

**MINUTES OF THE
LINCOLN COUNTY PLANNING COMMISSION**
December 19, 2016

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Ron Albers, Monty Derosseau, Ron Larson, Dan King, Darrel Sogn, Darwin Sogn, and Gary Pashby.

STAFF PRESENT: Toby Brown and Joan Doss - County Planning

PUBLIC PRESENT (Sign-In Sheet): Nathan Allen, Ryan Koln, Jeff Hurley, Sara and Shea Geelan, Michael McMahan, Jerry Kubiszewski, Don Klasson, Richard Godschalk, Luella DeJong, Bob Messner,

The meeting was chaired by Ron Albers.

1. CALL TO ORDER AND ROLL CALL

The regular meeting of the Lincoln County Planning Commission was brought to order on December 19, 2016 at 7:00p.m. in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Ron Albers.

2. APPROVAL OF NOVEMBER 21, 2016 MINUTES

A motion to approve the November 21, 2016 minutes was made by Darwin Sogn and seconded by Larson. The motion passed unanimously.

3. APPROVAL OF AGENDA

A motion to approve the agenda was made by Derosseau and seconded by Pashby. The motion passed unanimously.

4. CONDITIONAL USE PERMIT 16-CUP-042: To allow a public facility owned and operated by a governmental entity on the property legally described as the South 170' of the West 256' of East 1,265' of the SE1/4, Section 16-T99N-R50W.

Petitioner: La Valley Township

Property Owner: Same

Location: Approximately ¼ mile West of the intersection of 473rd Ave. and 276th St.

A motion to take 16-CUP-042 of the table was made by Derosseau, and seconded by Darwin Sogn. Motion passed unanimously.

STAFF ANALYSIS:

The property is located at approximately ¼ mile West of the intersection of 473rd Ave. and 276th St. The petitioner, La Valley Township, is proposing to construct a 48' x 64' (3,072 sq. ft.) storage building for the township's road maintenance equipment along with a stock pile of gravel and crushed concrete. La Valley Township does not currently have an equipment storage facility.

The property is located in the A-1, Agricultural district zone. The A-1 zoning district allows for a "public facility owned and operated by a governmental entity" through a conditional use process.

A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

The proposal is located in the A-1 Agricultural District. The proposal meets the applicable standards for this zoning district. The proposed building will be 3,072 square feet and will be of

similar size and use to an accessory building. The construction of the proposed building will not substantially impair the appropriate use or development of adjacent properties.

B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

There are a number of residences in the nearby vicinity, but overall the general character of the area is agricultural crop production. Due to the proposed size and use of the proposed building, the construction of the proposed building will not substantially affect the general character of adjacent properties.

C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.

The proposed use is compatible with surrounding land uses and will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors. The proposed use will benefit the health and safety of the public by allowing for the construction of a facility that will provide storage for township maintenance equipment.

STAFF RECOMMENDATION

Based upon the information and materials provided by the petitioner, it is the County Planning Staff's opinion that overall the project generally meets the applicable standards and therefore, recommends the Planning Commission approve the request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-042, with the following conditions:

1. The lot shall adhere to the site plan submitted on December 6, 2016.
2. A building permit from Lincoln County is required prior to construction of the building.
3. Adequate screening of any outside storage.
4. All structures will be constructed outside of future right-of-way, as determined by the appropriate governmental entity.

Public Comment:

Toby Brown presented the staff report.

The petitioner, Jeff Hurley – LaValley Township Chairman, commented that he believes the issues from last month have been figured out. He also asked for more direction on what condition #3 would entail. Toby Brown noted that it was left open ended so that they could do whatever type of screening they wanted to, which could entail trees, a fence, or other ideas.

Commissioner Albers asked if there were any questions for the petitioner, none were voiced.

Commissioner Albers asked for additional public comment.

Mike McMahon, City of Harrisburg, noted that the property falls within their platting jurisdiction and that the city never received a final plat so the deed has an invalid legal description. Toby Brown noted that the legal description is metes and bounds, not footage, so the transfer and description are legal. Toby also noted that there is a discrepancy of whether or not a plat is required, but Lincoln County's jurisdiction is on the land use, not the plat, and that if the legal description changes we can administratively update the Conditional Use Permit accordingly.

Seeing no other public comments, Commissioner Albers closed the floor to public testimony.

Discussion:

Pashby noted that he would like to add a condition that if the legal description changes they must contact the office to update the permit.

Action:

A motion was made by Pashby and seconded by Larson to approve Conditional Use Permit #16-042 with the recommended conditions in addition to updating the legal description. The motion passed unanimously.

