

**MINUTES OF THE
LINCOLN COUNTY PLANNING AND ZONING COMMISSION
February 16, 2016**

A meeting of the Planning Commission was held on February 16, 2016 at 7:00 p.m. in the Commission Meeting Room of the Lincoln County Courthouse.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Ron Albers, Monty Derausseau, Dan King, Tyler Klatt, Ron Larson, Gary Pashby, and Darwin Sogn.

STAFF PRESENT:

Toby Brown, Clarice Paulson and Gregg Thompson - County Planning

The meeting was chaired by Ron Albers.

ITEM 1. Approval of Alternates

No action was taken.

ITEM 2. Approval of Agenda

A motion was made by Pashby and second by Derausseau to table Item 5 - Conditional Use Permit 16-CUP-003 until the March 21st meeting at the petitioner's request and approve the remainder of the agenda as written. The motion passed unanimously.

ITEM 3. Approval of Minutes - January 19, 2016

A motion was made by Pashby and seconded by Larson to approve the meeting minutes from January 19, 2016. The motion passed unanimously.

ITEM 4. REZONING 16-REZ-002 to rezone South 687.06 'of West 262.56' of Southwest Quarter of the Northwest Quarter (SW1/4NW1/4) in Section 25, Township 99 North, Range 51 West of the 5th P.M. Lincoln County, SD from A-1 Agricultural District to RR Rural Residential District.

General Information:

Location - 27738 469th Ave, Lennox, SD 57039

Petitioner/Owner - David Highley

Present Zoning - "A-1" Agricultural District

Existing Land Use - Residential

Parcel Size - 4.14 acres

Staff Report: Toby Brown

Staff Analysis:

The petitioner is requesting to rezone 4.14 acres for the purpose of gaining a single family housing eligibility. The parcel is large enough to accommodate a second home minus the original home site and designated areas for appropriate septic systems. The petitioner is seeking a single family housing eligibility to provide a home for his mother. No land will be taken out of agricultural production.

Recommendation:

Staff finds that the rezoning request to rezone from the A-1 Agricultural District to the RR Rural Residential District conforms to the goals and policies of the 2005 Comprehensive Plan. The rezoning request is consistent with the type of land uses already permitted surrounding the site.

Public Testimony:

Toby Brown of Planning Department staff presented the staff report.

David Highley, 27738 469th Ave., identified himself as the petitioner and explained that he is submitting a rezoning application to allow for the construction of a new residence for himself and not his mother. Mr. Highley explained that he felt this was a better approach than the previously submitted Conditional Use Permit application for the same property since this could be a permanent house.

Commissioner Pashby asked the petitioner if the new home would be to the south of the existing house and the petitioner responded yes.

Heidi Ihnen, 27756 469th Ave., is a land owner to the south of the petitioner's property. Heidi stated that she didn't have a problem with an additional house but did raise concerns regarding drainage and that car parts were being sold out of the Highley property.

Donavaon Bruns, 27770 469th Ave., stated that there is a water issue and the ditch needed to be dug out. Donavaon also stated that the culvert under the highway was plugged. Commissioner Albers commented that he should contact the County Highway Superintendent if the culvert is plugged.

David Highley responded to the comments. He noted that the new house would be built in the north end of the property and the land slopes to the south and so just immediately south of the existing house and so it would be away from the wet areas of the property. He stated that all cars are his and are for his personal use in demolition derby events. He further stated that he has constructed a fence that shields the cars on the property and he is not running a business from the property. David added that the new house would be for him and that the existing house would be used by his mother.

Donavaon Bruns asked if David builds the new house can he open his ditch. Mr. Highley responded yes.

Heidi Ihnen asked if the additional house would take away eligibilities. Commissioner Albers responded no.

Action:

A motion was made by Larson and seconded by Sogn to recommend approval of Rezoning 16-REZ-002. The motion passed with 4 yeas (Albers, Klatt, Larson and Sogn) and 3 nays (Derousseau, King and Pashby).

