

**MINUTES OF THE  
LINCOLN COUNTY PLANNING COMMISSION**  
June 20, 2016

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

STAFF PRESENT:

Toby Brown and Clarice Paulson - County Planning

The meeting was chaired by Ron Albers.

**1. CALL TO ORDER**

The regular meeting of the Lincoln County Planning Commission was brought to order on June 20, 2016 at 7:00 p.m. in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Ron Albers.

**2. APPROVAL OF MAY 16, 2016 MINUTES**

A motion was made by Darwin Sogn and seconded by Klatt to approve the meeting minutes from May 16, 2016. The motion passed unanimously.

**3. APPROVAL OF AGENDA**

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

**4. REZONING 16-REZ-005:** To rezone Tebben's, Tract 4, W1/2 SW1/4, Section 24-T100N-R50W from the A-1 Agricultural District to the PD Planned Development District.

**General Information:**

Petitioner: Stacey & Randy Namminga/STAHRS Storage, LLC

Property Owner: Lloyd Tebben

Location: Approximately ¼ mile north of intersection of 475<sup>th</sup> Avenue and 271<sup>st</sup> Street

Present Zoning: A-1 Agricultural

Existing Land Use: Agriculture

Parcel Size: 12.81 Acres

This would rezone from the A-1 Agricultural District to the PD Planned Development District.

**Staff Report:** Toby Brown

**Staff Analysis:**

The subject property is located approximately ¼ mile north of intersection of 475<sup>th</sup> Avenue and 271<sup>st</sup> Street. The property is currently zoned A-1 Agricultural. The properties surrounding this

parcel are zoned A-1 Agricultural; however residential dwellings are located directly to the north and west of the site. The property to the south and to the west are utilized for warehousing.

The Planned Development District is intended to provide petitioners with flexibility from conventional zoning districts while at the same time increasing the public review of development proposals. Planned Developments outline proposed uses within the specific district and how development will occur. The guidelines for a planned development are to be agreed upon by the County and the petitioner.

The petitioner has submitted a site plan depicting the future development. The petitioner is requesting the STAHRs Planned Development District on a 12.81 acre parcel, legally described as Tebben's, Tract 4, W1/2 SW1/4, Section 24-T100N-R50W.

The petitioner is proposing a single sub-area based on the proposed use within the planned development. The single sub-area would allow warehousing, more specifically self-storage facility, to be constructed on the subject parcel. The petitioner is also requesting outdoor recreational vehicle storage, office and living quarters for a watchman or caretaker.

**Recommendation:** Staff recommends **approval** of Rezoning #16-005 to create the STAHRs Planned Development District as follows:

**STAHRs PLANNED DEVELOPMENT DISTRICT.** The regulations set forth herein or elsewhere in these regulations are the district regulations in the STAHRs Planned Development District:

- A. Uses Permitted. A building or premises shall be permitted to be used for the following purposes:
  - 1. Self-storage facility (warehousing).
  - 2. Outdoor recreational vehicle storage.
  - 3. Office.
  - 4. Living quarters for a watchman or caretaker.
- B. Accessory Uses. Accessory uses and buildings permitted are those buildings and uses customarily incident to a use allowed in the C Commercial District.
- C. Parking Regulations. Parking shall be regulated in conformance with the provisions of the C Commercial District.
- D. Sign Regulations. Signs shall be regulated in conformance with the provisions of the C Commercial District.

- E. Density, Area, Yard and Height Regulations. Density, area, yard and height shall be regulated in conformance with the provisions of the C Commercial District.
- F. Other Regulations. Other regulations shall be:
  - 1. There is no storage of a regulated substance on the premises.
  - 2. No inoperable vehicles or equipment, parts, scrap or junk material shall be allowed on the property.

**Public Testimony**

Toby Brown of the County Planning Department presented the staff report.

The petitioner, Stacey Namminga, spoke on behalf of the application. Mrs. Namminga explained the proposed self-storage facility. She stated that she had communication with representatives from the Harrisburg Volunteer Fire Department and the City of Sioux Falls Fire Department and they indicated no concerns. She also mentioned that there would be no electrical hookups to the units.

Commissioner Pashby asked the petitioner about the fence along Cliff Avenue and Mrs. Namminga explained the fence and showed drawings. Commissioner Pashby stated that it was cosmetic but you could still see through it and Mrs. Namminga responded yes and stated the intent is to be able to see into the facility for safety reasons. Mrs. Namminga further explained the proposed site by stating that customer access will be through a sliding gate. She stated that they are proposing trees on the north and west side of the property and there would be approximately twenty buildings on the site. She stated that the building colors would be charcoal grey in color and have a little bit of a pitched roof.

