

# MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

January 16, 2018

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

STAFF PRESENT: Toby Brown, Joan Doss - County Planning

PUBLIC PRESENT (sign in sheet): Tony Ventura, Julie Reiland, Phil Tall, Don Abbas, Frank Kloucek, Robert Jerke, Dwight Johnson, Warren & Susan Jensen, Ernest Stratmeyer, Kevin Goembel, Dave Gillespie, Jennifer Fischer, Eric Willadsen, Kim & Derek Dobson, Dana Haan, Kristen & Lee Daggett, Julie Weinmann, Shane Zylstra, Ben Fahlberg, Joanne & Chuck Bennis, Luella DeJong, Chad Javers, Chris DeHaan, James Henjum, & Dan O'Conner

## 1. CALL TO ORDER AND ROLL CALL

The regular meeting was brought to order on January 16, 2018 at 7:00pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derosseau.

## 2. APPROVAL OF DECEMBER 18, 2017 MINUTES

A motion to approve the minutes from December 18, 2017 was made by Pashby and seconded by Klatt. The motion passed unanimously (6-0).

## 3. APPROVAL OF AGENDA

A motion to approve the agenda was made by Larson and seconded by Pashby. The motion passed unanimously (6-0).

## 4. REZONING 17-REZ-014: Request for review and recommendation for approval to the Board of County Commissioners of a Rezoning from "A-1" Agricultural District and "RC" Recreation Conservation District to "RR" Rural Residential District. The application is for a portion of the property legally described as the Southeast quarter (SE1/4) except Lot H-1 of Section 34, Township 100 North, Range 49 West of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Eric Willadsen*

*Owner: Carolyn Porter - Trust*

*Location: Intersection of 273<sup>rd</sup> Street and 480<sup>th</sup> Avenue – Harrisburg*

### Staff Analysis:

The portion of the property petitioned currently has no structures and consists of approximately 45 acres. The 45 acres is currently part of a 160-acre parcel with an existing farmstead. The petitioner stated in the application that the purpose of the rezoning was to create rural residential lots overlooking Lake Alvin on the hilly non-crop area within the quarter section.

**Staff Recommendation:** The requested change of zone is not in conformance with the 2025 Lincoln Comprehensive Plan and the 2025 Harrisburg. Staff recommends that the Planning Commission **recommends denial** the proposed rezoning.

### Public Comment & Discussion:

Toby Brown presented the staff report, and noted the Game, Fish, & Parks office sent a letter detailing some issues they have had with other developments near their properties. He also noted that the Recreation/Conservation zoning district has the intent of keeping land open for public green space.

Eric Willadsen, petitioner, noted this is only 4 miles from Harrisburg and there are already a number of other developments in the same area. He also noted that he would be fine tabling the application until the comprehensive plan could be reviewed and updated. Derosseau noted that he had concerns about the length of the cul-de-sac, and asked if the secondary access would be plowed in winter. Pashby asked what the septic plans would be. Eric noted they would have individual systems. Klatt asked how they would enforce possible encroachment from the lots neighboring state property. Eric noted they could post signs at the property line.

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

### Action:

A motion was made by Pashby, and seconded by Klatt to recommend denial of 17-REZ-014. The motion passed 5-0-1, with Schmidt abstaining.

## **Rezoning 17-REZ-014 – Recommend Denial**

- 5. CONDITIONAL USE PERMIT 18-CUP-001:** Request for review and approval of a Conditional Use Permit proposing to operate a Class 1 Major Home Occupation. The property is legally described as the North half (N1/2) of the North half (N1/2) of the Southwest quarter (SW1/4) of the Northwest quarter (NW1/4) of Section 1, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner/Owner: Kristen & Lee Daggett*

*Location: 27326 469<sup>th</sup> Avenue – Lennox*

### **Staff Analysis:**

The property is a 10-acre lot, abutting residential subdivisions on the north, east, and south. The petitioner is proposing utilizing a newly constructed accessory building for their business storage. The petitioner also noted that he will keep a truck on-site overnight. 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. 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 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.
13. 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 application came about after a complaint was filed, but the applicants have been cooperative throughout the process.

Lee and Kristen, petitioners, noting they will be storing semi-trucks and trailers overnight. Pashby asked about the trees on the site plan. Kristen noted that was her idea to create a buffer for the neighbor. Pashby asked for that to be added as a condition to the permit.

