

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

March 19, 2018

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Tyler Klatt, Darwin Sogn, Stacey Namminga, Monty Derausseau, Gary Pashby, Jim Schmidt

STAFF PRESENT: Toby Brown, Joan Doss - County Planning

PUBLIC PRESENT (sign in sheet): Gary Fikse, Eric Willadsen, Max Barnett, Teresa and Chris Trainer, John Haber, Derek Rondeau, Shannon Vanderweile, Richard Godschalk, Randal Haber, Doug Lund, Brian Yock

1. CALL TO ORDER AND ROLL CALL

The regular meeting was brought to order on March 19, 2018 at 7:00pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derausseau.

2. APPROVAL OF FEBRUARY 20, 2018 MINUTES

Klatt motioned to approve the minutes from February 20, 2018, and was seconded by Namminga. The motion passed unanimously (6-0).

3. APPROVAL OF AGENDA

Schmidt motioned to approve the agenda, and was seconded by Sogn. The motion passed unanimously (6-0).

4. CONDITIONAL USE PERMIT 18-CUP-005: Request for review and approval of a Conditional Use Permit proposing to exceed 10,000 square feet of total warehouse building area – requesting 13,700 total square feet. The property is legally described as Lot 6 in Block 5 Kerslake 2nd 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.

Petitioner/Owner: Gary Fikse / GDF Properties LLC

Location: 27077 Katie Road - Tea

Staff Analysis:

The property is a 2.39-acre lot, within the Kerslake commercial subdivision. The petitioner is proposing to construct a 7,700-square foot building to use as self-storage units. This is in addition to an existing 6,000-square foot warehousing building and a 3,750-square foot office building. After careful review of the project and all associated documents, staff has developed the following opinions for this proposal:

1. The proposed use is consistent with the intent and purpose of the “C” Commercial zoning district.
2. The size of the proposed building is in keeping with other buildings within the immediate area.
3. The petitioner noted they will construct a fence, therefore offensive nuisances are unlikely during the proposed land use.
4. The proposed project complies with all relevant requirements and standards of the 2009 Revised Zoning Ordinance for Lincoln County and is consistent with objectives and policies of the 2025 Lincoln County 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 outside storage is permitted, and the property shall be neat and orderly at all times.
4. No businesses shall operate out the warehouse/self-storage.
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 2009 Revised Zoning Ordinance for Lincoln County.
7. If at any time the use ceases to exist, or changes ownership, the owner shall notify the Lincoln County Planning and Zoning Department.

Public Comment:

Toby Brown presented the staff report, and noted the property is within a fully developed commercial subdivision.

Gary Fikse, petitioner, noted the building would be 11 10'x50' storage units for rent. Namminga asked if there are drainage issues on the property. Gary noted drainage has been addressed with the pervious building permits. Derousseau asked for public comment, hearing none, he closed the floor.

Discussion & Action:

Pashby motioned to approve the application with the recommended conditions, and was seconded by Sogn. There was no discussion. The motion passed unanimously 6-0.

Conditional Use 18-CUP-005 - Approved.

5. CONDITIONAL USE PERMIT 18-CUP-006: Request for review and approval of a Conditional Use Permit proposing to allow motor vehicle sales, display, service and rental and equipment sales, display and repair. The property is legally described as Lot 3C Ponderosa Park Addition in the North half (N1/2) of Section 6, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner: Samuel Assam Owner: Schaap Investments LLC

Location: Southernmost lot on Ponderosa Circle – Tea

Staff Analysis:

The property is a 6.89-acre lot, within the Ponderosa Park commercial subdivision. The petitioner is proposing constructing a 12,600-square foot building to operate a vehicle and equipment sales business.

