

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

November 16, 2020

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Colin Enstad, Wendi Hogan, Jerry Jongeling, Tiffani Landeen (by phone), and Gary Pashby (by phone).

STAFF PRESENT: Toby Brown & Joan Doss - County Planning

PUBLIC PRESENT: Koln Fink, Ronald Callahan, Jim Henjum, Brett Merkle, Eric Willadsen, Andrew Harr, Josh Spielman, Brian Corner, Brian Gaede, Kelly Nielson

1. CALL TO ORDER AND ROLL CALL

The regular meeting was called to order on November 16, 2020 at 6:30pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Jongeling.

2. APPROVAL OF OCTOBER 19, 2020 MINUTES

Enstad motioned to approve the minutes and was seconded by Hogan. Motion passed unanimously (5-0).

3. APPROVAL OF AGENDA

Hogan motioned to approve the agenda and seconded by Enstad. The motion passed unanimously (5-0).

4. OPPORTUNITY FOR PUBLIC COMMENT NOT INVOLVING ITEMS ON THE AGENDA – floor was open to the public after the public hearings, and no comments were heard

5. PUBLIC HEARINGS –

- a. RZNE-0081-2020: Change of Zone from A-1 Agricultural and RC Recreation/Conservation to RR Rural Residential. The property is legally described as the Southeast quarter (SE1/4), except lot H-1, of Section 34, Township 100 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.
Applicant/Owner: Eric Willadsen/Carolyn Porter Trust
Location: Northwest corner of the intersection of 273rd Street and 480th Avenue - Harrisburg

Staff Presentation:

Toby gave an overview of the application and noted that this first public hearing was solely for the rezoning application. He noted the request is to change the zoning of the property from the “A-1” Agricultural and “RC” Recreation/Conservation zoning districts to the “RR” Rural Residential zoning district to develop a multi-phased single-family residential development.

Public Comment:

Eric Willadsen noted he feels this is in conformance with the comprehensive plan and the development would not impact Nine-Mile Creek.

Jongeling asked for public comment, hearing none he closed the floor.

Discussion & Action: Pashby motioned to recommend approval and was seconded by Hogan. Jongeling noted concern about the density of homes. Landeen agreed and noted she felt it is premature. The motion passed 4-1, with Jongeling dissenting.

- b. PLAT-0082-2020: Preliminary Subdivision Plan for Porter’s Eagle Ridge Estates. The property is currently legally described as Southeast quarter (SE1/4), except lot H-1, of Section 34, Township 100 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.
Applicant/Owner: Eric Willadsen/Carolyn Porter Trust
Location: Northwest corner of the intersection of 273rd Street and 480th Avenue - Harrisburg

Staff Presentation:

Toby gave an overview of the application and noted that the majority of drainage plan details will be completed with the final plans. He noted that the commission could recommend approval with the condition that the identified deficiencies are corrected prior to county board approval.

Public Comment:

Eric Willadsen noted the items that are missing shouldn’t be required for a preliminary plan because the requirements are extremely expensive for something that might not get approved.

Jongeling asked for public comment, hearing none he closed the floor.

Discussion & Action: Landeen motioned to table until the missing information is completed and was seconded by Enstad. Pashby noted it is not the time to be arguing about the ordinance requirements. The motion passed unanimously (5-0).

- c. RZNE-0090-2020: Change of Zone from A-1 Agricultural to C Commercial. The property is legally described as Zahn Tract 1, except the North 176 feet thereof and except the South 208.7 feet thereof, in the Southwest quarter (SW1/4) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Brian & Lisa Gaede

Location: 27068 469th Ave - Tea

Staff Presentation:

Toby gave an overview of the application and noted the property is within Tea's subdivision authority, and that the proposal would also require a conditional use permit later.

Public Comment:

Brian Gaede was available for questions. Pashby asked about ownership of the existing home. Brian noted he also owns the home.

Jongeling asked for public comment, hearing none he closed the floor.