Commissioner Klatt asked how many phases and how long and Mrs. Namminga stated four phases and approximately two to four years.

Commissioner Albers asked about the outdoor storage and Mrs. Namminga responded that they are planning outside storage in the beginning on part of the property and then all enclosed buildings.

Commissioner Albers asked about a fence on the east side and Mrs. Namminga stated they are still determining based on dirt movement.

Commissioner Albers asked about electrical and Mrs. Namminga stated only for outside lights on property.

Commissioner Albers asked what the biggest storage unit would be and Mrs. Namminga stated fourteen feet by thirty feet.

Commissioner Albers asked about hard surfacing and Mrs. Namminga responded the property will be hard surfaced when done.

Commissioner Pashby asked Mrs. Namminga if her legal counsel was in attendance. Paul Tschetter, Boyce Law Firm, introduced himself. Commissioner Pashby stated that Mr. Tschetter became a partner in his firm after Commissioner Pashby retired. Commissioner Pashby also stated that he doesn't believe that is a conflict of interest and if anyone does they can say so.

Commissioner Pashby asked Mr. Tschetter to reference Section 13.00 of the Zoning Ordinance and the intent to provide flexibility with public review. Commissioner Pashby asked if the property to the north would be harmonious as stated in subsection (B) and Mr. Tschetter responded that it was transitive. Commissioner Pashby asked Mr. Tschetter if subsection (F) regarding preserving right-of-way for extension of arterial streets was being met and Mr. Tschetter responded yes.

Commissioner Pashby asked Mr. Tschetter if he knew of a document dated June 7, 2016 that he received and Mr. Tschetter believed that he had seen a copy of the document but did not know the author. Commissioner Pashby referenced paragraph number two of the document which stated that they are now asking land to be designated as PD and circumventing County Commission promise not to allow spot zoning.

Ron Weber, Hegg Realtors, stated that Stacey and Randy approached him to identify property. Ron stated that he sent out forty-two letters and Lloyd responded yes. Mr. Weber further stated that Lloyd didn't want to jeopardize the area with a housing development. Mr. Weber read a letter from Lloyd supporting the rezone.

John Taylor, 2921 East 57<sup>th</sup> Street, stated that he was an attorney and that he represented Dr. Richard Rauschenbach. Mr. Taylor presented a map showing Tea, Harrisburg and Worthing and the pointed out locations for industrial areas and discussed the joint jurisdictional area for Sioux Falls. Mr. Taylor stated that the proposed site falls out of the joint jurisdictional area for Sioux Falls. Mr. Taylor stated that the next industrial setting would be 57<sup>th</sup> Street and Highway 100. Mr. Taylor stated that the Comprehensive Plan established policies in Chapter 8 states that the county should discourage haphazard industrial rezoning. Mr. Taylor stated that the Supreme Court defined spot zoning as a small island of property restricts use as opposed to surrounding property. Mr. Taylor stated that the proposed industrial use is not harmonious with residential. Mr. Taylor stated that the petitioner is creating an industrial park as a planned storage development. Mr. Taylor stated that Dr. Rauschenbach has lived there since 1993 and it is an attractive house. Mr. Taylor stated that the petitioner stated that there is existing storage in the vicinity but it is non-conforming and there is an amortization process. Mr. Taylor stated that no one objects to Tebbens Campers. Mr. Taylor stated that the objection is rezoning and the highest and best use of the land is agricultural and maybe rural residential.

Commissioner Pashby asked Mr. Taylor if his client owned the property directly adjacent to the north and Mr. Taylor responded yes.

Commissioner Albers asked Mr. Taylor what he proposed for that area and Mr. Taylor stated that commercial will change the character of the neighborhood in the future but right now is not the right time.

Richard Rauschenbach, 27060 Cliff S., stated that he and his wife are the property owners directly adjacent to the north. Mr. Rauschenbach stated that he has lived there for twenty-two years and that he understood Cliff was going to be developed. He stated that storage units are twenty-four hours of doors opening and closing and that storage units are in industrial areas at other locations and that noise travels. Mr. Rauschenbach stated that he did not send letter. Mr. Rauschenbach stated that Slate Ronning proposed an industrial park and spur several years ago in the area and it was not approved.

Robert Irvine, 27069 Cliff S., stated that he owns the property straight west and that his property had storage units. Mr. Irvine stated that storage units are prone to theft and that public safety is his main concern.

