

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

November 20, 2017

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Monty Derousseau, Ron Larson, Darrel Sogn, Gary Pashby, Ron Albers, Tyler Klatt, and Jim Schmidt

STAFF PRESENT: Toby Brown, Joan Doss, Jen Cleveland - County Planning

PUBLIC PRESENT (sign in sheet): Duane & Rhonda Niewenhuis, Darrel & Marleen Kooi, Brad Kooiker, Loren Beard, Jane Larson, Kevin Larson, Eileen Mathison, Randy Dump, Ray & Bertha Hilmer, Bill Fink, Jay DeBoer, Don Abbas, Jessica Brous, Terry Brooks, Mark Javers, Betty and Gary Mydland, Tom Johnson, Jennie Johnson, Troy Anderson.

1. CALL TO ORDER AND ROLL CALL

The regular meeting was brought to order on November 20, 2017 at 7:00pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derousseau.

2. APPROVAL OF OCTOBER 16, 2017 MINUTES

A motion to approve the minutes from October 16, 2017 was made by Klatt and seconded by Pashby. The motion passed unanimously (7-0).

3. APPROVAL OF AGENDA

A motion to approve the agenda was made by Pashby and seconded by Larson. The motion passed unanimously (7-0).

4. **CONDITIONAL USE PERMIT 17-CUP-037:** Petitioner requested this application to be postponed until spring 2018.

5. **REZONING 17-REZ-012** Request for review and recommendation for approval to the Board of County Commissioners of a Rezoning from "A-1" Agricultural District to "C" Commercial District. The application is for the property legally described as Bumgardner Tract 4 in Lot 1 of the Northeast quarter (NE1/4) of the Northeast quarter (NE1/4) of Section 1, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner/Owner: Jennie Johnson, BJ Property LLC Location: 47595 273rd St - Harrisburg

Staff Analysis:

The property has two personal storage building and consists of 6.07 acres. The petitioner stated in the application that the purpose of the rezoning was for future commercial development. After careful review of the project and all associated documents, staff has developed the following opinions for this proposal:

1. The applicant has requested a change of zone from "A-1" Agricultural to "C" Commercial.
2. The 2025 Lincoln County Future Land Use Plan shows this parcel as urban expansion area.
3. The 2025 Harrisburg Comprehensive Plan shows a commercial node at the intersection of 273rd Street (County Highway 110) and 476th Avenue.
4. Any further subdivision of the subject property will be governed by the City of Harrisburg Subdivision Regulations.
5. Any further development of the subject property that is not platted will be conditioned on or subject to site plan approval by the City of Harrisburg prior to issuance of a building permit.

Staff Recommendation: The requested change of zone is in conformance with the 2025 Lincoln Comprehensive Plan and the 2025 Harrisburg Comprehensive Plan. Staff recommends that the Planning Commission **APPROVE** the proposed rezoning.

Public Comment & Discussion:

Toby Brown presented the staff report, and noted the existing building was permitted as personal storage, but seems to be used for a business. He also noted that the rezoning is in conformance with Harrisburg's growth plan which shows the area as a commercial node.

Tom Johnson, petitioner representative, noted there are currently no future expansion plans. Jennie Johnson also noted that she was advised to rezone based on a complaint that was filed.

Derausseau asked for public comment.

Loren Beard noted that he felt this should have been rezoned long ago since it has always been a business. He was also concerned with the property's physical condition. Schmidt asked if he had attended the Harrisburg meeting, in which he answered, no.

Marleen Kooi noted that she doesn't like that the building completely blocks her view now and presented numerous photos of the site from this past summer showing weeds and outdoor storage of construction materials. Albers asked if she had discussed any issues with Johnsons before this meeting. She answered no.

Toby Brown clarified that the rezoning application is step one of fixing the property maintenance issues since they would also need to apply for a conditional use permit once the land is rezoned.

Bertha Hilmer noted she had talked with Tom Johnson and they discussed the property issues, and that he agreed there was work to be done.

Hearing no further comments, Derausseau closed the floor to the public.

Schmidt inquired if the petitioner ever thought about rezoning to residential instead. Tom Johnson noted there have been offers to build duplexes and such, but the focus at this point is just their concrete business.