Conditional Use Permit #16-042 – Approved

5. **CONDITIONAL USE PERMIT 16-CUP-043:** To allow a contractor’s shop and storage yard on the property legally described as Hagedorn Industrial Park Addition, Lot 9, Block 4 in the SE1/4 of Section 25-T100N-R51W.

Petitioner: Michael Terveen
Property Owner: Same
Location: 27171 Linda Ave. – Tea

A motion to take 16-CUP-043 of the table was made by Pashby, and seconded by Larson. Motion passed unanimously.

STAFF ANALYSIS:

The property is located at 27171 Linda Avenue and is within the Hagedorn Industrial subdivision. The petitioner would like to construct a 65’ x 165’ (10,725 sq. ft.) building.

The property is located in the I-1, Light Industrial district zone. The I-1 zoning district allows for a “contractor’s shop and storage yard” through a conditional use process.

- A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

The construction of the proposed building will not substantially impair the appropriate use or development of adjacent property. Nearby properties have similar uses or are currently vacant. The site is located in a developing industrial park to the east of Tea. The land use of contractor’s shop and storage yard has little to no adverse effects on the use and development of nearby properties.

- B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

The structure may only be used for contractor’s shop and storage yard. The proposed structure is compatible to the area that is composed I-1 Light Industrial zoning district.

- C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

No offensive nuisances shall be permitted at any time during operation of contractor’s shop and storage yard. The proposed building will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

STAFF RECOMMENDATION

Based upon the information and materials provided by the petitioner, it is the County Planning Staff’s opinion that overall the project generally meets the applicable standards and therefore, recommends the Planning Commission approve the request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-043, with the following conditions:

1. The lot shall adhere to the site plan submitted on November 4, 2016 or as approved by City of Tea.
2. The building shall only be used for a contractor’s shop and storage yard.

3. A building permit from Lincoln County is required prior to construction of the building.

Public Comment:

Toby Brown presented the staff report.

Nate Allen, project representative, noted they were wanting a larger and better quality building than their current one.

Discussion:

None

Action:

A motion was made by Derausseau and seconded by Darwin Sogn to approve Conditional Use Permit #16-043 with recommended conditions. The motion passed unanimously.

Conditional Use Permit #16-043 – Approved

6. **CONDITIONAL USE PERMIT 16-CUP-045:** Request for review and approval of a Conditional Use Permit to operate a contractor’s shop and storage yard on the property legally described as Hagedorn Industrial Park Addition, Lot 10, Block 4, in the SE1/4 of Section 25-T100N-R51W.

Petitioner: Nielson Construction
Property Owner: Leon Beckman
Location: 27173 Linda Ave – Tea

STAFF ANALYSIS:

The property is located at 27173 Linda Avenue and is within the Hagedorn Industrial subdivision. The petitioner would like to construct a 12,592 sq. ft. building to use as contractor’s shops. The proposed building will be on the northern end of a 1.2-acre parcel with a 27-stall parking lot on the south side of the property.

The property is located in the I-1, Light Industrial district zone. The I-1 zoning district allows for a “contractor’s shop and storage yard” through a conditional use process.

A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

The construction of the proposed building will not substantially impair the appropriate use or development of adjacent property. Nearby properties have similar uses or are currently vacant. The site is located in a developing industrial park to the east of Tea. The land use of contractor’s shop and storage yard has little to no adverse effects on the use and development of nearby properties.

B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

The structure may only be used for contractor’s shops and storage yards. The proposed structure is compatible to the area that is composed I-1 Light Industrial and C Commercial zoning districts.

C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.

No offensive nuisances shall be permitted at any time during operation of contractor's shop and storage yard. The proposed building will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

STAFF RECOMMENDATION

Based upon the information and materials provided by the petitioner, it is the County Planning Staff's opinion that overall the petition generally meets the applicable standards and therefore, recommends the Planning Commission approve the request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-045, with the following conditions:

1. The lot shall adhere to the site plan submitted on November 8, 2016 or as approved by City of Tea.
2. The building shall only be used for contractor's shops and storage yards.
3. A building permit from Lincoln County is required prior to construction of the building

Public Comment:

Toby Brown presented the staff report.

Kelly Nielson, the petitioner, noted that his company would be building the contractor shop for Levya Drywall.

Commissioner Albers asked for additional public comments.

Seeing no other public comments, Commissioner Albers closed the floor to public testimony.

Discussion:

None

Action:

A motion was made by Larson and seconded by Drousseau to approve Conditional Use Permit #16-045 with the recommended conditions. The motion passed unanimously.

