

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION
March 20, 2017

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Ron Albers, Monty Derausseau, Ron Larson, Darwin Sogn, and Tyler Klatt

STAFF PRESENT: Toby Brown and Joan Doss - County Planning

PUBLIC PRESENT: Marty Lund, Travis Waldner, Jason Granberg, *Kyle Magmvson*, Tate Eining, Tim & Karla Wichers, Max & Nancy Barnett, Jim Weixel, Rachel Stahlecker, Joe & Marianne Bigner, Derek Rondeau, John Way, Austin Thames, Jesse Smith, Jack VanWoert, Trevor Stetson, Dyllan Hudelson, Cindy Thomas, Winnie Peterson

The meeting was chaired by Monty Derausseau

1. CALL TO ORDER AND ROLL CALL

The regular meeting of the Lincoln County Planning Commission was brought to order on March 20, 2017 at 7:00pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derausseau.

2. APPROVAL OF FEBRUARY 21, 2017 MINUTES

A motion to approve the February 21, 2017 minutes was made by Albers and seconded by Sogn. The motion passed unanimously.

3. APPROVAL OF AGENDA

A motion to approve the agenda was made by Larson and seconded by Klatt. The motion passed unanimously.

4. REZONING 17-REZ-002: Request for review and a recommendation of approval to rezone Lot 3 and the South 80.2 feet of Lot 4 of Tract 3 of Smiths's Addition in the Southeast quarter (SE ¼) of Section 31, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota from C Commercial to I-2 General Industrial.

Petitioner: Derek Rondeau
Property Owner: Robert Dysart
Location: 27277 Kenworth Drive – Harrisburg

Staff Analysis:

The petitioner has submitted a request to rezone Lot 3 and the South 80.2 feet of Lot 4 of Tract 3 of Smiths's Addition from the C Commercial District to the I-2 General Industrial District. The petitioner indicated that the purpose for the rezone is to utilize the property for vehicle dismantling and scrap metal recycling.

- A. This request is to change the zone of 1.55 acres from C Commercial to I-2 General Industrial.
- B. The site is not within an identified municipal growth area or municipal platting jurisdiction.
- C. The site is designated Rural Commercial/Industrial Area on the Future Land Use Map. The site is an established commercial/industrial area.
- D. The proposed rezoning is compatible with surrounding land uses and any recycling/salvage uses will require a conditional use permit and site plan review.

Staff Recommendation: Based upon the information and materials provided by the applicant and the staff analysis in the staff report, staff supports Rezoning 17-REZ-002. Therefore, staff recommends that the Planning Commission find that:

- 1. The proposed rezoning promotes implementation of the 2025 Comprehensive Plan.
- 2. The proposed rezoning is compatible with existing surrounding land uses or the land uses envisioned in the 2025 Comprehensive Plan.
- 3. The proposed rezoning promotes the purposes of the 2009 Revised Zoning Ordinance for Lincoln County as stated in Section 1.02.4.

Public Comment:

Toby Brown presented the staff report, and noted the county was made aware of the property through a complaint and realized the operation was not zoned properly. He also noted if the rezone is approved by the county board, the petitioner would need to apply for a conditional use permit. Toby said when the Light Industrial zoning district was introduced, some properties were not transferred to the proper zone, and there are a number of properties that should probably be rezoned to General Industrial.

Derek Rondeau, the petitioner, noted the business currently recycles old vehicles. Albers asked how long they have been doing business, and Mr. Rondeau noted about one year at this location, but 7 years overall, and that he was unaware of any zoning issues until the Planning and Zoning staff told him.

Commissioner Derousseau asked for public comment.

Joe Bigner noted he is against the rezoning because of how the current business operates and has broken his fence. Klatt asked if he had spoken with the petitioner, and he said he had talked with Bob Dysart.

Max Barnett voiced concerns about environmental issues since the property abuts 9-Mile Creek. He also noted he had talked to Bob Dysart and told him he was in violation of the ordinances, but they kept expanding the business. Max submitted photos of the property.

Tate Eining, also voiced environmental concerns and noted that the lot does not have gravel the trucks exiting the property make the road muddy. He also noted the police are frequently at the property.

Jim Weixel noted they have been known to burn waste and shoot guns late into the night, and that having a conversation with the landowner has done nothing for the situation.