Action:

A motion was made by Pashby, and seconded by Klatt to recommend approval of 17-REZ-012. The motion passed unanimously (7-0).

Rezoning 17-REZ-012 – Recommend Approval

6. REZONING 17-REZ-013 Request for review and recommendation for approval to the Board of County Commissioners of a Rezoning from "A-1" Agricultural District to "RR" Rural Residential District. The application is for the property legally described as the South 766.69' of the West 730' except Lot H-2 in the Northwest quarter (NW1/4) of Section 33, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner/Owner: Richard Peters

Location: Approximately 1/2 mile South of the intersection of 272nd St and SD Hwy 17 – Tea

Staff Analysis:

The property currently has no structures and consists of 12.55 acres. The petitioner stated in the application that the purpose of the rezoning was for a building site. After careful review of the project and all associated documents, staff has developed the following opinions for this proposal:

1. The applicant has requested a change of zone from "A-1" Agricultural to "RR" Commercial.
2. The 2025 Lincoln County Future Land Use Plan shows this parcel as agricultural area.
3. The adjacent parcel to the East, approximately 115 acres, was rezoned to "RR" Rural Residential in 2014. This property has not received final subdivision approval.
4. Any further subdivision of the subject property will be governed by the Lincoln County Subdivision Regulations.
5. The subject parcel is adjacent to a larger previously approved development area and the coordination regarding access and development of the parcel will be better facilitated by same zoning, at this time.

Staff Recommendation: The requested change of zone is not in conformance with the Future Land Use Map of the 2025 Lincoln Comprehensive Plan, but it is adjacent to property that has the same zoning. Staff recommends that the Planning Commission **APPROVE** the proposed rezoning.

Public Comment & Discussion:

Toby Brown presented the staff report, and noted the petitioner could not attend but submitted a description for their future plans which include working with Stone Lake Properties to the east for development of residential lots.

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

Action:

A motion was made by Pashby, and seconded by Albers to recommend approval of 17-REZ-013. The motion passed unanimously (7-0).

Rezoning 17-REZ-013 – Recommend Approval

7. CONDITIONAL USE PERMIT 17-CUP-038: Request for review and approval of a Conditional Use Permit to operate equipment sales, display, and repair (small engine). The property is legally described as Tract 1 of D & D Addition in the Southwest quarter (SW1/4) of Section 21, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner/Owner: Randy Dump

Location: 27688 SD Hwy 17 – Lennox

Staff Analysis:

The property is currently a vacant 3-acre lot. The lot was recently rezoned to “C” Commercial and the petitioner is proposing to move his existing small engine equipment sales and repair business from his personal residence to this property. After careful review of the project and all associated documents, staff has developed the following opinions for this proposal:

1. The size of the proposed building is in keeping with other buildings within the vicinity.
2. Offensive nuisances are unlikely during the proposed land use.
3. The proposed project complies with all relevant requirements and standards of the Zoning Ordinance and is consistent with objectives and policies of the 2025 Comprehensive Plan.

Staff Recommendation: Staff recommends that the Planning Commission **APPROVE** the proposed Conditional Use Permit, subject to the following recommended Conditions of Approval and any modifications that result from the Planning Commission’s deliberations.

1. A building permit from Lincoln County is required prior to construction of the proposed building.
2. The property shall substantially adhere to the site plan submitted with the application.
3. No unscreened outdoor storage is permitted and the property shall be neat and orderly at all times.
4. All exterior lighting fixtures shall be shielded so as not to illuminate into adjoining properties.
5. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
6. The Planning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner, to ensure that the property is in full compliance with the approved permit conditions and the Lincoln County Zoning Ordinance.
7. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning.

Public Comment & Discussion:

Toby Brown presented the staff report, and noted this would expand a business that had previously been a home occupation. Randy Dump, the petitioner, noted there would only be a small fenced in area for outside storage.

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

Action:

A motion was made by Schmidt, and seconded by Larson to approve 17-CUP-038 with the recommended conditions. The motion passed unanimously (7-0).

