

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

October 15, 2018

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Darwin Sogn, Tyler Klatt, Ron Albers, Monty Derosseau, Jim Schmidt (left at 9:15pm), Stacey Namminga, and Gary Pashby

STAFF PRESENT: Toby Brown, Joan Doss - County Planning

PUBLIC PRESENT (sign in sheet): Ed O'Connor, Dennis O'Connor, Terry Pack, Ilya Mazan, John & Tricia Cairns, Mark & Khris Loe, Becky & Brad Johnson, Gary & Barbara Ohnstad, David & Carrie Carey, Vy Johnson, Tim Delay, Russel Graham, Tom Wpf, Mark Roben, and John Koch. Additionally, a number of attendees did not sign in.

1. CALL TO ORDER AND ROLL CALL

The regular meeting was brought to order on October 15, 2018 at 7:00pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derosseau.

2. APPROVAL OF SEPTEMBER 17, 2018 MINUTES

Pashby motioned to approve the minutes from September 17, 2018, and was seconded by Klatt. The motion passed unanimously (7-0).

3. APPROVAL OF AGENDA

Albers motioned to approve the agenda, and was seconded by Sogn. The motion passed unanimously (7-0).

4. PUBLIC HEARINGS

- a. REZONING / 18-REZ-004: Request for review and recommendation for approval to the Board of County Commissioners of a Rezoning from "A-1" Agricultural District to "PD" Legends of Gold Planned Development District. The Planned Development includes the following properties legally described as:

Tract 2A Woodfield Tracts in the North half (N1/2) of Section 33, Township 96 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Bethesda Tract 1 in the Northwest quarter (NW1/4) of the Southeast quarter (SE1/4) and Southwest quarter (SW1/4) of the Southeast quarter (SE1/4) of Section 33, Township 96 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

North 303' of East 88.1' of West 660' of Lot 2 of Burn's Subdivision & North 243' of West 40' of Lot 3 of Burn's Subdivision of Section 33, Township 96 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Terry & Lisa Pack

Location: 47256 SD Hwy 46 - Beresford

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in Pleasant Township and is near the intersection of South Dakota Highway 46 and 473rd Avenue. The subject site is currently utilized for single-family residential, dormitory housing, recreational fields, wrestling academy, and a cemetery.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. Agricultural uses are located adjacent to the north, south, west and east. The City of Beresford Landfill is approximately 600 feet to the east and is zoned "I-1" Light Industrial. The corporate limits of Beresford are approximately a half-mile to the west.

PROJECT DESCRIPTION. The applicant is proposing to continue to utilize the property for a wrestling academy and expand the current footprint with an accessory type building. The property has a long history of providing congregate housing and facilities. The current use would be non-conforming. Therefore, the applicant is requesting to rezone the property from "A-1" to "PD Legends of Gold", to allow footprint expansion.

Staff Recommendation: Staff recommends recommending approval of the application to rezone from "A-1" Agricultural District to Legends of Gold Planned Development District with district regulations as follows:

10.0605 Legends of Gold Planned Development District. The regulations set forth herein or elsewhere are the district regulations in the Legends of Gold Planned Development District:

- A. Uses Permitted. A building or premises shall be permitted to be used for the following purposes.
 - 1. Agriculture.
 - 2. A single-family dwelling.
 - 3. Private outdoor recreation facility.

4. Indoor recreational facility.
 5. Commercial recreation facility.
 6. Dormitory.
 7. Office.
 8. Cemetery.
 9. Sewage disposal pond.
- B. Accessory Uses. Accessory uses and buildings permitted are those detached accessory buildings and uses customarily incident to any permitted use in the district.
- C. Parking Regulations. Parking shall be regulated in conformance with the provisions Article 15.
- D. Sign Regulations.
1. Signs shall be regulated in conformance with the provisions of the RR zoning district.
 2. One freestanding sign may be permitted. Such freestanding sign may not exceed 32 square feet in area of sign face and 20 feet in height.
- E. Density, Area, Yard and Height Regulations. The same requirements shall apply as in the RR zoning district.
- F. Other Regulations. Other regulations shall be:
1. Design, operating, and licensing requirements of appropriate state and federal agencies must be met for all structures.