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

1. The proposed use is consistent with the intent and purpose of the “C” Commercial zoning district.
2. The proposed building is adjacent to the 100-year floodplain, but does not require a floodplain development permit.
3. The size of the proposed building is in keeping with other buildings within the vicinity.
4. Offensive nuisances are unlikely during the proposed land use.
5. The proposed project complies with all relevant requirements and standards of the 2009 Revised Zoning Ordinance for Lincoln County Zoning and is consistent with objectives and policies of the 2025 Lincoln County 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 adhere to the site plan as approved by the City of Tea.
2. A building permit from Lincoln County is required prior to construction of the proposed building.
3. Engineered building plans are required prior to building permit approval.
4. There shall be no outside storage of inoperable vehicles and equipment.
5. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
6. The Lincoln County Planning and Zoning 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 2009 Revised Zoning Ordinance for Lincoln County.
7. If at any time the use ceases to exist, or changes ownership, the owner shall notify the Lincoln County Planning and Zoning Department.

Public Comment:

Toby Brown presented the staff report, and noted the permit would allow vehicle and equipment sales and display. Pashby noted concern about property appearance, and would like to add “the property be kept neat and orderly” to condition #4.

Eric Willadsen, on behalf of the petitioner, noted that John Haber’s business, Haber Truck and Trailer, would be moving to this location.

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

Discussion & Action:

Klatt motioned to approve the application with the recommended and amended conditions, and was seconded by Pashby. There was no discussion. The motion passed unanimously (6-0).

Conditional Use 18-CUP-006 – Approved

6. **CONDITIONAL USE PERMIT 18-CUP-007:** Request for review and approval of a Conditional Use Permit proposing to allow placement of a manufactured home. The property is legally described as Brass Tract 1 in the West half (W1/2) of the Northwest quarter (NW1/4) of Section 10, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner: Chris & Teresa Trainer Owner: 2012 Brass Family LLLP

Location: 27428 467th Avenue - Lennox

Staff Analysis:

The property is a 7.98-acre lot, with two accessory type buildings currently on the premise. The petitioner is proposing to place a 2017 model year manufactured home on the property. After careful review of the project and all associated documents, staff has developed the following opinions for this proposal:

1. The predominant use is agricultural/residential. Therefore, the approval of a conditional use permit is unlikely to be injurious to the use and enjoyment of properties within the immediate vicinity.
2. Offensive nuisances are unlikely during the proposed land use.
3. The proposed project complies with all relevant requirements and standards of the 2009 Revised Zoning Ordinance for Lincoln County and is consistent with objectives and policies of the 2025 Lincoln County 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/placement of the proposed building.

Public Comment:

Toby Brown presented the staff report, and noted the property has two existing accessory structures that would remain on site.

Chris Trainer, petitioner, noted they would like to establish their homestead, and that the home would be placed on a poured pier foundation.

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

Discussion & Action:

Schmidt motioned to approve the application with the proposed condition, and was seconded by Sogn. There was no discussion. The motion passed unanimously (6-0).

Conditional Use 18-CUP-007 – Approved

7. **CONDITIONAL USE PERMIT REVIEW 09-CUP-020:** Request for review of an existing Conditional Use Permit allowing a motor vehicle repair shop and motor vehicle sales, display, service and rental. The property is legally described as Lot 8 Verhey Addition in the South half (S1/2) of Government Lots 1 and 2 in the Southwest quarter (SW1/4) of Section 31, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner: Brian Yock Owner: Allen & Kathy Rippentrop

Location: 27285 Verhey Place, Suite 2 - Tea

Staff Analysis:

Conditional Use Permit 09-CUP-020 granted use of the property, specifically Suite 2, for motor vehicle sales to an existing motor vehicle repair shop. Suite 2 was previously permitted for motor vehicle repair (07-CUP-053). The site plan and site conditions approved with 09-CUP-020 included limits to number of vehicles and location of vehicles placed in front of the building. The conditions of approval adopted by the Planning Commission and agreed to by the property owner and applicant were intended to ensure compatibility with surrounding uses.