Conditional Use Permit #16-045 – Approved

7. **CONDITIONAL USE PERMIT 16-CUP-046:** Request for review and approval of a Conditional Use Permit to operate a contractor's shop and storage yard on the property legally described as Wetland Addition, Lot 4, in the SE1/4 of the SW1/4, in Section 32-T100N-R50W.
- Petitioner:* *Nielson Development LLC*
Property Owner: *Same*
Location: *27297 Wetland Rd – Harrisburg*

STAFF ANALYSIS:

The property is located at 27298 Wetland Road and is within the Wetland Addition subdivision. The property is just east of the La Valley Business Park subdivision. The petitioner would like to construct a 7,320 sq. ft. building, split into three units, to use as contractor's shops.

The property is located in the I-1, Light Industrial district zone. The I-1 zoning district allows for a "contractor's shop and storage yard" through a conditional use process.

- A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

The construction of the proposed building will not substantially impair the appropriate use or development of adjacent property. Nearby properties have similar uses or are currently vacant.

The land use of contractor's shop and storage yard has little to no adverse effects on the use and development of nearby properties.

B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

The structure may only be used for contractor's shops and storage yards. The proposed structure is compatible to the surrounding area that includes I-1 Light Industrial and C Commercial zoning districts.

C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.

No offensive nuisances shall be permitted at any time during operation of contractor's shop and storage yard. The proposed building will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

STAFF RECOMMENDATION

Based upon the information and materials provided by the petitioner, it is the County Planning Staff's opinion that overall the petition generally meets the applicable standards and therefore, recommends the Planning Commission approve the request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-046, with the following conditions:

1. That the lot shall adhere to the site plan submitted on November 28, 2016.
2. A building permit from Lincoln County is required prior to construction of the building.
3. The building shall only be used for contractor's shops and storage yards.

Public Comment:

Toby Brown presented the staff report. Pashby noted that conditions #3 should say "The building and land shall only be used for contractor's shops and storage yards," since the storage yards are not in a building,

Kelly Nielson, the petitioner, noted that he has numerous companies approach him about the property.

Commissioner Albers asked for additional public comments.

Luella DeJong said she didn't receive a letter when she is still close to the property. Toby noted that the notices only go to the properties within 500 feet of the parcel addressed in the application. Luella also noted she was concerned about the potential flooding of 9-Mile creek with the additional development.

Bob Messner noted that the plan sounds good, and he has no issues if he sticks to his plan for drainage. He also noted that the county should address the flooding issues of 9-Mile Creek.

Seeing no other public comments, Commissioner Albers closed the floor to public testimony.

Discussion:

Albers noted he would like to see the property direct the drainage north and west. Toby noted that since this is a subdivision, they had to get an approved drainage plan, and the applicant is proposing going above and beyond to prevent drainage issues. Kelly noted he is fine with an added condition for drainage since he was planning on grading the lot more anyway. Pashby recommended a condition to be in compliance with the floodplain development permit.

Action:

A motion was made by Darwin Sogn and seconded by Darrel Sogn to approve Conditional Use Permit #16-046 with the recommended and additional floodplain conditions. The motion passed unanimously.

Conditional Use Permit #16-046 – Approved

8. **CONDITIONAL USE PERMIT 16-CUP-047:** Request for review and approval of a Conditional Use Permit to operate a meal preparation business as a Class 1 Major Home Occupation on the property legally described as Oltmann's Subdivision, in the NE1/4 of the NW1/4 Lot 2 *Ex Lot H-4*, in Section 23-T99N-R51W.

Petitioner: Sara and Shea Geelan

Property Owner: Same

Location: 46841 276th St – Lennox

STAFF ANALYSIS:

The property is located at 46841 276th St. and is within the A-1 Agricultural zoning district. The petitioner would like to construct a 34' x 68' (2312 sq. ft.) accessory building, to use as kitchen space and storage for a home occupation.

The A-1 zoning district allows for a Class 1 Major Home Occupations through a conditional use process.

- A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

The operation of the Class 1 Major Home Occupation from the new accessory building will not substantially impair the appropriate use or development of adjacent property. Nearby properties have similar sized accessory buildings. The land use of a home occupation has little to no adverse effects on the use and development of nearby properties.

- B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

No customers will be visiting the property. The proposed structure is compatible to the surrounding area that includes similar sized structures.

- C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

No offensive nuisances shall be permitted at any time during operation of the home occupation.

The proposed operation will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

STAFF RECOMMENDATION

Based upon the information and materials provided by the petitioner, it is the County Planning Staff's opinion that overall the petition generally meets the applicable standards and therefore, recommends the Planning Commission approve the request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-047, with the following conditions:

1. That the lot shall adhere to the site plan submitted on November 28, 2016.
2. A building permit from Lincoln County is required prior to construction of the accessory building.
3. That the occupation shall be conducted entirely within a dwelling and/or accessory building and shall be clearly incidental to the use of the structure for residential purposes.
4. That the occupation shall be operated by a member of the family residing in the dwelling.
5. That 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.
6. That in addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.