Rezoning 16-REZ-002 – Recommended Approval

ITEM 5. CONDITIONAL USE PERMIT 16-CUP-003 to exceed 1,500 square feet of accessory building area – requesting 4,800 square feet on the property legally described as Waldner’s Addition Tracts 4 & 5 of Hyronimus’s Addition Northwest quarter (NW1/4) of Section 20, Township 100 North, Range 51 West of the 5th P.M., in Lincoln County, South Dakota.

General Information:

Location - 46537 270th St, Tea, SD 57064
Petitioner/Owner - Thomas Waldner
Present Zoning - “A-1” Agricultural District
Existing Land Use - Residential
Parcel Size - 7.32 Acres

ITEM 6. CONDITIONAL USE PERMIT 16-CUP-004 to allow equipment and tool rental on the property legally described as Tracts 7 & 8 , and N ½ of Tract 6 in Skyhaven Heights Addition in Northwest quarter (NW ¼) of the Section 30, Township 100 North, Range 50 West of the 5th P.M. in Lincoln County, South Dakota.

General Information:

Location - 27132, 27134 and 27136 Parklane Drive Tea, SD 57064
Petitioner/Owner - Rolland Nifong- Sunbelt Rentals, Inc. / Gregory Larson
Present Zoning - “C” Commercial District
Existing Land Use - Commercial
Parcel Size - 1.5 Acres

Staff Report: Toby Brown

Staff Analysis:

The petitioner has applied for a Conditional Use Permit for the purpose of equipment and tool rental at 27134 Parkland Drive. Repair, maintenance, warehousing, inside and outside storage of such equipment and tools generally used in construction. This includes trailers and heavy machinery, above ground storage for petroleum products and office use.

- 1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**
Petitioned property is surrounded by commercial uses. The requested use should not impede on the enjoyment or use of the surrounding properties or affect property values.
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
The property is directly adjacent to the Interstate and all surrounding property is developed with similar uses.
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
Access to the site is from South Parklane Drive.
- 4. That the off-street parking and loading requirements are met.**
The property meets off-street parking and loading requirements.

5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

This business should not constitute a nuisance to the neighboring properties.

Recommendation:

Staff found that the proposed tool and equipment rental business is compatible with existing uses in the vicinity. Staff recommends approval of Conditional Use Permit 16-CUP-004.

Public Testimony:

Toby Brown of Planning Department staff presented the staff report.

The petitioner, Rolland Nifong, spoke on behalf of the application. Rolland stated that the business would involve the rental of various pieces of equipment. Rolland noted that there is an existing eight foot chain link security fence on the property and the previous owner was Diamond Mowers.

The property owner, Greg Larson, spoke in support of the application.

Action:

A motion was made by Derousseau and seconded by Klatt to approve Conditional Use Permit 16-CUP-004. The motion passed unanimously.

Conditional Use Permit 16-CUP-004 – Approved

ITEM 7. CONDITIONAL USE PERMIT 16-CUP-005 to exceed 1,500 square feet of accessory building area – requesting 3,120 square feet on the property legally described as N270’ of S 540’ of W 300’ *Ex H-1 & 2* in South half (S1/2) Northwest quarter (NW1/4) of Section 16, Township 100 North, Range 51 West of the 5th P.M. in Lincoln County, South Dakota.

General Information:

Location - 26940 Hwy 17, Sioux Falls, SD 57106

Petitioner/Owner - Chad Ulvestad

Present Zoning - “A-1” Agricultural District

Existing Land Use - Residential

Parcel Size - 1.76 Acres

Staff Report: Toby Brown

Staff Analysis:

The petitioner has applied for a Conditional Use Permit to exceed 1,500 square feet of accessory building area at 26940 Hwy 17. The property owner is requesting this conditional use permit for a total of 3,120 square feet of accessory building. Petitioner currently has a 676 square foot accessory building that will be removed from the property.

A conditional use permit application is required by Section 12.06 (D) of the Lincoln County Zoning Ordinance which states:

In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1500 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

There are large accessory building areas in the general vicinity of this property. The proposed site for the structure meets all applicable setbacks and the placement of the structure will not impact the neighboring properties. The construction of this accessory building should not impede on the enjoyment or use of the surrounding properties or affect property values.