Discussion & Action: Pashby motioned to recommend approval and was seconded by Landeen. The motion passed unanimously (5-0).

- d. USE-0096-2020: Conditional Use Permit for warehousing to exceed 20,000 square feet – requesting 45,027 square feet. The property is legally described as Lot 2 of Wetland Addition in the Southeast quarter of the Southwest quarter (SE1/4SW1/4) of Section 32, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Nielson Development LLC

Location: 47137 Wetland Pl - Harrisburg

Staff Presentation:

Toby gave an overview of the application and listed the recommend conditions as follows:

1. This permit (USE-0096-2020) allows for the construction of warehousing structures, for a total of 45,027 square feet on the premise, in the general locations as shown on the site plan submitted with the application.
2. A building permit and floodplain development permit from Lincoln County is required prior to construction of each proposed building.
3. Submit a grading and drainage plan for review and acceptance prior to any site grading activities.
4. No outside storage is permitted to be unscreened from public view, and the property shall be kept neat and orderly at all times.
5. No businesses shall operate out of the warehouse/self-service storage units.

Public Comment:

Kelly Nielson noted this is simply continuing the development of the lot.

Jongeling asked for public comment, hearing none he closed the floor.

Discussion & Action: Landen motioned to approve with the recommended conditions and was seconded by Enstad. The motion passed unanimously (5-0).

- e. USE-0097-2020: Conditional Use Permit for the transfer of two (2) building eligibilities. The original parcel is legally described as the Northwest quarter (NW1/4) except Sherman Addition Tracts in Section 22, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota. The receiving parcel is legally described as the Southeast quarter (SE1/4) except Lems Tracts and the south 170' of the west 256' of the east 1,265' in Section 16, Township 99 north, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Bret Merkle/Evelyn Pederson (Pederson Ag LLC, Dakota Aeration Inc, KKKP LLLP)

Location: Approximately 1/2 mile east of the intersection of 472nd Ave and 276th St. – Worthing

Staff Presentation:

Toby gave an overview of the application, noted this would help cluster building eligibilities, and listed the recommend conditions as follows:

1. The permit transfers two (2) building eligibility to the property described as Southeast quarter except Lems Tracts and the south 170' of the west 256' of the east 1,265' in Section 16, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

2. No eligibilities remain on the property described as Northwest quarter except Sherman Addition Tracts in Section 22, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Public Comment:

Bret Merkle noted this would move the eligibilities to a more desirable location.

Jongeling asked for public comment, hearing none he closed the floor.

Discussion & Action Landeen motioned to approve with the recommended conditions and was seconded by Enstad. The motion passed unanimously (5-0).

- f. USE-0099-2020: Conditional Use Permit for the transfer of two (2) building eligibilities. The original parcel is legally described as the Southeast quarter (SE1/4) except Lems Tracts and the south 170' of the west 256' of the east 1,265' in Section 16, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota. The receiving parcel is legally described as the North half of the North half of the Northwest quarter (N1/2N1/2NW1/4) except Tract 1 of Merkle Addition in Section 21, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Bret Merkle/Pente Farms LLC

Location: Southeast corner of the intersection of 472nd Ave and 276th St. – Harrisburg

Staff Presentation:

Toby gave an overview of the application, noted this would help cluster building eligibilities, and listed the recommend conditions as follows:

1. The permit transfers two (2) building eligibility to the property described as the North half of the North half of the Northwest quarter (N1/2N1/2NW1/4) except Tract 1 of Merkle Addition in Section 21, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.
2. No eligibilities remain on the property described as the Southeast quarter except Lems Tracts and the south 170' of the west 256' of the east 1,265' in Section 16, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.
3. A copy of the deed noting the transfer of land from KKKP LLLP to Pente Farms shall be filed with the Planning and Zoning office prior to the utilization of the building eligibilities.
4. Individual lots shall be platted prior to utilization of the building eligibilities.

Public Comment:

Bret Merkle noted this will become contiguous at the corner of the properties once the deed is filed the following day and this has been the precedent for years.

