sioux Falls, SD, stated that the property has been listed at \$1.4 million for several months and has not been sold. He also commented that the septic system is a real issue for this property, and that he is concerned if the septic system fails it will affect the surrounding area. Finally, Mr. Bechtold stated that the rental that took place after the temporary injunction was only for a weekend, and not for the entire month of December, as stated by Mr. Duncan.

Christine Beck, of 47645 Surrell Street Sioux Falls, SD, showed the commission an active Booking.com listing for this property, and also presented the commission with videos that demonstrated how loud the guests at the property have been. Mrs. Beck stated that this petitioner has continued to operate even after being denied and has caused problem after problem for the neighborhood. She also commented that the camper on the property is not helping to screen the property, and that the guests at this short-term rental are not considerate to the neighbors. Finally, Mrs. Beck stated that the petitioner is building a new house a half a mile from this property, and that they will not have to deal with these nuisances.

Zacharia Wipf, of 47606 Slip Up Creek Road, Sioux Falls, SD, explained to the commission that the petitioner is advertising the property as a rental for nurses and doctors, but that the people who are actually renting the property are not these types of people. He also stated that this use is entirely different from the golf course because a golf course is generally quiet at night, which is not the case with this property. Mr. Wipf also stated that last year the sheriff's office had been in the area of this property attempting to locate a suspicious vehicle that ended up being found on this property. Finally, Mr. Wipf commented that at the original meeting on this item the neighbors had concerns that this property would become a party house, and that that is exactly what it has turned into.

John Beck, of 47645 Surrell Street Sioux Falls, SD, showed the commission pictures of the property that highlighted the inadequate screening. He also commented that the volume of traffic to the area has increased significantly due to the short-term rental, and that there has been up to twelve cars on the property at one time.

Scott Zwak, 47646 Slip Up Creek Road Sioux Falls, SD, stated that he is neighbor directly to the east of the property and that he has been kept up at night by the fireworks and partying on the property. He also commented that this type of use should be on a five acre lot with no neighbors and not in a residential area with several neighbors.

Steven Bechtold, of 47614 Slip Up Creek Road Sioux Falls, SD, stated that he is concerned that in this society people can break the rules and still be allowed to keep operating. He also commented that if the petitioner keeps applying every six-months that adds pressure on the neighbors to have to keep attending planning commission meetings over and over again to fight



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this issue. Finally, Mr. Bechtold stated that there needs to be some form of punishment for people that disregard the rules and court decisions.

Avery Del Grosso, of 47640 Surrell Street Sioux Falls, SD, stated that the cars from this property are encroaching into the yard where his child plays, and that he has owned his property for three years and has never met the petitioner. Finally, Mr. Del Grosso commented that he is also concerned with strangers renting this property in close proximity to where his child lives.

Commissioner Ralston stated that this is a tough easy decision based on all of the neighbors' concerns, and that he is disappointed that the petitioner continued to operate the short-term rental without approval.

Action

A motion was made for the County by Commissioner Ralston and seconded by Commission Randall to **deny** Conditional Use Permit #24-01.

Commissioner Kippley commented that when this item was first requested, the county was trying to fit a short-term rental within the bed and breakfast definition. He further commented that even with the new ordinance that addresses short-term rentals, he does not believe this use fits in the area. Finally, Commissioner Kippley commented that it was disappointing that the county had to go through the injunction process with this property, and that the decision by the judge should be respected.

Commissioner Ode commented that this is not the right place for this type of use and that he agrees with the neighbors' concerns regarding strangers on the property.

The motion for the County to **deny** Conditional Use Permit #24-01 was approved with 4 votes in favor and 0 votes against the motion.

A motion was made for the City by Commissioner Johnson and seconded by Commission Nyberg to **approve** Conditional Use Permit #24-01.

Commissioner Johnson stated that he is disappointed that the county had to take legal action against the petitioner, and that the petitioner was not respecting the judge's decision. Commissioner Johnson also stated that several of the conditional use permit criteria highlighted by the planning staff support his decision to deny this permit.

Commissioner Nyberg stated that the petitioner should be embarrassed that he disregarded the commission's decision from last year, as well as the injunction from the judge, and continued to operate the short-term rental. He then commented that the petitioner applying for the same use a year after all of the complaints from the neighbors should also embarrass him. Finally, Commissioner Nyberg cited criteria number one of the conditional use permit criteria as his reasoning for denial, and stated that the property is having an obvious impact on the use and enjoyment of the neighboring properties.



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Commissioner Paulson stated he has similar thoughts to those expressed by the other commissioners and therefore would not be supporting the request.

The motion by the City to **approve** Conditional Use Permit #24-01 failed with 0 votes in favor and 4 votes against the motion.

