

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

May 20, 2019

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Tyler Klatt, Jerry Jongling, Monty Derosseau, Stacey Clay Namminga (arrived 7:05), and Tiffani Landeen

STAFF PRESENT: Toby Brown and Joan Doss - County Planning

PUBLIC PRESENT (sign in sheet): Robert Hoffman, Dianne and Daniel Golay, Nancy and Jeff Kirstein, Laurel Laubach, Chad Javers, James Flanders, Dan and Sandy Hensch, Tony Ventura, Leo Benitez, Matt Kissell, and Mark Mickelson

1. CALL TO ORDER AND ROLL CALL

The regular meeting was brought to order on May 20, 2019 at 7:00pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derosseau.

2. APPROVAL OF APRIL 15, 2019 MINUTES

Klatt motioned to approve the minutes and was seconded by Jongeling. The motion passed unanimously (4-0).

3. APPROVAL OF AGENDA

Landeen motioned to approve the agenda and was seconded by Klatt. The motion passed unanimously (4-0).

4. PUBLIC HEARINGS

- a. CONDITIONAL USE PERMIT / USE-0015-2019: Request for review and approval of a Conditional Use Permit to allow the transfer of two (2) building eligibilities. The original parcel is described as the Northwest quarter (NW1/4), except Spring Valley, Carr's, and Larson's Additions, and Harrisburg Elementary No. 7 Addition, of Section 33, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota. The receiving parcel is described as South half (S1/2) of the North half (N1/2) of the Southwest quarter (SW1/4) except the North 200' of the West 433' of Section 27, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.
Applicant/Owner: Daniel Hensch
Location: Approx. 1/4 mile north of the intersection of 272nd St & 473rd Ave - Sioux Falls

Staff Presentation:

Toby presented a summary of the staff report. He noted the transfer of the eligibilities is considered contiguous since Daniel Hensch owns all parcels connecting the two parcels described in his application. The applicant's 38-acre parcel in Section 27 of Springdale Township would have a total of 2 building eligibilities after the transfer. He concluded that the Conditional Use Approval Criteria would be satisfied. He then listed the conditions that should be considered if the application is approved as follows:

1. This approval is for the project described per Conditional Use Permit (USE-0015-2019) to allow the transfer of two (2) building eligibilities from Parcel ID 100.50.33.2000 to 100.49.67.3011.
2. The permittee will be required to obtain all necessary permits when they wish to utilize the building eligibilities.
3. The Planning Department or designated official(s) 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 conditional use permit conditions, all applicable regulations of the Lincoln County Zoning Ordinance and any other County, City, State and Federal Codes, ordinances, resolutions and laws that may apply.

Public Comment:

Dan Hensch noted he does not have any current plans to use the eligibilities.

Derosseau asked for public comment.

Dan Golay noted he was concerned about the flooding and drainage in the area.

James Flanders asked how many eligibilities would be in the quarter section. Derosseau noted there isn't a limit to how many eligibilities can be moved into a quarter section.

Hearing no further comments, Derosseau closed the floor.

Discussion & Action:

Klatt motioned to approve the application with the recommended conditions and was seconded by Landeen. The motion passed unanimously (5-0).

USE-0015-2019 – Approved

- b. CONDITIONAL USE PERMIT / USE-0019-2019: Request for review and approval of a Conditional Use Permit to allow a Class 1 Major Home Occupation. The property is legally described as Tract 2B of Kroger’s Addition in the Northwest quarter (NW1/4) of Section 28, Township 98 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Jeff & Nancy Kirstein Location: 28318 466th Ave – Lennox

Staff Presentation:

Toby presented a summary of the staff report. He noted the applicant is proposing to renovate an existing barn to add a commercial grade kitchen to host cooking and canning classes and to allow for customers to rent the kitchen space for their own canning purposes. The applicant also listed hosting school field trips and the on-site sale of farm made products as part of the home occupation. He concluded that the Conditional Use Approval Criteria would be satisfied. He then listed the conditions that should be considered if the application is approved as follows:

1. This approval is for the land use described per Conditional Use Permit (USE-0019-2019) to allow a Class 1 Major Home Occupation.
2. The permittee will be required to obtain all necessary permits for all structural improvements to the property.
3. The occupation is required to conform to all regulations, as amended, in the Lincoln County Zoning Ordinance for Class 1 Major Home Occupations, and any other relevant local, state, and federal laws and regulations.
4. The Planning Department or designated official(s) 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 conditional use permit conditions, all applicable regulations of the Lincoln County Zoning Ordinance and any other County, City, State and Federal Codes, ordinances, resolutions and laws that may apply.