Public Comment:

Toby Brown presented the staff report. Terry Pack noted Legends of Gold have been in operation for 8 years and the proposal would allow the business to continue growing. Schmidt noted he has heard nothing but good feedback about the business.

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

Discussion & Action:

Schmidt motioned to recommend approval of the application, and was seconded by Pashby. The motion passed unanimously (7-0).

Rezone 18-004 – Recommend Approval

- b. **CONDITIONAL USE PERMIT / 18-CUP-037:** Request for review and approval of a Conditional Use Permit proposing to allow the operation of a Class 1 Major Home Occupation. The property is legally described as Kuhle Tracts 7 & 18, in the Northwest quarter (NW1/4) of Section 15, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Michael & Curt Matzen

Location: 26932 467th Ave – Sioux Falls

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in Delepre Township. The site is approximately 1/3-mile south of the intersection of 269th Street and 467th Avenue. The property currently has an 1,800-square foot accessory building along with a single-family dwelling. The applicant noted he had renovated the accessory structure approximately 3 years ago, and had been using it for a shop and short-term rental space through AirBnB. Additionally, the property is two distinct Lots of Record, with their own building eligibilities. Therefore, a second dwelling space on this parcel is permitted by the zoning ordinance.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding properties are zoned “A-1” Agricultural and have agricultural and single-family residential land uses. The corporate limits of Sioux Falls are approximately 2 miles to the east.

PROJECT DESCRIPTION. The applicant is proposing to utilize the property for his home occupations which include short-term rentals and plumbing contracting. The applicant has included information on the house rules he has set with AirBnB, which, among other items, includes no parties and pre-screening of guests.

Staff Recommendation: Approve the application, subject to the following conditions:

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, with the exception of parking a business vehicle overnight shall be permitted.
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.
12. The property owner shall not deposit any snow or improperly direct water onto neighboring properties.
13. The structure shall be inspected by Lincoln County prior to further use as living quarters.
14. The Planning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner, to ensure the property is in full compliance with the approved permit conditions and the Lincoln County Zoning Ordinance.
15. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning.
16. Property owner shall replace the culvert on the driveway leading to the accessory building.

Public Comment:

Toby Brown presented the staff report, and noted property came to our attention from a nuisance complaint, and the property owner has two occupations on the property including a plumbing business and AirBnB short-term rental. He also noted condition #16 should be added so the property owner replaces the culvert on his driveway.

Mike Matzen noted he renovated the accessory structure about 3 years ago. After having some issues with a neighbor, he built a privacy fence. Albers asked about number of guests. Mike noted there have been 2 to 5 guests at a time. Namminga asked if he had any issues with the conditions. He noted no concerns.

Derausseau asked for public comment.

Mark Loe noted concerns about traffic going into his driveway, noise from parties, and not enough police presence. Pashby asked about the parties. Mark noted there have been a few times that have been bothersome.

John Cairns also noted concern about traffic and noise. He also noted concern about burning garbage.

David Carey noted concerns about the parties, burning garbage, and the absence of permits for the remodeling.

John Koch noted concern about damage to the roads and garbage in the ditches.

Hearing no further comments, Derausseau closed the floor.

Schmidt asked about the building permits. Toby noted staff were unable to find any permit records.

Pashby asked Mike a few questions about signage and the disturbances. Mike noted the right-of-way should have a street sign. He also noted one bad guest caused issues.

Namminga asked about garbage service. Mike noted he was ok with paying for garbage service.

Klatt asked about check-in times. Mike noted he allowed his guest to check-in by midnight.

Toby proposed adding two more conditions: #17. Require licensed garbage service, and demonstrate continued service. #18. No guest check-in after 8pm.

