

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

April 16, 2018

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Ron Alber, Darwin Sogn, Stacey Namminga, Monty Derousseau, Gary Pashby, Jim Schmidt (arrived at 7:10), and Tyler Klatt

STAFF PRESENT: Toby Brown, Joan Doss - County Planning

PUBLIC PRESENT (sign in sheet): Brian Yock, Chad Javers, Allen & Kathy Rippentrop, Richard Godchalk, Derek Rondeau, Shannon Vanderwiede, Rodney & Debra Hughes, Bennet & Luella DeJong, Troy Stanga, Kelly Nielson, Randal Haberer, Tony Ventura, Max Barnet

1. CALL TO ORDER AND ROLL CALL

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

2. APPROVAL OF MARCH 19, 2018 MINUTES

Klatt motioned to approve the minutes from March 19, 2018, and was seconded by Pashby. The motion passed unanimously (6-0).

3. APPROVAL OF AGENDA

Pashby motioned to approve the agenda, with the inclusion of tabling item #4, and was seconded by Klatt. The motion passed unanimously (6-0).

4. **CONDITIONAL USE PERMIT 18-CUP-008:** Request for review and approval of a Conditional Use Permit proposing to exceed 1,500 sq. ft. of total accessory building area – requesting 2,400 sq. ft. new and 6,180 total sq. ft. The property is legally described as Tract 1 Huizenga Farms Addition except Lot A in the Southwest quarter (SW1/4) of Section 2, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner: Haug Steel Owner: Dale & Myra Zomer Location: 47426 274th St - Harrisburg

Discussion & Action: Toby noted, as part of the agenda approval, this item would need to be tabled until next month.

5. **CONDITIONAL USE PERMIT 18-CUP-009:** Request for review and approval of a Conditional Use Permit proposing to allow the construction and operation of a 6-unit contractor's shop and storage yard. The property is legally described as Lot 1A in Block 6 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: Chad Javers Owner: Borks Investments Location: 27193 Linda Ave - Tea

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in Delapre Township approximately a 400 feet north of the intersection of Linda Avenue and 272nd Street. The property is in the process of being replatted to join lot 1 and 2 of block 6 into a single lot to be known as Lot 1A in Block 6. The site is currently vacant. The zoning code requires a conditional use permit for contractor's shops and storage yards within the I-1 Light Industrial zoning district.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding area consists of industrial and commercial type uses. To the south, along 272nd St, there are existing low density single-family dwellings. The corporate limits of Tea are approximately a third of a mile to the west of the subject site.

PROJECT DESCRIPTION. The applicant has proposed to construct a 6-unit, 19,800 sq. ft. (75' x 264') contractor's shop and storage yard. The site plan submitted with the application notes that there will be approximately 13 trees planted along the street frontages (Leroy Street and Linda Avenue). The site plan also notes that there will be fenced in storage on the rear of the building.

Staff Recommendation: Approve the application to allow construction and operation of a 6-Unit, 19,800 sq. ft., contractor's shop and storage yard, subject to the following conditions:

1. The property shall generally adhere to the site plan, as approved by the City of Tea.
2. No unscreened outdoor storage is permitted and the property shall be kept in a neat and orderly condition at all times.
3. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
4. If at any time a tenant wishes to conduct a use other than a contractor's shop, the owner and tenant will be need to apply for a separate Conditional Use Permit if required.

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.
7. A building permit from Lincoln County is required prior to construction of the proposed building. Additionally, engineered building plans are required prior to building permit approval.

Public Comment:

Toby Brown presented the staff report, and noted a comment from a neighbor asking about the petitioner using better privacy screening, such as slatted chain link fencing, but the commission should ask for the petitioner's input. Chad Javers, the petitioner, noted this building would be similar to the rest of the buildings he has had approved.

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

Discussion & Action:

Sogn motioned to approve the application with the recommended conditions, and was seconded by Albers. There was no discussion. The motion passed unanimously (7-0).

Conditional Use 18-CUP-009 – Approved

6. **CONDITIONAL USE PERMIT 18-CUP-010:** Request for review and approval of a Conditional Use Permit proposing to exceed 20,000 sq. ft. of total warehouse building area – requesting 26,060 total sq. ft. The property is legally described as Lot 5 Wetland Addition in the Southeast quarter (SE1/4) of the Southwest quarter (SW1/4) of Section 32, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.
Petitioner/Owner: Nielson Development LLC, Kelly Nielson Location: 27294 Wetland Rd - Harrisburg

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in Delapre Township approximately a half of a mile west of the intersection of 472nd Avenue (County Highway 117) and 273rd Street (County Highway 110). The site is occupied by three existing buildings, totaling 20,120 sq. ft., utilized for warehousing. The site has no existing conditional use permits.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding area consists of light industrial uses and agricultural uses with a single-family dwelling to the east. The corporate limits of Harrisburg are approximately two and a quarter miles to the east of the subject site.

PROJECT DESCRIPTION. The applicant has proposed to construct a 5,940 sq. ft. (50' W x 99' L x 16' H) building for warehousing on the property. The three existing warehouse buildings, together with the proposed 5,940 sq. ft. warehouse building, would exceed the 20,000 sq. ft. allowed. The zoning code requires a conditional use permit for the total area of warehouse buildings to exceed 20,000 sq. ft. in the I-1 district. According to the submitted site plan, the applicant has proposed no aesthetic improvements to the site such as landscaping/screening

Staff Recommendation: Approve the application to allow the construction of a 5,940 sq. ft. oversized warehouse building, subject to the following conditions:

1. In addition to three existing warehouse buildings totaling about 20,120 square feet, this permit allows the construction of a 60 foot by 99 foot (5,940 square foot) oversized warehouse building, no more than 16 feet sidewalls, in the general location as shown on the site plan attached hereto.
2. If outdoor lighting is attached to or placed around the new building, all light fixtures shall be a cut-off or shoebox design to prevent bulb glare. Light fixtures that produce light spillage onto adjacent property are prohibited.
3. The premises shall be kept in a neat and orderly condition at all times and all improvements shall be maintained in a condition of reasonable repair and appearance.
4. A building permit must be obtained prior to commencing construction of the new 5,940 sq. ft. warehouse building.