Dyllan Hudelson noted the industrial zoning they were proposing was not the industrial zoning of the area, and that he too had environmental concerns.

Austin Thames noted that he agrees the site is messy but he has known Derek for years and knows when he is made aware of an issue, he addresses it right away to make amends. He also said it seems the conversations with Bob Dysart aren't relayed to Derek.

Bob Dysart, property owner, noted they had been trying to put up a fence but that it was stopped by Planning and Zoning. Albers asked Bob if he knew he had been out of compliance since this operation had begun. Bob said he did not know until they met with Planning and Zoning staff.

Derek Rondeau spoke again to address the concerns. He noted he was unaware of the broken fence, and will make amends to it tomorrow. He agreed with the comments that the site looks bad, and they have been working as fast as they can to clean it up but their equipment recently broke down. Derousseau asked if he knew what the state would require for permitting, and Derek noted that he has done the research.

Jesse Smith noted that he has known Derek for a while and feels the voiced concerns and issues were not communicated to Derek. He also said Repairable Vehicles is the business that blocks Kenworth since they have no lot to unload the vehicles. He concluded by saying recycling is a needed service in the county.

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

Discussion:

Albers noted the area floods frequently and feels the EPA wouldn't let a salvage yard next to 9-Mile Creek.

Sogn noted the materials need to be recycled somewhere, but shouldn't be so close to near 9-Mile creek.

Klatt noted they shouldn't vote based on guessing what a federal agency may or may not allow. He also said the first step to progress site would be rezoning. They could discuss more with a conditional use permit.

Toby noted if rezoning was denied by the county board, the business would cease to exist.

Albers also said he feels heavy industrial should not exist near 9-Mile Creek.

Action:

A motion was made by Albers and seconded by Klatt to recommend denial of Rezoning 17-002. The motion passed unanimously.

Rezoning 17-002 – Recommend Denial

- 5. CONDITIONAL USE PERMIT 17-CUP-002:** Request for review and approval of a Conditional Use Permit to operate a motor vehicle repair shop on the property legally described as North 241 feet 8 ½ inches of the East 241 feet 8 ½ inches of the Northeast quarter of the Northeast quarter (NE1/4 NE1/4), except lot H-2, of Section 10, Township 98 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner/Owner: Timothy and Karla Wichers
Location: 28001 SD Hwy 115 – Worthing

Staff Analysis:

The property is located at 28001 SD Hwy 115. The petitioner is proposing operating a motor vehicle repair business. The property is located in the C Commercial zone. The Commercial zoning district allows for a motor vehicle repair 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 site is within the C Commercial District. The surrounding properties are zoned A-1 Agricultural, which include residential land use to the north and crop production to the west, east, and south.

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

A motor vehicle repair business is allowed by conditional use in the C Commercial zoning district. The surrounding area is primarily agricultural crop production, and the proposed use should not have a significant impact on the general character of adjacent properties by including a condition on outdoor parking of vehicles.

- 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 agricultural land uses, and will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

Staff Recommendation: Based upon the analysis/findings listed in the staff report and the testimony heard, I move that the Planning Commission approve the proposed conditional use permit with the following conditions:

1. A building permit from Lincoln County is required prior to construction of the proposed building.
2. The business shall be limited to parking five (5) vehicles outside of the building. The vehicles shall remain out of the road right of way.
3. In accordance with Section 15.04(A) of the 2009 Revised Zoning Ordinance for Lincoln County, “Any driveways, parking lots, or loading/unloading areas in a commercial or industrial zoning district shall be constructed with a hard surface when the property is accessed from a hard surface road.”
4. Petitioner shall submit plans for site access from SD Hwy 115 to SDDOT for review.
5. If at any time the business ceases to exist, or changes ownership, the owner shall notify County Planning staff.

Public Comment:

Toby Brown presented the staff report. Tim Wichers noted it would be a one to two man auto repair business. He also said the site has three driveways, and one of the driveways will be removed under the direction of SDDOT.

Commissioner Derausseau asked for public comment. Hearing none, he closed the floor to the public.

Discussion:

None

Action:

A motion was made by Larson and seconded by Albers to recommend approval of Conditional Use 17-003 with staff recommended conditions. The motion passed unanimously.