Conditional Use 17-CUP-038 – Approved

8. CONDITIONAL USE PERMIT 17-CUP-039: Request for review and approval of a Conditional Use Permit proposing to exceed 20,000 square feet of total warehouse building area and outside storage. The property is legally described as Anderson Tract 2 in the Southeast quarter (SE1/4) of Section 18, Township 96 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner/Owner: Bradley Kooiker

Location: 47076 294th St – Beresford

Staff Analysis:

The property consists of 5-acres and has a 7,264 square foot office and warehouse. The petitioner is currently expanding the warehousing/storage units up to 33,494 square feet and is proposing to include outdoor storage

of campers. After careful review of the project and all associated documents, staff has developed the following opinions for this proposal:

1. The site is in close proximity to an interstate exchange; therefore, any additional traffic will likely be directed away from neighboring residences.
2. Possible offensive nuisances shall be mitigated by construction of a perimeter privacy fence, as stated by the petitioner.
3. The proposal meets all minimum property setbacks.
4. The proposed project complies with all relevant requirements and standards of the Zoning Ordinance and is consistent with objectives and policies of the 2025 Comprehensive Plan.

Staff Recommendation: Staff recommends that the Planning Commission **APPROVE** the proposed Conditional Use Permit, subject to the following recommended Conditions of Approval and any modifications that result from the Planning Commission’s deliberations.

1. The property shall substantially adhere to the site plan submitted with the application.
2. No unscreened outdoor storage is permitted and the property shall be neat and orderly at all times.
3. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
4. The Planning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner, to ensure that the property is in full compliance with the approved permit conditions and the Lincoln County Zoning Ordinance.
5. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning

Public Comment & Discussion:

Toby Brown presented the staff report, and noted the petitioner stated the property would be enclosed with security fencing. Brad Kooiker, the petitioner, noted they had bought the site last year and are looking to making some improvements to the property, and would also like to be allowed outside storage.

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

Action:

A motion was made by Klatt, and seconded by Larson to approve 17-CUP-039 with the recommended conditions. The motion passed unanimously (7-0).

Conditional Use 17-CUP-039 – Approved

9. CONDITIONAL USE PERMIT 17-CUP-040: Request for review and approval of a Conditional Use Permit proposing to replace a nonconforming manufactured dwelling. The property is legally described as Tract 1B of Javers Addition Southwest quarter (SW1/4) of the Southwest quarter (SW1/4) of Section 17, Township 99 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner: Duane Niewenhuis Owner: Mark Javers Location: 27596 477th Ave – Harrisburg

Staff Analysis:

The property consists of 1-acre that had a manufactured home on site, but was recently removed. Foundation work for a replacement manufactured home has begun. The petitioner is requesting a conditional use permit to replace with a new 1,920 square foot manufactured home. After careful review of the project and all associated documents, staff has developed the following opinions for this proposal:

1. The size of the proposed manufactured house is similar in size as the previous manufactured house.
2. The predominant use of the area is agricultural/residential. Therefore, the approval of a conditional use permit is unlikely to be injurious to the use and enjoyment of any property in its immediate vicinity or alter the general character of the area.
3. Offensive nuisances are unlikely to be a consequence of the proposed land use.
4. The proposed project complies with all relevant requirements and standards of the Zoning Ordinance and is consistent with objectives and policies of the 2025 Comprehensive Plan.

Staff Recommendation: Staff recommends that the Planning Commission **APPROVE** the proposed Conditional Use Permit, subject to the following recommended Conditions of Approval and any modifications that result from the Planning Commission’s deliberations.

1. A building permit from Lincoln County is required prior to construction of the proposed building.
2. The parcel known as Tract 1B of Javers Addition is not a Lot of Record as defined by the 2009 Revised Zoning Ordinance for Lincoln County, and does not have a residential building eligibility.

Public Comment & Discussion:

Toby Brown presented the staff report, and noted since this is not a Lot of Record, a stick-build single-family dwelling would not be allowed in the future. Duane Niewenhuis, the petitioner, noted the house would be a double-wide that conforms to the ordinance regulations.