Craig Lawrence, 48008 Woodsong Place, stated that he lived approximately four to five miles away from the property. Mr. Lawrence stated that Amy Hofer wrote the letter and it was his handwriting on the letter. Mr. Lawrence stated that he was a Springdale Township Board Member and member of the Harrisburg Fire Department. Mr. Lawrence stated that this was just in the wrong place. Mr. Lawrence stated that there is a social compact that were not going to drop industrial in farm area. Mr. Lawrence stated that the right thing is to say no and that it will develop in future. Mr. Lawrence stated that he met with the staff from Sioux Falls Planning and they stated that at a minimum it would need a fire hydrant with six-inch line.

Barry Totman, 27089 S. Cliff Avenue, stated that he lived south and west of the property. Mr. Totman stated that in Chapter 8 of the Comprehensive Plan it shows land use location and design criteria and the intensity of development. Mr. Totman showed pictures of flooding on his property. Mr. Totman stated that the culverts were upsized and everything possible was done but it still floods. Mr. Totman stated that the applicant is proposing to alter natural drainage.

Tina Irvine, 27069 Cliff S., stated that she has lived on her property for twenty-six years. Mrs. Irvine stated that when you see from the road it's not commercial property. Mrs. Irvine stated that if you're depending on Harrisburg Fire Department you need good insurance. Mrs. Irvine stated that the petitioner should buy property and live there.

Dr. Hanna, 3705 S. Cliff Avenue, stated that he owns 100 acres east of the project. Dr. Hanna stated that he agrees with the lawyer and that when growth moves south the land will increase in value.

Commissioner Pashby asked Dr. Hanna if the property he owns is directly to the east and Dr. Hanna responded yes and that he bought the property from Governor Janklow.

Michael McGee, 27007 Revilo Place, stated that he lived approximately one mile to the east of the property. Mr. McGee stated that he moved to Sioux falls this past August and wanted a taste of the country life. Mr. McGee stated that the issue is unintended consequence and that the type of business doesn't appeal to him as a resident. Mr. McGee stated that what the potential for resale by current property owner should be considered.

Aaron Norman, DGR Engineering, stated that he was the Namminga's engineer. Mr. Norman stated that the area is flat. Mr. Norman explained that the proposed project would involve the construction of a retention pond to address drainage on the property.

Commissioner Pashby asked Mr. Norman how deep the drainage pond would be and Mr. Norman responded 50,000 cubic footage or about one acre and a foot in depth.

Commissioner Klatt asked Mrs. Namminga if there would be any explicit signs or advertising and Mrs. Namminga responded that signage would be governed by Lincoln County.

Mrs. Namminga stated that the drainage issue would be handled by grates on property and the water flows to southeast.

### **Discussion**

None.

### **Action**

Commissioner Pashby made a motion to recommend denial of Rezoning 16-005 and seconded by Commissioner Darrel Sogn. The motion passed with 5 yeas (Pashby, King, Klatt, Darrel Sogn, and Darwin Sogn) and 1 nay (Albers).

### **Rezoning #16-005 – Recommend Denial**

- 5. CONDITIONAL USE PERMIT 16-CUP-018:** To allow motor vehicle sales, display, and service on the property legally described as Lot 5, Block 4, Hagedorn Industrial Park Addition, SE1/4, Section 25-T100N-R51W.

#### **General Information:**

Petitioner: Ron Bruna  
Property Owner: Tom Wipf  
Location: 46957 Monty Street - Tea  
Present Zoning: I-1 Light Industrial  
Existing Land Use: Industrial  
Parcel Size: 39,930 square feet

This would allow motor vehicle sales, display and service.

**Staff Report:** Toby Brown

#### **Staff Analysis:**

The petitioner is requesting a conditional use permit to operate a vehicle sales and service lot at 46957 Monty Street. The subject property is located in the Hagedorn Industrial Park. The properties surrounding this parcel are zoned I-1 Light Industrial.

The site plan indicates that the business would occupy the outside space in front of the petitioners leased space in the existing warehouse building on the property.

**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 located in an established industrial park. The land use of vehicle sales and service has little to no adverse effects on the use and development of nearby properties.

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

There is little conflict between the use of the property for motor vehicle sales and service with the surrounding uses. Neighboring uses include storage facilities and various repair shops and contractor yards.

**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.**

No offensive nuisances shall be permitted at any time during operation of vehicle sales and service.