2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The construction of the proposed accessory building should have no impact on further construction or development within the general area. The building will be used for the owner's personal storage and no commercial or business activities will be allowed. This use will not affect the adjacent residential use or agricultural land in the area.

3. That utilities, access roads, drainage and/or other necessary facilities are provided.

Access to the proposed accessory building will be through a driveway located on Highway 17.

4. That the off-street parking and loading requirements are met.

The property has sufficient parking for all activities.

5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

There should be no uses in the building which would constitute these types of nuisances.

Recommendation:

Staff found that the proposed accessory building size conforms to the general sizes of other accessory building areas. Staff recommends approval of Conditional Use Permit 16-CUP-005.

Public Testimony:

Toby Brown of Planning Department staff presented the staff report.

The petitioner, Chad Ulvestad, spoke on behalf of the application. Chad noted that the existing accessory building on the property is approximately 1,300 square feet and will be removed prior to construction of the new accessory building which will be constructed in an "L" shape configuration on the property.

Action:

A motion was made by Derousseau and seconded by King to approve Conditional Use Permit 16-CUP-005. The motion passed unanimously.

Conditional Use Permit 16-CUP-005 – Approved

ITEM 8. CONDITIONAL USE PERMIT 16-CUP-006 to allow a Class C Swine CAFO on the property legally described as Southwest quarter (SW1/4) Southwest quarter (SW1/4) of Section 10, Township 97 North, Range 50 West of the 5th P.M. in Lincoln County, South Dakota.

General Information:

Location - General address at 473rd Avenue and 287th Street.

Petitioner/Owner - Shane Zylstra / Duane Clay

Present Zoning - "A-1" Agricultural District
Existing Land Use - Agriculture
Parcel Size - 3 Acres

Staff Report: Toby Brown

Staff Analysis:

The petitioner is requesting a Conditional Use Permit for a Class C swine operation. This will be a new concentrated animal feeding operation. The maximum allowance for a Class C is 2,499 animals.

1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The minimum separation between a dwelling and a concentrated animal feeding operation of this size is 1,188 feet. There are no dwellings within this setback. There are few dwellings in the immediate vicinity.

2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The majority of the surrounding land is in agricultural uses and will likely continue in these uses in the future.

3. That utilities, access roads, drainage and/or other necessary facilities are provided.

The petitioner will be responsible for the placement of utilities, access roads and appropriate drainage facilities.

4. That the off-street parking and loading requirements are met.

There is ample space on the site for any necessary parking or loading required for the proposed use.

5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed use is consistent with the types of uses found in agriculturally zoned areas and that any potential for impacts from the proposed facility can be offset through the requirement of odor control practices.

Recommendation:

Staff recommends approval of Conditional Use Permit 16-CUP-006 to allow a 2,499 Class C Swine (Over 55 pounds) Concentrated Animal Feeding Operation.

Public Testimony:

Toby Brown of Planning Department staff presented the staff report.

The petitioner, Shane Zylstra, spoke on behalf of the application. Shane discussed the proposed plans and noted this CAFO would be similar to his CAFO which was approved by Lincoln County on a different site in 2013.

Michael Pederson, 28732 473rd Ave., commented that his property was approximately 1,500 feet from the proposed site, one mile and thirty feet from rural water source and close to a floodplain. Michael questioned why the facility couldn't be placed near existing operation or home site.

Alex Ruiz, 28732 473rd Ave., stated that his property is just south of proposed site and he didn't receive notice. Alex further commented that 473rd Ave. is not in good condition and has ruts running through it.

Ryan Vasksdal, 47258 285th Street, stated that his property is directly to the west of the proposed site. Ryan stated that he considered setting up a swine operation on his property approximately five years ago and he wanted to know if the proposed operation would affect his ability to do so in the future.