Conditional Use Permit #24-01 – Denied



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ITEM 4. CONDITIONAL USE PERMIT #24-03 to allow a Short-Term Rental on the property legally described as Tract 1 Rollingers Skyline Addition Section 28 T101N-R48W Split Rock Township.

Petitioner: Thomas Luke

Property Owner: Same

Location: 2700 S River Bluff Road

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 1 Rollingers Skyline Addition Section 28 T101N-R48W
Split Rock Township

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – .90 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to utilize the existing house on this property for short-term rental. Minnehaha County and the City of Sioux Falls recently amended the joint zoning ordinance to include short-term rentals and vacation homes with approval of a conditional use permit in all zoning districts that include residential dwellings.

The location of this property is south of Arrowhead Park in the Rollinger's Skyline Addition. Rollinger's Skyline Addition along with nearby O'Hanlons Addition consist of approximately 50 houses in the area to E 26th Street and Arrowhead Parkway intersection.

This item was brought to the attention of county planning staff by neighboring property owners who noticed different families staying every weekend. Staff sent a notice of violation letter to the property owner and the property owner responded quickly. After the application was made, staff reviewed the short term rental listing sites Airbnb and VRBO. The listing was removed to prevent new guests until a decision is made by the joint Planning Commission.

For this new request, the petitioner submitted a brief narrative and a sketch site plan for the property. The narrative describes how the proposed short term rental will meet ordinance requirements including a self imposed maximum occupancy of eight people. The narrative also includes a listed quiet hours of 10:00 pm to 7:00 am for activities outside.

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 subdivision of rural house and adjacent to a City owned park. Short term rentals such as this proposal, are generally compatible with residential sites because traffic is low and the number of guests are limited. The petitioner describes in the narrative a



self imposed occupancy limit of eight guests or two people per bedroom. The self imposed occupancy is supported by staff and included in the conditions of approval for this application. The lower volume of guest will limit potential for nuisance parties on the property. In addition, the petitioner stated that guests will be pre-screened before they are accepted for short term rental. The use of short term rental is also easily converted back into a single family dwelling if the property owner wished to stop having short-term rental guests.

Short term rentals such as this request are required to have a conditional use permit approved by the county and the city. As such, if neighbor finds concern over actions of the permit holder and conditions are not followed, the permit can be recalled to the joint planning commission for review. At a review hearing a permit can have conditions amended, or the permit can be revoked by the County and the City.

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

Many of the properties in the development are fully developed with single family dwellings. the close proximity to Sioux Falls will likely mean that growth inside city limits will be how new development will happen in the area. The operation of short-term rental should not have any significant effects on future development in the area.

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

The property has existing driveway access onto River Bluff Road. Since there is an existing house, the utilities and drainage will not change with the proposed use.

The property is serviced for wastewater by a private septic system. The drain field for the septic system was constructed in 1991 and the 1000 gallon tank was kept from a previous installation. The applicant should become aware of proper septic system maintenance to prevent overflow and failure of the system.

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

The ordinance requires one parking space per bedroom, and the house has four bedrooms. The property has a three stall garage and sufficient driveway space to meet the off-street parking requirements.

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 activities of a short-term rental are similar to those within a single family dwelling. Neighbors raised concerns about strangers coming and going from the neighborhood and personal privacy. The operator explained in the narrative that there will some screening of customers. The operator has the ability to deny customers who have a record of bad behavior. The petitioner includes quiet hours for guests. Minnehaha County does not have a noise ordinance; therefore staff suggest quiet hours included within the conditions of approval. In addition, limiting the quantity of patrons in the house to eight will limit the potential for large parties.



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The house is located on the west side of the property with a large rear yard. Directly north of the property is city owned park and open space. The property line on the south side has a privacy fence and a hedge row of planted evergreens for screening. The rear property line on the east side is separated by the neighbor's chain link fence. Staff suggests that a six feet tall privacy fence to be erected by the petitioner on the east property line to provide further privacy for the neighboring properties. The privacy fence on the east and south side should be maintained in good condition. The city of Sioux Falls supports a fence requirement within the provided staff comments.

This request does not include provisions for the use of campers and recreational vehicles on site. Staff suggests that a condition to prohibit recreational vehicle use for human occupancy on the property. A prohibition of recreational vehicle usage matches zoning ordinance.

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

The proposed use should have minimal to no negative effect on the public. Short-term rentals such as proposed, allow property owners to supplement income and utilize space that may otherwise not be needed or fully utilized. If concerns arise, the conditional use permit process allows the county and city to review and recall the permit if necessary.

To protect the guests who stay at the short-term rental, the house must have functioning smoke and carbon monoxide detectors as required by the building code as adopted by Minnehaha County.