Public Comment:

Toby Brown presented the staff report. Kelly Nielson, petitioner, noted the building would be used for storing equipment that is currently left outside.

Derausseau asked for public comment.

Troy Stanga asked about the drainage. Kelly noted that the drainage has to be directed toward the wetland.

Hearing no further comments, Derosseau closed the floor.

Discussion & Action:

Schmidt motioned to approve the application with the proposed conditions, and was seconded by Klatt. There was no discussion. The motion passed unanimously (7-0).

Conditional Use 18-CUP-010 – Approved

7. **CONDITIONAL USE PERMIT REVIEW 07-CUP-053:** Request for review of an existing Conditional Use Permit allowing a motor vehicle repair shop. 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 07-CUP-053 granted use of the property for an automotive 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 parked on the property and within the road right-of-way. Staff contacted the owner and tenant regarding the compliance concerns and set up multiple meetings with the tenant to discuss compliance. 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 07-CUP-053, 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 07-053 shall allow a 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. Pashby asked if the intention was to strengthen the conditions, and then address compliance later. Toby confirmed this intention.

Brian Yock, the applicant, noted he runs a niche business of repairing and selling parts for Ford trucks. He also noted he is working on getting rid of the excess materials before doing any further repair work. Derosseau noted concern the sale of parts and salvage would continue. Pashby asked about percentage of business being repair versus parts sales. Brian could not come up with a number, but noted the businesses work together. Klatt asked about the vehicles in the front. Brian said those were vehicles waiting to be repaired.

Derousseau asked for public comment.

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

Randy Haberer noted he was concerned about the appearance of the neighborhood that the property is affecting.

Hearing no other comments, he closed the floor.

Discussion & Action:

Klatt motioned to approve the conditional use permit with recommended amended conditions, and was seconded by Pashby.

Schmidt felt there was no good faith effort shown to clean up the property. Klatt noted the amendment was needed to move forward. Albers asked what would happen if it wasn't cleaned up. Toby noted they would revoke the permit and go to the County Board seeking violation of the zoning ordinance.

Schmidt motioned to add condition #14 to state "Vehicles stored in the front of the building shall be removed within 30 days." The motioned was seconded by Pashby. The motion passed unanimously (7-0).

Klatt amended his original motion to include all 14 conditions. The motion was seconded by Pashby, and passed 6-1, with Albers dissenting.

Conditional Use 07-CUP-053 – Amended

- 8. PROPOSED AMENDMENTS TO 2011 REVISED SUBDIVISION ORDINANCE OF LINCOLN COUNTY:**
Article 8, Minimum Road Improvements and Design Standards, and Article 9, Grading and Drainage.

Staff Analysis & Presentation:

Toby presented the amendments to the subdivision, and noted that there was wordsmithing that still needed to be completed, and that it would be best to take public comment tonight but to table any decision until next month.

Public Comment:

Derousseau asked for public comment.

Troy Stanga noted that he was glad to see that drainage was being addressed. He also noted that drainage facilities should be reviewed and certified often to make sure they are built and working properly.

Hearing no further comments, Derousseau closed the floor.

Discussion & Action:

Klatt motioned to table the amendments, and was seconded by Albers. There was no further discussion. The motion passed unanimously (7-0).

9. OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISSION

- a. **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.

Leaseholder: Derek Rondeau Owner: Robert Dysart Location: 27277 Kenworth Drive - Harrisburg

Staff Analysis:

Staff analysis was shared at the March 19th meeting when this item had been tabled.

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.

Staff Presentation:

Toby Brown noted that the public hearing on this item was closed last month, and that tonight was only for the commission member's discussion and action. He also clarified the intent of the proposal would benefit everyone so there is tighter control of the property and clear conditions of compliance.

Discussion & Action:

Derousseau asked how this amendment would affect Dysart's belongings and business. Toby noted that the permit would be enforced on the property as a whole. Klatt noted the amended permit is needed to get a clear handle on the situation.

There was lengthy discussion on the owner-tenant relationship, and how the permit would affect both parties. Toby offered two additional conditions: #14 – All vehicles on the property shall be licensed and operational and #15 – A site plan shall be submitted to the Planning and Zoning office within 30 days.

Klatt motioned to approve Toby's additional conditions, and was seconded by Namminga. The motion passed 6-0-1, with Schmidt absent.

Klatt then motioned to approve the conditional use permit amendment with 15 conditions, and was seconded by Pashby. The motion passed 6-0-1, with Schmidt absent

Conditional Use 11-CUP-011 - Amended

10. OLD BUSINESS - none

11. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA

- a. Correspondence received – Joan passed out copies of correspondence since the last meeting.
- b. Comments from Planning Commission members - none
- c. Comments from the audience – Tony Ventura submitted a newspaper article about CAFO waste.

12. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION - none

13. NEW BUSINESS

- a. Proposed amendments to the Joint Jurisdiction Planning Commission Bylaws – Toby presented the proposed changes. Commission members were agreeable to the changes, and directed Toby to share the proposal with Sioux Falls staff.

14. ADJOURNMENT

Pashby motioned to adjourn at 9:17pm, and was seconded by Albers. The motion passed unanimously.

Respectfully submitted,
Joan Doss
Planner