Public Comment:

Nancy Kirsetin noted they have been operating a CSA for a number of years and are wanting to expand to have allow employees and customers on property. Namminga asked if they have a business license. Nancy confirmed they do and noted the state would need to approve the kitchen plans. Klatt asked if there was a set time for customers to come on site. Nancy said it would be roughly July-October, and normally on weekends. Jongeling asked how many customers per class would be on site. Nancy said about 15 for the classes, and about 100 for a school field trip.

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

Discussion & Action:

Namminga motioned to approve the application with the recommended conditions and was seconded by Landeen. The motion passed unanimously (5-0).

USE-0019-2019 – Approved

- c. CONDITIONAL USE PERMIT / USE-0020-2019: Request for review and approval of a Conditional Use Permit to allow a Group Day Care. The property is legally described as Tract 1 of Dingsor’s Addition, in the Northeast quarter (NE1/4) of Section 15, Township 98 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Laurel Laubach Location: 47991 281st St - Canton

Staff Presentation:

Toby presented a summary of the staff report. He noted that he applicant is requesting a CUP to allow the use of the home for a group day care, with a capacity of up to 12 children. The applicant currently has a day care within the City of Canton and has been licensed through the state of South Dakota for 17 years. He concluded that the Conditional Use Approval Criteria would be satisfied. He then listed the conditions that should be considered if the application is approved as follows:

1. This approval is for the project described per Conditional Use Permit (USE-0020-2019) to allow a group day care.
2. The permittee will be required to have no more than twelve (12) children under the age of fourteen, including children of the petitioner that are under the age of six, at the daycare at any given time.
3. The day care is required to conform to all regulations, as amended, in the Lincoln County Zoning

Ordinance, and any other relevant local, state, and federal laws and regulations.

4. The Planning Department or designated official(s) 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 conditional use permit conditions, all applicable regulations of the Lincoln County Zoning Ordinance and any other County, City, State and Federal Codes, ordinances, resolutions and laws that may apply.

Public Comment:

Laurel noted the daycare would be in the whole house, but mainly in the second living area so that they would have a separate kitchen.

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

Discussion & Action:

Landeem motioned to approve the application with the recommended conditions and was seconded by Klatt. The motion passed unanimously (5-0).

USE-0020-2019 – Approved

- d. CONDITIONAL USE PERMIT / USE-0023-2019: Request for review and approval of a Conditional Use Permit to allow warehousing to exceed 10,000 square feet on the premise – requesting up to 17,120 square feet. The property is legally described as Lot 4A of Block 5 of 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.

Applicant/Owner: Chad Javers/Lundin Properties LLC

Location: 27083 Katie Rd - Tea

Staff Presentation:

Toby presented a summary of the staff report. He noted that the premise would have a total of 17,120 square feet of warehousing building space and the building would be constructed, and used, in the same manner as other properties in the immediate area. The building will be mainly used for recreational vehicle storage. He concluded that the Conditional Use Approval Criteria would be satisfied. He then listed the conditions that should be considered if the application is approved as follows:

1. This approval is for the project described per Conditional Use Permit (USE-0023-2019) to allow warehousing up to 17,120 square feet on the premise.
2. The property shall be developed in accordance to the site plan as approved by the City of Tea.
3. The property shall be kept in a neat and orderly condition at all times.
4. No businesses shall operate out of the warehousing units.
5. The property is required to conform to all regulations, as amended, in the Lincoln County Zoning Ordinance, and any other relevant local, state, and federal laws and regulations.
6. The Planning Department or designated official(s) 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 conditional use permit conditions, all applicable regulations of the Lincoln County Zoning Ordinance and any other County, City, State and Federal Codes, ordinances, resolutions and laws that may apply.

Public Comment:

Chad Javers noted that the building would have 12 units and will be hard surfacing the parking area.

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

Discussion & Action:

Landeem motioned to approve the application with the recommended conditions and was seconded by Namminga. The motion passed unanimously (5-0).

USE-0023-2019 – Approved

- e. CONDITIONAL USE PERMIT / USE-0024-2019: Request for review and approval of a Conditional Use Permit to allow a rubble dump – stockpiling crushed concrete, asphalt, fill dirt, and topsoil. The property is legally described as Lot 2 of Tempo Addition in the North half (N1/2) of the Southwest quarter (SW1/4) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Matt Kissell/A & T Rentals LLC

Location: Approximately ½ mile north of the intersection of 271st Street & 469th Avenue - Tea

Staff Presentation:

Toby presented a summary of the staff report. He noted that the application included a site plan which details plans for screening adjacent properties from the proposed use. He also noted staff from the City of Tea indicated concerns with the proposal, primarily location to current and planned residential and also Tea's future plans would specify commercial for the subject parcel. He concluded that the Conditional Use Approval Criteria would not be satisfied, but listed the conditions that should be considered if the application is approved as follows:

1. This approval is for the project described per Conditional Use Permit (USE-0024-2019) to allow a rubble dump, except as modified with the conditions below.
2. Subject to staff approval, the proposed use shall be in substantial conformance with the site plan received with the application on April 15, 2019.
3. The permittee will be required to obtain the necessary building permit(s), and the appropriate floodplain development permit, if necessary.
4. Only asphalt, concrete, fill dirt, and topsoil shall be permitted to be stockpiled on the site. No crushing on the site shall occur.
5. Trees shall be installed within 90 days of the start of initial operations and shall be replaced as necessary to maintain screening of use.
6. Appropriate on-site dust control measures shall be provided as needed.
7. The Planning Department or designated official(s) 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 conditional use permit conditions, all applicable regulations of the Lincoln County Zoning Ordinance and any other County, City, State and Federal Codes, ordinances, resolutions and laws that may apply.

Public Comment:

Toby read correspondence from Paul Reynolds and Mark Mickelson noting concerns of dust, traffic, and other nuisances in close proximity to current and future housing.

Matt Kissell noted that he wanted to crush concrete on site to build up the site so that he would later be able to build on the property. Derrousseau asked about the timeline and noted it was not typical to build up a site over years to build later on. Jongeling asked if the fill would be sold, and Matt noted it would all stay onsite.

Derrousseau asked for public comment.

Mark Mickelson noted he owns the property to the north and is opposed to the long-term rubble site but would be fine with short term use to raise the site's grade.

Hearing no further comments, Derrousseau closed the floor.

Discussion & Action:

Landeem noted that since the proposal is not in conformance with the City of Tea's comprehensive plan, she motioned to deny the application, and was seconded by Klatt. The motion passed unanimously (5-0).

USE-0024-2019 – Denied

- f. **CONDITIONAL USE PERMIT / USE-0025-2019:** Request for review and approval of a Conditional Use Permit to allow an auto body shop. The property is legally described as Tract 8 Landmark Industrial Park Addition in the Southwest quarter (SW1/4) of Section 30, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Leonardo Benitez/Jeren Properties LLC Location: 47005 Mona Street - Tea

Staff Presentation:

Toby presented a summary of the staff report. He noted that the applicant is requesting a CUP to allow the use of one unit (Suite 8) to be used as an auto body shop. The auto body shop would include a paint booth and ventilation system. He concluded that the Conditional Use Approval Criteria would be satisfied. He then listed the conditions that should be considered if the application is approved as follows:

1. This approval is for the project described per Conditional Use Permit (USE-0025-2019) to allow an auto body shop.

2. The property shall be maintained in accordance to the site plan as approved by the City of Tea.
3. The property shall be kept in a neat and orderly condition at all times.
4. There shall be no salvage operations, unless permitted through an additional Conditional Use Permit.
5. Only vehicles owned by the owner, employees, or customers awaiting service are allowed to be parked on site. Parking shall meet the requirements of Article 15 of the 2009 Revised Zoning Ordinance.
6. The property is required to conform to all regulations, as amended, in the Lincoln County Zoning Ordinance, and any other relevant local, state, and federal laws and regulations.
7. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning.
8. The Planning Department or designated official(s) 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 conditional use permit conditions, all applicable regulations of the Lincoln County Zoning Ordinance and any other County, City, State and Federal Codes, ordinances, resolutions and laws that may apply.

Public Comment:

Leo Benitez noted he already has experience running an auto body shop and agrees with the recommended conditions.

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

Discussion & Action:

Klatt motioned to approve the application with the recommended conditions and was seconded by Namminga. The motion passed unanimously (5-0).

USE-0025-2019 – Approved

- g. CONDITIONAL USE PERMIT / USE-0026-2019: Request for review and approval of a Conditional Use Permit to allow a private outdoor recreation facility. The property is legally described as Lot 1B of Tempo Addition in the North half (N1/2) of the Southwest quarter (SW1/4) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.
Applicant/Owner: Robert Hoffman/Tempo Soccer Club
Location: North of the intersection of Austin Street and Ginger Avenue - Tea

Staff Presentation:

Toby presented a summary of the staff report. He noted that the proposal consists of soccer fields and associated equipment and staff from the City of Tea indicated no concerns with the proposal and the site plan is currently under review/approval by the City of Tea. He concluded that the Conditional Use Approval Criteria would be satisfied. He then listed the conditions that should be considered if the application is approved as follows:

1. This approval is for the project described per Conditional Use Permit (USE-0026-2019) to allow a private outdoor recreation facility, except as modified with the conditions below.
2. Subject to staff approval, the parcel must be developed in substantial conformance with the site plan received with the application on April 16, 2019.
3. The permittee will be required to obtain the necessary building permit(s), and the appropriate floodplain development permit, if necessary.
4. The Planning Department or designated official(s) 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 conditional use permit conditions, all applicable regulations of the Lincoln County Zoning Ordinance and any other County, City, State and Federal Codes, ordinances, resolutions and laws that may apply.