Staff received a complaint regarding the condition of the property in 2016 and upon investigation confirmed issues with unscreened material and vehicles and vehicles and equipment parked in the right-of-way in the front of the building. Staff contacted the tenant in Suite 2 regarding the compliance concerns and set up multiple meetings to discuss compliance. During discussions with the tenant and subsequent staff inspections at the

property, it was apparent that no vehicle sales are occurring in conjunction with Suite 2. In addition, the approved site plan has not been adhered to by the petitioner/owner and issues related to parking of vehicles in the right-of-way and the limit to five vehicles for display have not been resolved to date.

Staff Recommendation: Staff's determination, based on its review of the facts, is that revocation is warranted at this time.

Public Comment:

Toby Brown presented the staff report and gave an overview of the complaint and compliance timeline. He also noted that this was the second permit on site, and he would address the other permit later in the meeting.

Brian Yock, the applicant, noted they have no dispute for revoking the permit since they do not conduct sales. Schmidt asked what is kept on the site. Brian noted he works on diesel motors and have stored parts from previous vehicles. He also noted he will be retiring soon and will be getting rid of the items.

Derousseau asked for public comment.

Richard Godschalk noted that he concerned about parking and the general image of the property.

Hearing no other comments, he closed the floor.

Discussion & Action:

Klatt motioned to revoke the conditional use permit, and was seconded by Pashby. There was no discussion. The motion passed unanimously (6-0).

Conditional Use 09-CUP-020 – Revoked

8. CONDITIONAL USE PERMIT REVIEW 11-CUP-011: Request for review of an existing Conditional Use Permit allowing a motor vehicle repair shop. The property is legally described as Lot 3 and South 80.2' of Lot 4 of Tract 3 Smith's Addition in the Southeast quarter (SE1/4) of Section 31, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner: Derek Rondeau

Owner: Robert Dysart

Location: 27277 Kenworth Drive - Harrisburg

Staff Analysis:

Conditional Use Permit 11-CUP-011 granted use of the property for a motor vehicle repair shop. The conditions of approval adopted by the Planning Commission and agreed to by the property owner and applicant were intended to ensure compatibility with surrounding uses.

Staff received a complaint regarding the condition of the property in 2016 and upon investigation confirmed issues with unsecured storage or parts and multiple unlicensed and/or junk vehicles. Staff contacted the owner and tenant regarding the compliance concerns and set up multiple meetings to discuss compliance. Staff facilitated a rezoning application to allow the proposed activities on the property, which was denied by the County. The County subsequently filed legal action with the property owner and tenant to address the conducting of a salvage operation on the property. Staff has inspected the property recently and has determined that the property is being used as a motor vehicle repair shop. However, staff believes further clarification of the conditions of the original CUP is necessary.

Staff Recommendation: Staff recommends that the Planning Commission **AMEND** Conditional Use Permit 11-CUP-011, subject to the following replacement recommended Conditions of Approval and any modifications that result from the Planning Commission's deliberations.

1. That Conditional Use Permit 11-011 shall allow motor vehicle repair shop.
2. The approved use shall comply with all applicable local, state, and federal, laws, rules, regulations and ordinances.
3. Buildings and vehicle storage areas shall meet the setback requirements of the zoning district.
4. There shall be no hazardous waste runoff. Storage of hazardous waste shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
5. Only vehicles owned by employees or customers awaiting service are allowed to be parked on site. Parking shall meet the requirements of Article 15, Parking and Loading Regulations, of the 2009 Revised Zoning Ordinance for Lincoln County.

6. All areas used for storage or trash disposal shall be fully screened from adjacent land uses and public roadways.
7. The outdoor storage of hazardous materials shall be prohibited.
8. The grounds and all structures shall be maintained in a clean and safe manner.
9. The outdoor storage of motor vehicle parts is prohibited, unless the vehicle parts are stored in a fully screened area. Vehicle parts shall not be stored for a period longer than ninety (90) days in the screened area.
10. All exterior lighting fixtures shall be hooded or controlled in some manner so as not to light adjacent property.
11. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
12. The Lincoln County Planning and Zoning 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 the Lincoln County Planning and Zoning Department.