Discussion & Action:

Pashby motioned to approve the application, with the recommended conditions as amended from the staff report to include conditions 16-18 pertaining to the driveway culvert, garbage service, and guest check-in times, and was seconded by Klatt. There was no discussion. The motion passed 6-1, with Sogn dissenting.

Conditional Use 18-037 – Approved

- c. CONDITIONAL USE PERMIT / 18-CUP-038: Request for review and approval of a Conditional Use Permit proposing to allow the construction of warehousing exceeding 10,000 square feet – requesting 18,400 total square feet. The property is legally described as Kerslake 2nd Addition, Lot 7, Block 4, in the South half (S1/2) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.
Applicant/Owner: Ed O’Connor/Amazin Space Sioux Falls Secured Self Storage LLC
Location: 27055 Gayle Ave - Tea

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in Delepre Township. The site is approximately ½-mile north of the intersection of 271st Street and Gayle Avenue. The property currently has a 5,000-square foot contractor shop, permitted in 2005, and a 9,200-square foot warehousing building, permitted in 2017.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding properties are zoned “C” Commercial and have similar commercial uses including contractor’s shops and warehousing. The corporate limits of Tea are approximately 350 feet to the west.

PROJECT DESCRIPTION. The applicant is proposing to utilize the proposed building as storage units to rent. The application notes this building will be identical to the existing storage building that was constructed in 2017.

Staff Recommendation: Approve the application subject to the following conditions:

1. This permit allows for the construction of a 40’W x 230’L (9,200 square foot) warehousing building, for a total of 18,400 square feet on the premise, in the general location as shown on the site plan submitted with the application.
2. No unscreened outside storage is permitted, and the property shall be kept neat and orderly at all times.
3. No businesses shall operate out the warehouse/mini-storage.
4. The property owner shall not deposit any snow or improperly direct water onto neighboring properties.
5. The Planning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner, to ensure the property is in full compliance with the approved permit conditions and the Lincoln County Zoning Ordinance.
6. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning.

Public Comment:

Toby Brown presented the staff report. Ed O’Connor noted the building would be a replica of the one on site. Derausseau asked for public comment, hearing none, he closed the floor.

Discussion & Action:

Klatt motioned to approve the application with the recommended conditions and was seconded by Namminga. There was no discussion. The motion passed unanimously (7-0).

Conditional Use 18-CUP-038 – Approved

- d. CONDITIONAL USE PERMIT / 18-CUP-040: Request for review and approval of a Conditional Use Permit proposing to allow the construction and operation of seed and agricultural chemical sales. The property is legally described East half (E1/2) Northeast quarter (NE1/4) and Northeast quarter (NE1/4) of the Southeast quarter (SE1/4) of Section 36, Township 96 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.
Applicant/Owner: Tim Delay *Location: Intersection of 296th St and 476th Ave – Beresford*

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in Pleasant Township and is located at the intersection of 296th Street and 476th Avenue. The site will consist of 5 acres, which will be parceled out

of the larger 120 acres. The site is entirely made up of tillable land and includes no buildings. The current use is crop production.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. Neighboring properties to the north, south and west are cropland. A single-family dwelling (farmstead) is located to the east. The corporate limits of Beresford are approximately four miles to the east.

PROJECT DESCRIPTION. The applicant is proposing to construct a building to be utilized for seed and chemical sales on the property. The proposed 5,880 sq. ft. building will be utilized for storage and offices associated with the seed and chemical sales.

Staff Recommendation: Approve the application subject to the following conditions.

1. The property shall adhere to the submitted site plan.
2. No outside storage of materials shall be allowed at any times.
3. Any exterior lighting shall be directed downwards and shall not create any light glare or spillage onto adjacent property.
4. If at any time the use ceases to exist, or changes ownership, the owner shall notify the Lincoln County Planning and Zoning Department.
5. The Planning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner, to ensure the property is in full compliance with the conditional use permit conditions of approval and the Lincoln County Zoning Ordinance.

Public Comment:

Toby Brown presented the staff analysis. Toby then read an email from Nancy Roberts in opposition.