Jongeling asked for public comment, hearing none he closed the floor.

Discussion & Action Hogan motioned to approve with the recommended conditions and was seconded by Pashby. The motion passed unanimously (5-0).

- g. USE-0098-2020: Conditional Use Permit for motor vehicle sales, display, and service. The property is legally described as Tract 18 of Southwest Industrial Park in the Southeast quarter (SE1/4) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Ron Callahan/Star LLC

Location: 27055 Sunset Blvd, Suite 9 – Tea

Staff Presentation:

Toby gave an overview of the application and listed the recommend conditions as follows:

1. The permit (USE-0098-2020) allows for Suite 9 to operate as motor vehicle sales, display, and service.
2. Any outdoor display shall be limited to the space near Suite 9.
3. The property shall be maintained in a neat and orderly manner.
4. A zoning permit noting a change of occupancy shall be approved prior to commencement of the operation.

Public Comment:

Ron Callahan noted he is retired, but he has sold enough boats to require a dealer's license which requires a conditional use permit from the county, and likely will not utilize any of his allowable outside display area.

Jongeling asked for public comment, hearing none he closed the floor.

Discussion & Action Hogan motioned to approve with the recommended conditions and was seconded by Pashby. The motion passed unanimously (5-0).

- h. 14-CUP-022: Conditional Use Permit for a Class 1 Major Home Occupation. The property is legally described as Tract 1 of Stratmeyer's Addition in the Southeast quarter (SE1/4) of Section 28, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Joshua Spielman

Location: 27169 46th Ave - Tea

Staff Presentation:

Toby gave an overview of the application and noted on July 21, 2014, the Planning Commission approved Conditional Use Permit 14-CUP-022 for a Class 1 Major Home Occupation. There were no additional conditions placed on the permit above and beyond the regulations pursuant to Section 12.0302(A) of the 2009 Revised Zoning Ordinance for Lincoln County, which read as follows:

1. The occupation shall be conducted entirely within a dwelling and/or accessory building and clearly incidental to the use of the structure for residential purposes.
2. The occupation shall be operated by a member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
4. In addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.
5. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
6. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
7. No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
8. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off-premise signs shall be used.
9. The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. There shall be only limited and incidental sale of products conducted on the premise.
11. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

Public Comment:

Koln Fink, representing Josh Spirlman, noted Josh purchased the property with the understanding of the nature of the previous use and that he would be able to operate his business as well. He also noted that the property would be useless without the permit and that Josh is willing to do anything to be a good neighbor.

Josh Speilman noted he started construction of a cedar fence, will use the excess topsoil to develop a landscaped berm with trees, would be willing to implement a traffic flow restriction to not have employees drive past nearby homes, and requested clarification on the employee limitation.

Jongeling asked for public comment.

Brian Corner noted the previous owner did not store anything outside but the traffic was his biggest concern.

Toby then read email correspondence from Randy Johnson, Sonia Ensz, and Pam Lund. These emails also noted concerns about traffic and damage to the roads.

Sonia Ensz, by phone, noted that Josh Spielman slows down as he passes the homes, and tries his best.

Hearing no further comments, Jongeling closed the floor.

Discussion & Action: Landeen motioned to table for 60 days for those involved to work together to find the best way to alleviate the issues. The motion was seconded by Hogan. The motion passed unanimously (5-0).

6. OLD BUSINESS – None

7. OPEN DISCUSSION FOR COMMISSION MEMBERS FOR ISSUES NOT ON THE AGENDA

- a. Correspondence received. – None
- b. Comments from Planning Commission members. – None.

8. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION – None

9. NEW BUSINESS

- a. Setting public hearing dates. Toby noted the Joint Jurisdiction meeting will be on November 18th, and that the December meeting will be completely on Zoom.
- b. Other new business – None.

10. ADJOURNMENT

Pashby motioned to adjourn at 9:05pm and was seconded by Hogan. Motion passed unanimously (5-0).

Respectfully submitted, Joan Doss - Planner