Public Comment:

Toby Brown presented the staff report and gave an overview of the complaint and compliance timeline. He also noted that the county has a court order stating that salvage is not allowed at this property.

Derek Rondeau, the applicant, noted that he has transformed his business to solely auto repair at the site and works with a number of dealers to repair their trade-ins. He also noted he has moved all salvage operations to Hartford. Monty noted that definite progress has been made, and asked Derek if he was agreeable to the conditions. Derek noted he was and added he has received a quote for wood fencing to screen the property. Schmidt asked if they would hard-surface the lot. Derek noted he wasn't planning to since he imagines he would be moved out in a couple years.

Derausseau asked for public comment.

Doug Lund noted he feels that the property doesn't look any better.

Max Barnett noted that many vehicles have been moved, but there are still vehicles in the right-of-way that are inoperable. He feel they are just buying time.

Derek was asked back to the podium. He noted he felt the conditions on the north side are exaggerated, and that some vehicles had been frozen in place over winter and are finally able to now be moved. He also noted he was waiting on a final approval before putting up a fence so that he would not be wasting money.

Hearing no further comments, Derausseau closed the floor.

Discussion & Action:

Pashby motioned to revoke the permit. After lack of a second, he withdrew his motion. Schmidt motioned to table the permit action for 30 days for Derek to clean up the property, and Klatt seconded the motion. Staff questioned how to measure the cleanliness of the property since the use was currently in compliance with the original conditional use permit and that the amended conditions were to increase oversight at the property. Schmidt noted he would like the Derek to discuss with the neighbors what they would like done with the property. The motion passed unanimously (6-0).

Conditional Use 11-CUP-011 - Tabled

9. PROPOSED ZONING ORDINANCE AMENDMENT: Amending the text in Section 12.09 – Concentrated Animal Feeding Operations: Municipality Setbacks.

Staff Analysis:

Toby presented the amendment and noted that this would cover a portion of livestock operations that are currently a permitted use.

Public Comment:

Derausseau asked for public comment.

Tony Ventura noted it was a good change.

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

Discussion & Action:

Pashby motioned to recommend approval of the ordinance amendment, and was seconded by Namminga. There was no discussion. The motion passed 6-0.

10. OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISISON

- a. Conditional Use Permit 07-CUP-053: 27285 Verhey Place, Suite 2 – Tea

Toby gave an overview of the permit, and recommended setting a public hearing to review the permit at the April meeting. Namminga motioned to set the public hearing for the April meeting, and was seconded by Schmidt. The motion passed unanimously (6-0).

11. OLD BUSINESS

Toby presented the Joint Jurisdiction Planning Commission bylaws that were discussed at the March 14th meeting. He noted a few points to amend and asked for input. Commission members were agreeable to moving the meeting date and time to 6:00pm before the regular monthly meetings. Klatt also noted it is important to spell out the time limits for speakers and item discussion within the bylaws for consistency.

12. 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 – None

13. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION

Commissioner Schmidt gave a brief overview of the workshop he attended, and noted the importance of the Planning Commission's role in shaping the growth and development of the county.

14. NEW BUSINESS

- a. Text amendments to the 2011 Revised Subdivision Ordinance for Lincoln County

Toby discussed a few areas of the ordinance that need to be addressed including right-of-way width, ditch design standards, and drainage. Derausseau motioned to set a public hearing for the amendments to the subdivision ordinance during the April meeting, and was seconded by Klatt. The motion passed unanimously (6-0).

15. ADJOURNMENT

Klatt motioned to adjourn at 8:50pm, and was seconded by Sogn. The motion passed unanimously.

Respectfully submitted,
Joan Doss
Planner