

# MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

January 21, 2020

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Erik Scott, Tyler Klatt, Jerry Jongeling, Monty Derausseau, Gary Pashby, Tiffani Landeen, and Stacey Clay Namminga

STAFF PRESENT: Toby Brown & Joan Doss - County Planning

PUBLIC PRESENT: Nate Vander Plaats, Wilhelm Bowers, Patricia Bowers, Michelle Ciccone, Lynn Froke, Travis Engdahl, Dan Lederman, Toby Morris, Chris Srubar, Nicole Wagner, Paul Letsche, John Euchner, Tracy West, Scott Bell, Paul Garbers

## 1. CALL TO ORDER AND ROLL CALL

The regular meeting was brought to order on January 21, 2020 at 6:30pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derausseau.

## 2. APPROVAL OF DECEMBER 16, 2019 MINUTES

Pashby motioned to approve the minutes and was seconded by Landeen. The motion passed unanimously (7-0).

## 3. APPROVAL OF AGENDA

Jongeling motioned to approve the agenda and was seconded by Pashby. The motion passed unanimously (7-0).

## 4. OPPORTUNITY FOR PUBLIC COMMENT NOT INVOLVING ITEMS ON THE AGENDA - none

## 5. PUBLIC HEARINGS

- a. CONDITIONAL USE PERMIT / USE-0088-2019: Application for a Conditional Use Permit to place a manufactured home. The property is legally described as the South 346.5' of the North 1737.5' of the West 462' of the Northwest quarter (NW1/4) of Section 24, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Applicant/Owner: David Rippentrop*

*Location: 27632 469<sup>th</sup> Ave – Lennox*

### Staff Presentation:

Toby presented the application and listed the recommended conditions as follows:

1. The project (a manufactured home) is substantially developed in accordance with **Exhibit A** or as modified by the Planning Commission.
2. The Conditional Use Permit shall be valid for a period of two (2) years from this date and if not commenced shall expire on **January 29, 2022**. Prior to said expiration date, the applicant may apply for an extension of time, provided this approval shall not be extended beyond **January 29, 2023**.
3. A building permit must be issued prior to the commencement of construction.
4. The existing home shall be removed from the property or shall not be used as habitable space once the manufactured home is complete.

### Public Comment:

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

### Discussion & Action:

Pashby motioned to approve with conditions as recommended and was seconded by Namminga. The motion passed unanimously (7-0)

- b. CONDITIONAL USE PERMIT / USE-0094-2019: Application for a Conditional Use Permit to allow an electrical substation. The property is legally described as Tract 1 and Tract 2 of Johnson's Addition in the Northwest quarter (NW1/4) and the West 523' of the North 124' of the West half of the Northeast quarter (W1/2NE1/4) of Section 17, Township 99 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Applicant/Owner: East River Electric Power Coop Inc./Dakota Access LLC*

*Location: Approximately 1/2 mile west of the intersection of SD Hwy 11 and 275th St - Harrisburg.*

### Staff Presentation:

Toby presented the application and listed the recommended conditions as follows:

1. The project (electrical substation) is substantially developed in accordance with **Exhibit A** or as modified by the Planning Commission.

2. The Conditional Use Permit shall be valid for a period of two (2) years from this date and if not commenced shall expire on **January 29, 2022**. Prior to said expiration date, the applicant may apply for an extension of time, provided this approval shall not be extended beyond **January 29, 2023**.
3. A building permit must be issued prior to commencement of construction of the proposed electrical substation.
4. The permittee shall be responsible for obtaining, if applicable, a road use agreement with Dayton Township prior to construction to ensure repairs for any damage to roads.
5. All buildings shall be painted in earth tones.
6. Exterior lighting shall be down-shrouded.
7. The permittee shall not deposit any snow or water onto neighboring properties and dispose of stormwater onsite through an approved engineering method.
8. The permittee shall follow all federal, state and local laws pertaining to this project.
9. The conditional use permit will be reviewed one year after the start of operation.

**Public Comment:**

Paul Letsche, from East River Electric Coop, noted they would be securing easements or would utilize the right of way for the power lines.

Derousseau asked for public comment.

Chris Srubar, Paul Garbers, and Scott Bell noted their support of the application noting economic development.

Hearing no further comments, Derousseau closed the floor.

**Discussion & Action:**

Jongeling motioned to approve with conditions as recommended and was seconded by Landeen. The motion passed unanimously (7-0)

- c. **CONDITIONAL USE PERMIT / USE-0092-2019:** Application for a Conditional Use Permit to allow an adult oriented business. The property is legally described as Lot 1 of Block 3 of Kerslake 2<sup>nd</sup> Addition, 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: Willhelm Bowers/Red Roof Rentals LLC Location: 27062 Katie Road, Unit E - Tea.*

**Staff Presentation:**

Toby presented the application and noted that South Dakota Codified Law states that an adult use must be one-quarter mile from a residence, which this application does not meet with the residence at 27076 469<sup>th</sup> Avenue. He concluded by stating the recommendation being that the Planning Commission adopt the three (3) findings of fact as stated in the evaluation of the staff report and not approve the Conditional Use Permit – USE-0092-2019.

**Public Comment:**

Wilhelm Bowers, business owner, noted they are an alternative lifestyles community and an 18 and over club, they would not have alcohol or drugs on the premise, and he noted he feels they should not be considered an adult oriented business. He also noted the site in more than ½ mile driving distance from the residence.

Landeen questioned why the agenda states they are an adult oriented business. Mr. Bowers noted it was because of the county ordinance. Toby Brown noted that staff did not advise the applicant on which use to list on the application. Pashby asked if there is a charge for entry. Mr. Bowers noted there is a membership fee, and everyone's ID is run through the DOJ database of sex offenders. Pashby also asked to elaborate on what the proposal entails. Mr. Bowers noted an alternative lifestyle is a kink like BDSM, and everything is consensual, participants can be clothed or nude, but there is no intercourse.

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

**Discussion & Action:**

Klatt noted he believes it is an adult use since there is the possibility of a state of undress, and he questioned if the applicant's interpretation of state statute is correct. Klatt motioned to table the application for staff to confer with legal counsel. Jongeling seconded the motion. The motion passed 4-3, with Pashby, Landeen, and Derousseau, dissenting.

**6. OLD BUSINESS**

- a. LINCOLN COUNTY TAX INCREMENT DISTRICT #9: Review and recommendation of a Resolution and Project Plan on behalf of the City of Lennox for the development of affordable workforce housing

Landeen noted that the language in the resolution needs to be reviewed by legal counsel since she believes it does not meet state statute. Pashby also voiced a number of questions and concerns about the proposal.

Landeen motioned to table action on the plan, and was seconded by Pashby. The motion passed unanimously (7-0)

**7. OPEN DISCUSSION FOR COMMISSION MEMBER FOR ISSUES NOT ON THE AGENDA**

- a. Correspondence received. – Correspondence was given to members at the beginning of the meeting.
- b. Comments from Planning Commission members. – None.

**8. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION –**

Landeen noted the county board met today to discuss funding sources to address budget issues.

**9. NEW BUSINESS**

- a. Setting public hearing dates. Toby summarized the applications on the agenda for February and noted there would be more discussion on the 2020 work plan for Planning & Zoning.
- b. Other new business - none.

**10. ADJOURNMENT**

Landeen motioned to adjourn at 7:55pm and was seconded by Pashby. Motion passed unanimously (7-0).

Respectfully submitted,  
Joan Doss  
Planner