Tim Delay noted he had been a sales rep for 25 years, and wants to grow the business to include chemical sales. He also noted the chemicals are highly regulated and storage/distribution of the chemicals must meet those rules.

Derousseau asked for public comment, and hearing none, he closed the floor to public comment.

Discussion & Action:

Sogn motioned to approve the application with the recommended conditions and was seconded by Albers. There was no discussion. The motion passed unanimously (7-0).

Conditional Use 18-040 – Approved

- e. CONDITIONAL USE PERMIT REVIEW / 14-CUP-013: Request for review of an existing Conditional Use Permit to operate motor vehicle sales. The property is legally described as Lot A in Lot 1 of RMS Addition in Sky Haven Heights in the Northwest quarter (NW1/4) of Section 30, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Ilya Mazan/Rex Gulickson Location: 47012 Airport Pl - Tea

Staff Analysis – Prior Action:

On July 21, 2014, Ilya Mazan was granted a Conditional Use Permit (14-CUP-013) which allowed for the operation of a car dealership with the following conditions:

1. Lot must be kept in an orderly fashion as demonstrated by pictures.
2. No salvage operations to be conducted to include the dismantling of equipment/vehicles for parts, etc.
3. All repairs to be conducted inside the existing structure.

Staff met with the applicant on-site and through discussion determined that a car dealership was not being conducted on the site – the applicant concurred. Staff determined that motor vehicle repair was occurring.

Staff Recommendation: Staff recommends the Planning Commission amend Conditional Use Permit 14-CUP-013, subject to the following replacement recommended conditions:

1. That Conditional Use Permit 14-CUP-013 shall allow a motor vehicle repair shop and auto body shop.
2. The approved use shall comply with all applicable local, state, and federal, laws, rules, regulations and ordinances.
3. Buildings and vehicle storage areas shall meet the setback requirements of the zoning district.
4. There shall be no hazardous waste runoff. Storage of hazardous waste shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
5. Only vehicles owned by employees or customers awaiting service are allowed to be parked on site. Parking shall meet the requirements of Article 15, Parking and Loading Regulations, of the 2009 Revised Zoning Ordinance for Lincoln County.

6. The grounds and all structures shall be maintained in a clean and safe manner.
7. All exterior lighting fixtures shall be hooded or controlled in some manner so as not to light adjacent property.
8. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
9. The Lincoln County Planning and Zoning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner, to ensure the property is in full compliance with the approved permit conditions and the Lincoln County Zoning Ordinance.
10. If at any time the use ceases to exist, or changes ownership, the owner shall notify the Lincoln County Planning and Zoning Department.

Public Comment:

Toby Brown presented the staff report, noted need for clarification of permit conditions and permitted uses.

Ilya Mazan noted there was never a dealership on site, but they have been doing bodywork and selling cars at a different lot. Monty asked about the turn around on vehicles coming to the site. Ilya noted they focus on the vehicles that are in demand, so cars that are not selling may be on the site for a while.

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

Discussion & Action:

Pashby motioned to amend permit 14-CUP-013 with the recommended amended conditions and was seconded by Albers. There was no discussion. The motion passed unanimously (7-0).

Conditional Use 14-013– Amended

- f. **CONDITIONAL USE PERMIT REVIEW / 16-CUP-013:** Request for review of an existing Conditional Use Permit to operate a contractor’s shop and storage yard. The property is legally described as Tract 2 and Tract 2A of Moir’s Tracts in the East half (E1/2) of the Southeast quarter (SE1/4) of the Southeast quarter (SE1/4) of Section 27, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Geoff Ellerbroek/Summit Properties LLC Location: 47392 272nd St - Harrisburg

Staff Analysis – Prior Action:

On April 18, 2016, Geoff Ellerbroek was granted a Conditional Use Permit (16-CUP-013) which allowed for the operation of a contractor’s shop and storage yard with the following conditions:

1. That no unlicensed vehicles, inoperable or partially dismantled vehicles or equipment, or parts shall accumulate on the property.
2. A building permit is required for the contractor’s shop.
3. Fence installed along right of way of property (if feasible or allowable).