Derousseau asked for public comment.

Joann Bennis noted if they followed the conditions of the permit, she thought it would be an ok land use.

Hearing no further comments, Derousseau closed the floor.

**Action:**

A motion was made by Schmidt, and seconded by Larson to approve 18-CUP-001, with the added condition of complying with the submitted site plan. The motion passed unanimously (6-0).

**Conditional Use 18-CUP-001 – Approved**

**6. CONDITIONAL USE PERMIT 18-CUP-002:** Request for review and approval of a Conditional Use Permit proposing to operate a Class 1 Major Home Occupation. The property is legally described as the West 300’ of the East 778’ of the North 330’ of the East half (E1/2) of the Northwest quarter (NW1/4) of Section 17, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner/Owner: Christopher & Alisha DeHaan*

*Location: 46537 275<sup>th</sup> Street - Lennox*

**Staff Analysis:**

The property is currently a 2.27-acre lot with a single-family dwelling. The petitioner is proposing to construct a 2,000 square foot accessory building to the west of the single-family dwelling. 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 accessory building is in keeping with other buildings within the vicinity.
2. The proposed use is primarily storage and if the imposed conditions are complied with, 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. 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 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.
13. 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 proposed accessory structure would meet the limit of 2,000 square feet.

Chris DeHaan, petitioner, noted the business would fill the demand of construction companies for rough-sawn/live-edge lumber products. He also noted that the saw mill is off site, and would only have storage and showroom on the proposed property.

Derousseau asked for public comment.

Kim Dobson noted she would feel better if they made a condition that no manufacturing was on site. Chris noted this is never going to be the plan due to the safety issue with his small children. Derousseau noted that this would be covered under the noise and nuisance condition.

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

**Action:**

A motion was made by Larson, and seconded by Klatt to approve 18-CUP-002 with the recommended conditions. The motion passed unanimously (6-0).

**Conditional Use 18-CUP-002 – Approved**

- 7. CONDITIONAL USE PERMIT 18-CUP-003:** Request for review and approval of a Conditional Use Permit proposing to operate a Class 1 Major Home Occupation. The property is legally described as Tract 2 and Tract 3 Haan's Addition in Government Lot 2 in the Southwest quarter (SW1/4) of Section 6, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner/Owner: Warren & Susan Jensen*

*Location: 47010 274<sup>th</sup> Street – Lennox*

**Staff Analysis:**

The property is currently a 16.25-acre lot with a single-family dwelling and some outbuildings. The petitioner is proposing to move/construct an accessory building to the east of the single-family dwelling. After careful review of the project and all associated documents, staff has developed the following opinions for this proposal:

1. The proposed use is primarily storage and if the imposed conditions are complied with, offensive nuisances are unlikely during the proposed land use.
2. 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 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 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.
13. 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 it was unclear at this point if they will be using an existing building or moving a new building onto the property.

Warren and Susan Jensen, the petitioners, noted their business currently has space in Sioux Falls, but they could prefer to not have to drive. They also noted the business would mostly be warehousing of audio equipment with minimal onsite installations.

Derousseau asked for public comment.

Dana Haan noted that the Jensen's have been great neighbors over the years, and has no objections to the use.

Hearing no other comments, he closed the floor.

**Action:**

A motion was made by Pashby, and seconded by Sogn to approve 18-CUP-003 with the recommended conditions. The motion passed unanimously (6-0).

**Conditional Use 18-CUP-003 – Approved**

8. **CONDITIONAL USE PERMIT 18-CUP-004:** Request for review and approval of a Conditional Use Permit proposing to operate a contractor's shop and storage yard. The property is legally described as Tract 32 Southwest Industrial Park in the Northeast quarter (NE1/4) of the Southeast quarter (SE1/4) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Chad Javers*

*Owner: Fair City Auto Sales LLC*

*Location: 27051 Sunrise Ave – Sioux Falls*

**Staff Analysis:**

The property is a 1.18-acre lot that currently has a 5,000 square foot warehouse. The petitioner is proposing to construct a 6,000 square foot, 2-unit, contractor's shop and storage yard onto the west side of the existing building. 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 adhere to the site plan, as approved by the City of Tea.

3. No unscreened outdoor storage is permitted and the property shall be neat and orderly at all times.
4. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
5. 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.
6. 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. Chad Javers, the petitioner, noted the owner was looking at ways to utilize more of their property.