In order to protect the public, the petitioner should maintain a list of guests who stay at the short-term rental. The list shall be maintained and available for law enforcement if needed. Contact information shall be provided to guests inside the short-term rental and a copy provided to the Planning Department according the ordinance requirements.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-03 with the following conditions:

- 1) The maximum allowed occupancy of the dwelling shall be eight guests.
- 2) That the house must have functioning smoke and carbon monoxide detectors as required by the building code adopted by Minnehaha County.
- 3) That the proprietor shall maintain a guest list and make such list available at the request of law enforcement.
- 4) That all requirements of Section 15.18 Vacation Home Rental/Short Term Rental of the Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls are followed at all times.
- 5) A six feet tall privacy fence must be constructed and maintained along the east property lines. The existing privacy fence on the south property line must be maintained.
- 6) No recreational vehicles can be used for occupancy on the property at any time.
- 7) That no parking will be allowed within the right-of-way of S River Bluff Road at any time.



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- 8) That the Planning & Zoning Department reserves the right to enter and inspect the short-term rental at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony & Discussion

Kevin Hoekman, of county planning staff, presented the staff report and recommendation. An additional condition was recommended to require quiet hours from 10:00 pm to 7:00 am.

Commissioner Paulson asked how we can consider another short term rental after hearing so much testimony against a short term rental at the previous item. Kevin Hoekman answered that the applicant responded to violation letters quickly, and he has been cooperating with staff by taking down listings. Commissioner Paulson noted the use is not the same as a single family house, and that it is used for a different purpose. Therefore, he stated the commission should consider the criteria for the use and the neighbors.

Commissioner Kippely clarified with staff that the condition for quiet hours was an oversight and that the recommended conditions include the quiet hours. Kevin explained that the staff recommendation would include the 10:00 pm to 7:00 am quiet hours.

Commissioner Johnson asked if using recreational vehicles are prohibited due to zoning or if another condition is required. Kevin Hoekman responded that no new condition is required to prohibit recreational vehicles on the property.

Thomas Luke and his wife Trisha Luke, 2701 S Lyndale Avenue Sioux Falls, SD, were present to discuss the request. Mr. Luke began by stating that his intention when purchasing the property was to live in it, but medical concerns in the family prevented that from happening. He stated that renting the property out is intended to be a short term situation, and that there are several similar properties in the area offered as vacation homes online. Mr. Luke explained that they do not want to rent the house to 17-30 year olds to party. He noted that he had family stay in short term rentals in Sioux Falls. He finished by stating that he is not in a position to move into the house at this time and do not want to sell it.

Trisha Luke stated that this property is different because they bought the house as a primary residence but the situation has changed. She explained that she is the one who cleans the house and there is prescreening available to prevent renters for doing things like hosting Thanksgiving dinner at the house. Finally, Mrs. Luke stated that working with a family member can take time, and that the goal is to find a way to move into the house.

Thomas Luke added that he never owned a recreational vehicle. And he further described that he spoke with the neighbor regarding a fence and would like to go 50/50 on a fence with the neighbor.

Patricia Peterson, 9020 E 33rd Street Sioux Falls, SD, described that the Planning Department planned for change in 2011 in preparation for the Grand Falls Casino. At that time nobody knew



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what an Airbnb was. This property has been rented out during November and December. The burdens of the applicant should not become the burden of the neighborhood. Finally, Patricia Peterson stated that the Glo Hotel is nearby and can accommodate visitors.

Chandra Green, 2701 S George Street Sioux Falls, SD, stated that she does not want the same situation as the previous applicant. She also commented that nobody will know who is staying at the property and the covenants of the neighborhood restrict commercial uses of property.

Garry Peterson, 9020 E 33rd Street Sioux Falls, SD, stated that headlights shine into their window when people leave the driveway, and that guests will bring friends and more than eight people will show up to the property.

Jason Sikkink, 2701 S George Street Sioux Falls, SD, stated that the applicant purchased the property fully furnished for the purpose of making it a rental home. Mr. Sikkink then stated that the previous owners spoke about a fence, but the new property owners have never spoke about fences.

Karin Rollinger, 2708 River Bluff Road Sioux Falls, SD, stated that 10:00 pm to 7:00 am quiet hours is not enforceable, and that the fence will not block the noise. Eight people will invite more people. We don't want random people renting property nearby. There is no accountability with strangers.

Larry Murtha, 2709 S George Street Sioux Falls, SD, explained that covenants will not allow commercial uses. The covenants stopped one business in the neighborhood. We don't desire people we don't know moving in and out of the neighborhood.

Trisha Luke confirmed that the house was purchased with all furnishings. She explained that the furniture in their old home wouldn't fit in the Sioux Falls house, and that they did not buy the house with the intent for a short term rental.