**Recommendation:** Staff found that the proposed vehicle sales and service conforms to the surrounding land uses and future development. Staff recommends **approval** of conditional use permit #16-018 with the following conditions:

1. That the lot shall adhere to the submitted site plan and application dated May 2, 2016.
2. All vehicles and equipment shall be fully operational.
3. No inoperable vehicles or equipment, parts, scrap or junk material shall be allowed on the property.

**Public Testimony**

Toby Brown of the County Planning Department presented the staff report.

The petitioner, Ron Bruna, spoke on behalf of the application. Mr. Bruna stated that he and his son have a commercial truck hauling business and they thought this would be a good site for vehicle sales.

**Discussion**

None.

**Action**

A motion was made by Commissioner Klatt and seconded by Commissioner Darwin Sogn to approve Conditional Use Permit #16-018 with recommended conditions. The motion passed unanimously.

## Conditional Use Permit #16-018 – Approved

6. **CONDITIONAL USE PERMIT 16-CUP-020:** To exceed 20,000 sq. ft. of total warehouse building area – requesting 65,675 sq. ft. on the property legally described as Lot 2, Wetland Addition, SE1/4 SW1/4, Section 32-T100N-R50W.

### **General Information:**

Petitioner: Kelly Nielson/K.N. Construction  
Property Owner: Same  
Location: 47137 Wetland Place - Harrisburg  
Present Zoning: I-1 Light Industrial  
Existing Land Use: Agriculture  
Parcel Size: 3.60 Acres

This would allow 65,675 sq. ft. of total warehouse building area.

**Staff Report:** Toby Brown

### **Staff Analysis:**

The petitioner is requesting a conditional use permit to exceed 20,000 sq. ft. of warehouse building area. The subject property is located in the Wetland Addition and is to the east of the Harrisburg/Tea exit off Interstate 29. The properties adjacent to this parcel are zoned I-1 Light Industrial. The site plan indicates that there will be three proposed buildings.

- 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 plan indicates the proposed buildings meet all applicable setbacks and the placement of the buildings will not impact the neighboring properties. The construction of these buildings should not impede on the enjoyment or use of the surrounding properties or affect property values. Utilization of a vacant lot should provide a positive effect to existing uses and property values.

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

This use will not affect the adjacent uses. The proposed buildings should have no impact on further construction or development within the general area.

- 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.**

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

**Recommendation:** Staff recommends **approval** of conditional use permit #16-020 with the following conditions:

1. The total warehouse building square footage shall not exceed 65,675 square feet.
2. That the lot shall adhere to the submitted site plan and application dated May 6, 2016.
3. A building permit is required.

### **Public Testimony**

Toby Brown of the County Planning Department presented the staff report.

The petitioner, Kelly Nielson, spoke on behalf of the application.

Commissioner Albers asked if the building would be used for business and storage and Mr. Neilson responded yes.

Commissioner Albers asked if drainage goes back to pond and Mr. Neilson responded yes.

Commissioner Pashby asked about access and Mr. Neilson responded it would be off interior road and not 273<sup>rd</sup> Street.

Commissioner Pashby asked what the building would be constructed of and Mr. Neilson responded they would be steel buildings with façade improvements that matched his existing building on the property.

Commissioner Pashby asked if the buildings had a peaked roof and Mr. Neilson responded that the roof would be as flat as he could get it.

Commissioner Pashby asked if the buildings would be engineered and Mr. Neilson responded yes in order to get building permit.

Luella Dejong, 27280 471<sup>st</sup> Street, stated that the letter she received said that the property was in Section 22. Mrs. Dejong stated that she was concerned with drainage.

Bob Messner, 47174 273<sup>rd</sup> Street, stated that he made a request to do tiling and he can't do it and that he is picked on because he is a farmer.

### **Discussion**

None.

### **Action**

A motion was made by Commissioner Pashby and seconded by Commissioner Klatt to table Conditional Use Permit #16-020. The motion passed unanimously.

**Conditional Use Permit #16-020 – Tabled**

7. **CONDITIONAL USE PERMIT 16-CUP-021:** To exceed 1,500 sq. ft. of total accessory building area – requesting 2,100 sq. ft. additional on the property legally described as Atkins Addition, NW1/4, Lot 1, Block 1, Section 1-T99N-R51W.

**General Information:**

Petitioner: William Kreider  
Property Owner: Same  
Location: 27321 Atkins Place - Tea  
Present Zoning: A-1 Agricultural  
Existing Land Use: Residential  
Parcel Size: 1.03 Acres

This would allow an additional 2,100 sq. ft. of total accessory building area.