7. That 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.
8. That the occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
9. That no outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in Condition #10.
10. That 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.
11. That the occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
12. That there shall be only limited and incidental sale of products conducted on the premise.
13. That 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:

Toby Brown presented the staff report.

Shea Geelan, the petitioner, noted that they have talked with their neighbors and no one had any concerns. Pashby asked what the remainder of the building will be used for since only 2,000 sq. ft. can be used for the occupation. Shea noted they would use the rest of the space for personal storage. Pashby also asked for more details of what the company does. Shea explained they are a meal prep company that works with company wellness programs and will be starting home delivery.

Commissioner Albers asked for additional public comments.

Seeing no other public comments, Commissioner Albers closed the floor to public testimony.

Discussion:

None

Action:

A motion was made by Pashby and seconded by Derausseau to approve Conditional Use Permit #16-047 with the recommended conditions. The motion passed unanimously.

Conditional Use Permit #16-047 – Approved

9. **CONDITIONAL USE PERMIT 16-CUP-048:** Request for review and approval of a Conditional Use Permit to operate a motor vehicle repair shop on the property legally described as Verhey Addition, Lot 8, S1/2 Gov't Lots 1 & 2, in the SW1/4, in Section 31-T100N-R50W.

<i>Petitioner:</i>	<i>Richard Godschalk</i>
<i>Property Owner:</i>	<i>Allen Rippentrop</i>
<i>Location:</i>	<i>27285 Verhey Place, Suite 3 - Tea</i>

STAFF ANALYSIS:

The property is located at 27285 Verhey Place, Suite 3, and is within the Commercial zoning district. The petitioner operates a motor vehicle repair business in Suite 3 of the existing building on site. Staff was made aware of petitioner during compliance check on property.

The commercial zoning district allows for a motor vehicle repair shop through a conditional use process.

A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

The proposed use will not substantially impair the appropriate use or development of adjacent property. Nearby properties have similar uses. The land use of a motor vehicle repair shop has little to no adverse effects on the use and development of nearby properties.

B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

The proposed use is compatible to the surrounding area that includes similar uses.

C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.

No offensive nuisances shall be permitted at any time during operation of the home occupation. The proposed use will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

STAFF RECOMMENDATION

Based upon the information and materials provided by the petitioner, it is the County Planning Staff's opinion that overall the petition generally meets the applicable standards and therefore, recommends the Planning Commission approve the request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-048, with the following conditions:

1. That the lot shall adhere to the site plan submitted on December 2, 2016.
2. The business shall be limited to parking eight (8) vehicles outside of the building. The vehicles shall be parked directly in front of Suite 3 or along the south property line, and shall remain out of the road right-of-way.
3. If at any time the business ceases to exist, or changes ownership, the petitioner shall notify County Planning Staff.

Public Comment:

Toby Brown presented the staff report. Pashby asked what was going on with the collection of junk in the southwest corner of the property. Toby noted that it is not pertinent to the application since it belongs to the business owner in Suite 2.

Richard Godschalk, the petitioner, noted that he only does general repair. He noted that he's been there for 5 years and he was not aware that a conditional use permit was needed. He noted that he hopes his neighbor in Suite 2 cleans up the mess as soon as possible.

Commissioner Albers asked for additional public comments.

Dale Hanson noted that Richard's business is clean and hopes the outside is taken care of soon.

Randy Haber noted that Richard runs a great business.

Jerry Kubiszewski noted that there is no way that the mess on the property should be allowed.

Seeing no other public comments, Commissioner Albers closed the floor to public testimony.

Discussion:

None

Action:

A motion was made by Derousseau and seconded by Darwin Sogn to approve Conditional Use Permit #16-048 with the recommended conditions. The motion passed unanimously.

10. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA

a. Correspondence received. - NONE

b. Comments from Planning Commission members.

Toby Brown presented the 2017 Planning and Zoning Calendar. He noted the application deadline would be pushed back to a full month to allow staff to present more in depth analysis and quality recommendations. The commission members agreed the new deadline was a good idea. Toby also noted that there have been requests for member phone numbers. He noted that the office will pass along messages but will ask for correspondence to be shared with all members of the commission. Lastly he noted that members can drive by sites before the meetings, but also have to disclose any information from meetings with neighbors outside of the public hearings.

c. Comments from the audience. - NONE

11. NEW BUSINESS

Toby Brown noted that the County Board will be holding another public hearing on the wind energy ordinance amendments on December 27, 2016.

12. ADJOURNMENT

Motion to adjourn at 8:15pm was made by Darwin Sogn and seconded by Larson. The motion passed unanimously.

Respectfully submitted,
Joan Doss
Planner