Public Comment:

Robert Hoffman noted the site would have 3 full-sized fields and 3 youth fields. He also noted that the property would mainly be used for practice, and not tournament play.

Derousseau asked for public comment.

Mark Mickelson said he was in favor of the proposal.

Hearing no further comments, Derrouseau closed the floor.

Discussion & Action:

Landeem motioned to approve the application with the recommended conditions and was seconded by Jongling. The motion passed unanimously (5-0).

USE-0026-2019 – Approved

- h. CONDITIONAL USE PERMIT REVEIW / 11-CUP-031: Request for review of a Conditional Use Permit allowing a Day Care. The property is legally described as Lot 3 of Block 3 of Sunrise Addition in the Southwest quarter (SW1/4) of the Northwest quarter (NW1/4) of Section 1, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Property Owner: Matthew Person Location: 46910 Daggett Place - Lennox

Staff Presentation:

Toby presented a summary of the staff report. He noted that staff scheduled a compliance review with the property owner on March 21, 2019 and identified that the Day Care was not operational. At a subsequent meeting with staff in the Planning and Zoning Office, the property owner stated that the Day Care did not commence after approval of 11-CUP-031 and that he had no objection to the revocation.

Public Comment:

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

Discussion & Action:

Namminga motioned to revoke the permit and was seconded by Klatt. The motion passed unanimously (5-0).

11-CUP-031 – Permit Revoked

- i. CONDITIONAL USE PERMIT REVIEW / 12-CUP-011: Request for review of a Conditional Use Permit allowing an accessory building to exceed 1,500 square feet on the premises - 2,400 square feet. The property is legally described as Lot 3 in Block 3 of Sunrise Addition in the Southwest quarter (SW1/4) of the Northwest quarter (NW1/4) of Section 1, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Property Owner: Matthew Person Location: 46910 Daggett Place - Lennox

Staff Presentation:

Toby presented a summary of the staff report. He noted that the Planning Commission approved 12-CUP-011 on May 21, 2012, subject to three conditions: (1) No storage of business type equipment on the parcel outside of the building. (2) No conducting of business related work, etc. (3) No storage of items outside the proposed building used for hobby work. Staff identified potential violations with condition #3 of the permit. Staff feels that overall the property is neat and orderly and the condition restricting the premises from having outside storage of hobby items is unique to this permit. Staff feels all the conditions can be amended/replaced and still ensure the property is kept neat and orderly. He then listed the conditions that should be considered if the application is approved as follows:

1. This approval is for the project described per Conditional Use Permit (12-CUP-011) to allow accessory buildings on the premises to exceed 1,500 sq. ft. – up to 2,400 sq. ft., except as modified with the conditions below.
2. This project shall conform to the conditions contained herein, all applicable regulations of the Lincoln County Zoning Ordinance and any other County, City, State and Federal Codes, ordinances, resolutions and laws that may apply.
3. The accessory structure may not be used for commercial purposes.
4. The accessory structure cannot be converted into living space.
5. The property and the accessory structure shall be maintained in a clean and safe manner.
6. The Planning Department or designated official(s) 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 conditional use permit conditions, all applicable regulations of the Lincoln County Zoning Ordinance and any other County, City, State and Federal Codes, ordinances, resolutions and laws that may apply.

Public Comment:

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

Discussion & Action:

Landeen motioned to amend the permit with the recommended conditions and was seconded by Namminga. The motion passed unanimously (5-0).

12-CUP-011 – Permit Ammended

5. OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISISON - None

6. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA

- a. Correspondence received. – None
- b. Comments from Planning Commission members. – None
- c. Comments from the audience – None

7. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS’ REPRESENTATION –

Landeen noted that the county is in the midst of a variety of studies including compensation, jail, transportation, and drainage.

8. NEW BUSINESS

- a. Setting public hearing dates. Toby outlined two zoning ordinance amendments to set public hearings for: correcting building permit expiration to match building code and amending neighborhood utility to include private utilities. Both amendments will be heard at the next meeting. Toby also provided a list of permits that staff has identified that should be reviewed by the Planning Commission for compliance. No permit review public hearings were set.
- b. Planning Commission Bylaws review. Toby noted that since the changes to the bylaws were reviewed last month that they could vote to adopt the new bylaws tonight. Derausseau noted that he was on board with all the changes. Klatt motioned to approve the bylaws, and was seconded by Landeen. The motion passed unanimously (5-0). Toby reminded the members that with the changes, next month’s meeting would begin at 6:30pm.
- c. Other new business. None.

9. ADJOURNMENT

Landeen motioned to adjourn at 8:30pm and was seconded by Klatt. Motion passed unanimously (5-0).

Respectfully submitted,
Joan Doss
Planner