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

**Action:**

A motion was made by Klatt, and seconded by Larson to approve 18-CUP-004 with the recommended conditions. The motion passed unanimously (6-0).

**Conditional Use 18-CUP-004 Approved**

- 9. PROPOSED ZONING ORDINANCE AMENDMENT:** Amending the text in Section 3.03 – A-1  
Agricultural District: Permitted Special Uses

**Staff Analysis:**

Toby presented the amendment and noted that the state general permit is required by the state for operations over 1000 animal units. Also noted is that if the operator does not want to file an application for a new Class C with the state they would need a conditional use permit from the county instead.

**Public Comment & Discussion:**

Derousseau asked for public comment.

Tony Ventura noted it was a good change, but should include requirements for operations over 1,000 and asked about current breakdown of classes.

Ben Fahlberg asked how this would affect current operations. Derousseau noted this would only affect new operations.

Hearing no further comments, Derousseau closed the floor to comment.

**Action:**

A motion was made by Klatt, and seconded by Pashby to recommend approval of the amendment. The motion passed 5-0-1, Schmidt abstaining.

- 10. PROPOSED ZONING ORDINANCE AMENDMENT:** Amending the text in Section 12.09(F) –  
Concentrated Animal Feeding Operations: Minimum Separation Distances

**Staff Analysis:**

Toby presented the amendment and noted it would be rolling back the setbacks to what they had been in the original 2009 ordinance. He also explained the odor footprint tool requirements. He noted that staff felt that these were reasonable standards to impose. He also noted that rolling back the setbacks would bring Lincoln County in alignment with most surrounding counties in South Dakota.

**Public Comment & Discussion:**

Derousseau asked for public comment.

Don Abbas noted that he doesn't want the country to smell and they need to take these issues seriously. He feels that the setbacks aren't good enough.

Ernest Stratmeyer noted there were two operations only about a mile away from him that he never heard about until they were being constructed, and wanted to know why there was not notification. He also presented a log of days he noticed odor. He feels that CAFOs are commercial uses that impede his ability to use his property. Monty noted that this will allow tools that the commission can base their decisions on, and stipulation that they can stand behind.

Frank Klocek submitted an editorial. He also noted the need to test for ammonia and hydrogen sulfide instead of using the odor footprint. He also noted that curtain barns should be banned.

Shane Zylstra noted he owns one of the barns previously mentioned and there were ample opportunities to be heard because of the numerous meetings that were held. He also noted that the days that were most noticeable were days the pits were pumped or that it was humid.

Tony Ventura noted the change is in the right direction, but using the odor footprint isn't good enough because he feels it is biased.

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

**Action:**

A motion was made by Klatt, and seconded by Pashby to recommend approval of the amendment. The motion passed 5-0-1, Schmidt abstaining.

**11. PROPOSED ZONING ORDINANCE AMENDMENT: Amending the text in Section 12.09 – Concentrated Animal Feeding Operations: Minimum Lot Size**

**Staff Analysis:**

Toby presented the amendment and noted this would allow flexibility to allow for shelter belts or retrofits to the barns.

**Public Comment & Discussion:**

Derausseau asked for public comment.

Ben Fahlberg noted that 5 acres seemed a bit high; one of his operations is 3 acres and has plenty of room for trees. He noted the extra acres seem like expensive wasted space. Monty clarified that they could farm as much of the 5 acres as they want.

Tony Ventura noted this was the right step forward.

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

**Action:**

A motion was made by Pashby, and seconded by Klatt to recommend approval of the amendment. The motion passed 5-0-1, Schmidt abstaining.

**12. OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISSION - None**

**13. OLD BUSINESS - None**

**14. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA**

- a. Correspondence received – Toby handed out a packet of public submissions since the last meeting.
- b. Comments from Planning Commission members - None
- c. Comments from the audience –

Julie Reiland noted she is a physician that studies the health effects of CAFOs and she appreciates the open-mindedness of the commission members.

Phil Tall thanked the members for their open-mindedness and feels the county should not use the odor footprint tool.

**15. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION - None**

**16. NEW BUSINESS**

- a. Text amendments to the 2009 Revised Zoning Ordinance for Lincoln County – were not discussed

**17. ADJOURNMENT**

Motion to adjourn at 9:50pm was made by Pashby and seconded by Klatt. The motion passed unanimously.

Respectfully submitted,  
Joan Doss  
Planner