Brian Aasheim, 28794 473rd Avenue, stated that his property was one mile south of the proposed site. Brian commented that he picked the property because livestock confinements weren't nearby. He further commented that his children ride bikes on the road and he was concerned about increased traffic primarily feed and manure hauling trucks associated with the proposed CAFO. He further commented that his main concern was his children.

Shane Zylstra commented on the concerns addressed by the public. He commented that smell can be addressed through pit additives and that the facilities will be modern.

Michael Pederson commented that the proposed CAFO would be three miles from the petitioner's father-in-law's place and the petitioner lives in Beresford.

Action:

A motion was made by Albers and seconded by Larson to approve Conditional Use Permit 16-CUP-006. The motion passed with 6 yeas (Albers, Derousseau, King, Klatt, Larson and Sogn) and 1 nay (Pashby).

Conditional Use Permit 16-CUP-006 – Approved

ITEM 9. CONDITIONAL USE PERMIT 16-CUP-007 to operate a Class 1 Major Home Occupation on property legally described as Richards Tract 1 of the West half (W1/2) Southwest quarter (SW1/4) of Section 2, Township 96 North, Range 50 West of the 5th P M in Lincoln County, South Dakota.

General Information:

Location - 47416 292nd Street, Beresford, SD 57004
Petitioner/Owner - Andre Boyd Adams
Present Zoning - "A-1" Agricultural District
Existing Land Use - Residential
Parcel Size - 4.052 Acres

Staff Report: Toby Brown

Staff Analysis:

The petitioner has applied for a Conditional Use Permit to allow a Class 1 Major Home Occupation at 47416 292nd Street. The property owner is requesting this conditional use permit for a welding/repair business for primarily agricultural equipment. The business will be run by a family member living on the property.

A Conditional Use Permit is required by Section 12.0302 Major Home Occupation of the Lincoln County Zoning Ordinance. Review of the home occupation should be conducted using the following criteria.

A. Class 1:

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.**
The use will be conducted in an accessory building attached to the residential structure.
2. **The occupation shall be operated by a member of the family residing in the dwelling.**
The home occupation will be operated by one member of the family.
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.**
There will only be one resident employed in the business.
4. **In addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.**
The petitioner has requested the use of accessory building area which is less than the criteria of 2000 square feet listed in this section.
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.**
The petitioner will not exceed the listed decibel level.
6. **The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.**
The proposed occupation will not be in violation of the listed variables.
7. **No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.**
No outside storage is requested for this occupation. The business will be conducted inside the building.
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.**
The plate may not exceed two square feet in area.
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.**
The occupation will not generate customers at this site that exceed the requirement.
10. **There shall be only limited and incidental sale of products conducted on the premise.**
There will be no sale of products on the site.
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.**
Vehicles involved in the business will not exceed the size listed above.

Recommendation:

Staff found that the proposed Class 1 Major Home Occupation to be in compliance with the criteria of the Lincoln County Zoning Ordinance and will have little impact on the surrounding properties. The occupation will be primarily focused on agricultural equipment repair and so this will provide a much needed service for the surrounding area. Staff recommends approval of Conditional Use Permit 16-CUP-007.

Public Testimony:

Toby Brown of Planning Department staff presented the staff report.

The petitioner, Andre Adams, spoke on behalf of the application. Andre discussed the proposed plans and noted there would not be a full-time venture and there would be no manufacturing.

Action:

A motion was made by Pashby and seconded by Derousseau to approve Conditional Use Permit 16-CUP-007. The motion passed unanimously.

Conditional Use Permit 16-CUP-007 – Approved

New Business

1. Election of officers for 2016

A motion was made by Larson and seconded by Sogn to nominate Ron Albers as Chairman. The motion passed unanimously. A motion was made by Albers and seconded by Pashby to nominate Monty Derousseau as Vice Chairman. The motion passed unanimously.

2. City of Harrisburg Development

Andrew Pietrus, Harrisburg City Administrator, and Toby Morris, Dougherty and Company LLC, presented information regarding Devitt Farm within the City of Harrisburg.

Adjourn

A motion was made by Pashby and second by Larson to adjourn the meeting. The motion passed unanimously.