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

Action:

A motion was made by Albers, and seconded by Sogn to approve 17-CUP-040 with the recommended conditions. The motion passed unanimously (7-0).

Conditional Use 17-CUP-040– Approved

10. CONDITIONAL USE PERMIT 17-CUP-041: Request for review and approval of a Conditional Use Permit proposing to replace a nonconforming manufactured dwelling. The property is legally described as the Northwest quarter (NW1/4) except North 100 Rods in Section 18, Township 98 North, Range 48 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner/Owner: Dennis Mathison

Location: 28144 Riverview Ave. – Canton

Staff Analysis:

The property consists of 60-acres and currently has a single-wide manufactured home on site, along with another single family dwelling. The petitioner is requesting a conditional use permit to replace the existing manufactured home with a new double-wide manufactured home. After careful review of the project and all associated documents, staff has developed the following opinions for this proposal:

1. The proposed manufactured house would replace a non-conforming existing manufactured house.
2. The predominant use of the area is agricultural/residential. Therefore, the approval of a conditional use permit is unlikely to be injurious to the use and enjoyment of any property in its immediate vicinity or alter the general character of the area.
3. Offensive nuisances are unlikely to be a consequence of the proposed land use.
4. The proposed project complies with all relevant requirements and standards of the Zoning Ordinance and is consistent with objectives and policies of the 2025 Comprehensive Plan.

Staff Recommendation: Staff recommends that the Planning Commission **APPROVE** the proposed Conditional Use Permit, subject to the following recommended Conditions of Approval and any modifications that result from the Planning Commission’s deliberations.

1. A building permit from Lincoln County is required prior to construction of the proposed building.
2. The manufactured home site shall not be platted.

Public Comment & Discussion:

Toby Brown presented the staff report, and noted the existing manufactured home has outlived it’s usefulness according to the petitioner. Eileen Mathison, petitioner, noted their daughter lives at the site, and the current one is 39 years old and needs to be replaced.

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

Action:

A motion was made by Larson, and seconded by Klatt to approve 17-CUP-041 with the recommended conditions. The motion passed unanimously (7-0).

Conditional Use 17-CUP-041 – Approved

11. OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISISON

a. Conditional Use Permit 15-CUP-019: 27598 479th Avenue – Harrisburg
Toby noted this permit had been reviewed a number of times before, and that the last time it was reviewed the commission did not act upon revocation, but wanted to review the permit again if there was another complaint filed. He also noted that a public hearing would need to be set to revoke or amend the conditions of the permit. The commission directed staff to schedule the public hearing for the December regular meeting.

12. OLD BUSINESS - None

13. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA

a. Correspondence received – Toby noted there was an Argus Leader article submitted late last week and that copies will be sent to the members.

b. Comments from Planning Commission members –
Toby introduced Jen Cleveland as the new Planning and Zoning administrative assistant.
Pashby noted he would like a committee of 3 commission members to work together to draft a new CAFO ordinance. It was decided that Pashby, Derousseau, and Albers would form the committee, and would meet with staff on November 29th at 1pm.

c. Comments from the audience –
Don Abbas submitted the same article from the Argus Leader, and noted he would like the commission to set a moratorium on CAFOs and that he is concerned about water quality.

Tony Ventura submitted an article from the Sierra Club and a study about property values and CAFOs. He is concerned about their impact on organic farming.

Winnie Peterson noted that Stanton County, Nebraska has banned industrial wind turbines.

14. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS’ REPRESENTATION - None

15. NEW BUSINESS

a. Text amendments to the 2009 Revised Zoning Ordinance for Lincoln County
Toby submitted drafts for three amendments to the 2009 Zoning ordinance addressing the following topics: Allowing junk or salvage yards as a conditional use in the I-1 Light Industrial District, Removing the conditional use permit requirement for applying manure generated from out of the county, and Extending the conditional use permit expiration from one year to two years. There was discussion about a couple recommended revisions to the amendments. The commission then directed staff to schedule the public hearings for the amendments next month.

16. ADJOURNMENT

Motion to adjourn at 9:10pm was made by Pashby and seconded by Larson. The motion passed unanimously.

Respectfully submitted,
Joan Doss
Planner