On June 9, 2016, the Board of County Commissioners granted an amended Conditional Use Permit (16-CUP-013) which allowed for the operation of a contractor’s shop and storage yard with the following conditions:

1. That no unlicensed vehicles, inoperable or partially dismantled vehicles or equipment, or parts shall accumulate on the property.
2. A building permit is required for the contractor’s shop.
3. Installation of a berm that is two feet higher than existing gravel road. Berm to have grass, mulch, landscape rock and irrigation.
4. Installation of two rows of evergreen trees that are alternating as to shield building from road. Evergreens to be 8 to 10 feet in height.
5. Landscaping and berm to be located outside of future road widening area.
6. Sidewalls not to exceed 18 feet except office area drop to 10 feet with a non-galvanized roof not to exceed 4:12 pitch.
7. No outside storage or semi-trailer storage.
8. Six foot high fence to be constructed on west side of property on the north end of the building to screen trailers.
9. No scrap material on storage area.
10. No storage units for public use or rental beyond the contractor shop.

11. Submittal of an elevation plan to the Lincoln County Planning and Zoning Department prior to the submittal of a building permit application for the contractor's shop.

Conditional Use Permit 16-CUP-013 granted use of the property for a contractor's shop and storage yard. The conditions of approval adopted by the Board of County Commissioners and agreed to by the property owner and applicant were intended to ensure compatibility with surrounding uses.

Staff inspected the property for compliance with the Conditional Use Permit approval and determined items were not completed. Specifically, conditions #3, #4, #5, and #8 were not met. Staff contacted the applicant/owner regarding the compliance concerns and was told these issues would be resolved. However, staff believes further clarification by the applicant/owner of the completion timeline and method of these conditions is necessary.

Staff Recommendation: Staff recommends the Planning Commission amend Conditional Use Permit 16-CUP-013 by including a definitive timeline for completion and any further clarification of the conditions of approval as needed.

Public Comment:

Toby Brown presented the staff report, and recommended defining a timeline for compliance with conditions.

Geoff Ellerbroek noted once the building was finished last year time got away from him, and have since had confusion between landscapers and issues with the weather.

Derausseau asked for public comment.

Gene Peska noted concern that compliance with conditions should be part of the certificate of occupancy.

Gary Ohnstad noted weather shouldn't be an excuse because lots of dirt work has been completed in bad weather.

Veronica Houston noted they were told things would be finished, and agreed they could have worked in the rain.

Hearing no further comments, Derausseau closed the floor.

Geoff Ellerbroek then apologized to the neighbors and noted that he would get everything completed by freeze.

Discussion & Action:

Schmidt motioned to amend permit to include a 30-day timeframe to achieve compliance and was seconded by Pashby. There was no discussion. The motion passed unanimously (7-0).

Conditional Use 16-CUP-013 – Amended

5. OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISISON - none

6. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA

- a. Correspondence received. Toby noted one copy of the correspondence was available due to size.
- b. Comments from Planning Commission members. Pashby asked about amending public notice requirements. Toby explained that a committee would be forming soon to review the entire ordinance.
- c. Comments from the audience – none

7. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION –

Toby noted Doug Tinklenberg's revoked CUP was appealed, and will go to the county board next month. Schmidt made note the county needs to look at long range planning.

8. NEW BUSINESS

- a. Discuss Concept Plan for a Proposed Residential Subdivision –Thomas Wipf, Located in Section 16, Township 100 North, Range 51 West.
A proposed subdivision layout was presented. The commission members noted the size of the lots seemed small for septic systems, possible issues with traffic, and it doesn't meet the comprehensive plan. They noted the need to discuss the proposal with neighbors before this is formally presented.
- b. Setting public hearing dates – none
- c. Other new business – none

9. ADJOURNMENT

Albers motioned to adjourn at 9:40pm, and was seconded by Sogn. Motion passed unanimously (6-0).

Respectfully submitted,
Joan Doss
Planner