Conditional Use Permit #17-CUP-002 – Approved

- 6. CONDITIONAL USE PERMIT 17-CUP-005:** 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 Lot 10 of Block 5 of Hagedorn Industrial Park Addition in the Southeast quarter (SE1/4) of Section 25, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner/Owner: Core Construction Inc
Location: 27180 Linda Avenue - Tea

Staff Analysis:

The property is located at 27180 Linda Avenue, and is located in the Hagedorn Industrial Park. The petitioner is proposing to construct a 3-unit (10,800 total square feet) building for contractor’s shops and storage yards. The petition also includes plans for an additional future 3-unit (8,064 total square feet) building for contractor’s shops and storage yards. Contractor’s shops and storage yards are a conditional use in the I-1 Light Industrial zoning district.

- 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 site is within the I-1 Light Industrial Zoning District and is currently a vacant lot. Nearby properties are also zoned I-1 Light Industrial or C Commercial, with similar uses.

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

Contractor’s shops and storage yards are allowed as a conditional use in the I-1 Light Industrial zoning district. The surrounding area is vacant light industrial zoned land that includes recently permitted contractor’s shops and storage yards. The proposed use should not have a significant impact on the general character of adjacent properties, or future development.

- 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.

Staff Recommendation: Based upon the analysis/findings listed in the staff report and the testimony heard, I move that the Planning Commission approve the proposed conditional use with the following conditions:

1. A building permit from Lincoln County is required prior to construction of the proposed buildings.
2. The site shall be permitted two (2) buildings for use as contractor shops and storage yards.
3. Outdoor storage shall be contained within a fenced area in accordance with Article 12.01 of the Lincoln County Zoning Ordinance, and shall not develop into a salvage or junkyard.
4. The buildings shall only be used for contractor’s shops and storage yards. If the petitioner wishes to rent a unit for any other use than a contractor’s shop and storage yard, the prospective tenant must file an application for a separate Conditional Use Permit.
5. That the lot shall adhere to the site plan approved by the City of Tea.

Public Comment:

Toby Brown presented the staff report, and noted the City of Tea has not been able to approve the site plan yet, but they do not have any issues with the use. Travis Wolman noted that the buildings would only be used for heated indoor storage and contractor shops.

Commissioner Derosseau asked for public comments. Hearing none, he closed the floor to the public.

Discussion:

None

Action:

A motion was made by Albers and seconded by Sogn to approve Conditional Use Permit #17-005 with the recommended conditions. The motion passed unanimously.

Conditional Use Permit #17-CUP-005 – Approved

7. REVIEW OF CONDITIONAL USE PERMIT 15-019: 27598 479th Ave – Harrisburg.

Discussion:

Toby noted the commission was in the process of revoking the permit but added a 6-month review. The Planning and Zoning office received a complaint and he has since begun cleaning up the property. Toby noted that staff thinks he should finish the fencing and move everything behind the fence. Derosseau questioned of how many chances he would get to keep the property clean. Albers noted that it should be revoked with the next complaint filed. Derosseau told staff they should tell him to finish the fence and clean up the property but that the permit will be revoked with the next complaint.

8. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA

- a. Correspondence received. NONE
- b. Comments from Planning Commission members – Toby noted that emailing the packets did not work well this month, so unless a member prefers email, staff will resume mailing packets.
- c. Comments from the audience.
 - Winnie Peterson, We-Care, noted North Dakota is working on new rules for wind energy to prohibit economic harm and reduce noise levels. She also noted a bill was proposed in Minnesota to increase the setbacks to 10 times the height of the tower from a dwelling.

9. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' - None

10. NEW BUSINESS

- a. Zoning Ordinance Amendment Discussion – Agricultural Events Center
Toby Brown noted planning staff has reservations about rezoning lots to Commercial to develop event centers and the definition drafted it would not allow these event centers to become a bar or lounge. He also noted this seems to be a need and a want from the community. Derosseau agreed about the rezoning issues. The commission agreed to move forward with a public hearing on the amendment next month.

11. ADJOURNMENT

Motion to adjourn at 8:30pm was made by Albers and seconded by Larson. The motion passed unanimously.

Respectfully submitted,
Joan Doss
Planner