Thomas Luke added that the home was rented three times for five nights total since the violation letter. The property has been vacant otherwise. He stated that he rejects the claims stated about the use of the house.

Commissioner Kippley appreciated the civility of the discussion. There are a lot of short term rentals in the county. There is opposition to the idea of short term rental, but the ordinance is not a ban to them. Short term rentals should be reviewed on a case by case basis. The applicant should be considered as acting in good faith, and willing to limit the number of guests to eight.

Commissioner Ralston explained that the commission doesn't want to ban short term rentals. He stated that the previous applicant is surrounded by houses and has shown examples of questionable conduct. This house has a park adjacent to it and the applicant has made good faith effort. There is avenues for both parties if problems arise.



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Commissioner Ode noted that he grew up in the area. Commissioner Ode also commented that the park next door is a good neighbor, and that this is not the same scenario as the previous item.

Commissioner Randall reiterated that this is not the same as the previous request. There will be separate guidelines to mitigate concerns such as quiet hours and limited guests. Commissioner Randall motioned approval of Conditional Use Permit #24-03 with all conditions plus an additional ninth condition requiring quiet hours from 10:00 pm to 7:00am. The motion was seconded by Commissioner Kippley.

Commissioner Johnson asked staff the process to recall a Conditional Use Permit. Kevin Hoekman responded that the conditions of approval would need to be followed. If any conditions are not followed, staff would notify the property owner of the violation and a hearing could be set. Commissioner Johnson confirmed with staff that the decision to recall the application is up to the Planning Department. The short term rental would continue to operate until the recall hearing.

County Action

Commissioner Duffy called for a vote on the motion to **approve** Conditional Use Permit #24-03 with all conditions plus an additional ninth condition of requiring quiet hours from 10:00 pm to 7:00am. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.

City Action and Discussion

Commissioner Johnson made the same motion to **approve** Conditional Use Permit #24-03 with all conditions plus an additional ninth condition of requiring quiet hours from 10:00 pm to 7:00am. Commissioner Nyberg seconded the motion.

Commissioner Johnson stated that the conditions require that the fence is installed and it does not mean a 50/50 split with the neighbor.

Commissioner Paulson stated that we do need to consider what is incorporated in the criteria. There were neighbors here to explain that their experience will be affected. Covenants are in place in the area. There is an expectation that the property satisfy the criteria. Single family homes are the basis of the neighborhood and a short term rental is not a single family home.

Commissioner Nyberg stated that the SD Supreme Court does not consider a short term rental as a commercial use. Covenants may be amended. This item is different in that it has a cap of eight people for the property, and that the process must consider each request separately.

Commissioner Neises called for a vote on the motion to **approve** Conditional Use Permit #24-03 with all conditions plus an additional ninth condition of requiring quiet hours from 10:00 pm to 7:00am. The motion passed with 3 votes in favor and 1 vote against the motion. Commissioner Gray, Nyberg, and Johnson voted in favor of the motion. Commissioner Paulson voted against the motion.

Conditional Use Permit #24-03 – Approved with the following conditions:



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- 1) The maximum allowed occupancy of the dwelling shall be eight guests.
- 2) That the house must have functioning smoke and carbon monoxide detectors as required by the building code adopted by Minnehaha County.
- 3) That the proprietor shall maintain a guest list and make such list available at the request of law enforcement.
- 4) That all requirements of Section 15.18 Vacation Home Rental/Short Term Rental of the Revised Joint Zoning Ordinance for Minnehaha County and the City of Sioux Falls are followed at all times.
- 5) A six feet tall privacy fence must be constructed and maintained along the east property lines. The existing privacy fence on the south property line must be maintained.
- 6) No recreational vehicles can be used for occupancy on the property at any time.
- 7) That no parking will be allowed within the right-of-way of S River Bluff Road at any time.
- 8) That the Planning & Zoning Department reserves the right to enter and inspect the short-term rental 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.
- 9) That the property shall be required to maintain quiet hours between 10:00 pm and 7:00 am.



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Old Business

None.

New Business

Kevin Hoekman, of county planning staff, explained the proposed shipping container ordinance amendment to the commission. Kevin explained that the county planning commission adopted an ordinance to address this types of structure last year, and that the joint zoning ordinance also needs to be amended to add these regulations.

Commissioner Kippley asked the city planning staff if they had any comments on the proposed amendment. Fletcher Lacock, of city planning staff, stated that he distributed this proposed ordinance to the city building services office, and they had no additional comments beyond the fact that any structure needs to meet the adopted building codes.

Adjourn

A motion was made for the County to **adjourn** by Commissioner Kippley 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 Johnson. The motion passed unanimously.

The meeting was **adjourned** at 8:56 p.m.