**Staff Report:** Toby Brown

**Staff Analysis:**

The subject property is located at 27321 Atkins Place - Tea. The petitioner's property is 1.03 acres in size and is located in the A-1 Agricultural District. The property directly to the south is zoned Rural Residential and all other adjacent properties that surround this site are zoned A-1 Agricultural. The surrounding properties are primarily used as residential. Other large accessory buildings can be found within the general vicinity.

The petitioner would like to construct a 2,100 square foot accessory building for personal storage and use.

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.

**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.**

Given the existence of other larger accessory buildings in the area, the construction of this structure should not impede on the enjoyment or use of the surrounding properties or affect property values. The proposed site for the structure meets all applicable setbacks and the placement of the structure should not negatively impact the neighboring properties.

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

The building can only be used as an accessory structure to the established residential use and no commercial or business activities are allowed. This use will not affect the adjacent residential uses or agricultural land in the area.

**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.**

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

**Recommendation:** Staff recommends **approval** of conditional use permit #16-021 with the following conditions:

1. The total accessory building square footage shall not exceed 2,100 square feet.
2. The building shall be used only for the petitioner's personal residential use. No commercial or business uses or storage shall be allowed.
3. A building permit is required.

**Public Testimony**

Toby Brown of the County Planning Department presented the staff report.

The petitioner, William Kreider, spoke on behalf of the application. Mr. Kreider stated that he talked with the President of the homeowner's association and he was told to submit a footprint and that it meets homeowner's association. Mr. Kreider stated that it was a post frame building.

Frank Heirigs, 46931 Jordan Drive, stated that he was the person that Mr. Kreider was talking to and that he is not opposed to size but running a business.

Jon Piper, 46939 Jordan Drive, stated that materials in yard indicate he is running a business.

Mark Wudel, 27322 Atkins Place, stated that he owns the property across the street. Mr. Wudel stated that there are all kinds of construction equipment.

Greg Umbreit, 27328 Atkins Place, stated that he is the President of road district. Mr. Umbreit stated that his concern is the construction business and that roads are not designed for extra traffic.

Kyle Reedy, 27327 Atkins Place, stated that the setback off the side yard was not enough.

Commissioner Albers asked Mr. Kreider to address the concerns. Mr. Kreider stated that after the new building is constructed he will remove existing accessory buildings. Mr. Kreider stated

that the cement blocks on his property are for a patio. Mr. Kreider stated that the skid loader and truck are kept on property.

Commissioner Pashby asked what BSR Construction stands for and Mr. Kreider responded Bill's Small Repairs and that he does small residential jobs.

Commissioner Pashby asked what the building would be used for and Mr. Kreider responded storage and for woodworking equipment. Commissioner Pashby asked if woodworking equipment was for commercial purpose and Mr. Kreider responded no that it was for fun.

Toby Brown pointed out that the conditions, if approved, prohibited running a business out of the accessory building. Mr. Brown also asked the Chairman to clarify if the business had a separate address and the petitioner responded no but the work is done off-site.

### **Discussion**

None.

### **Action**

A motion was made by Commissioner Klatt and seconded by Commissioner Pashby to approve Conditional Use Permit #16-021 with recommended conditions. The motion passed with 4 yeas (Albers, Pashby, Klatt, and Darwin Sogn) and 2 nays (King and Darrel Sogn).

### **Conditional Use Permit #16-021 – Approved**

8. **CONDITIONAL USE PERMIT 16-CUP-022:** To allow a Class A Dairy Cattle CAFO on the property legally described as NW1/4, Section 35-T97N-R51W.

#### **General Information:**

Petitioner: Dakota Plains Dairy, LLC

Property Owner: Anden Van Beek

Location: Intersection of 468<sup>th</sup> Avenue and 290<sup>th</sup> Street

Present Zoning: A-1 Agricultural

Existing Land Use: Agriculture

Parcel Size: 160 Acres

This would allow a Class A Dairy Cattle CAFO.

**Staff Report:** Toby Brown

#### **Staff Analysis:**

The subject property is located in the southwest part of the County, approximately 7 miles northwest of Beresford. The property is at the intersection of 468<sup>th</sup> Avenue and 290<sup>th</sup> Street. The predominant land use in the immediate area is agricultural with scattered single family dwellings and farmsteads.

The applicant has provided a site plan and narrative. The project will be built in phases. The first phase is to construct a wet corn buying, processing and storage facility. The next phase will be to construct a 2,200 head dry cow barn which will be followed by a 4,800 head freestall dairy barn and milking parlor. The first two phases are anticipated to start construction in 2017. The freestall dairy barn and parlor start date is dependent on the area's cheese processing plants expanding their production capacity.

Dakota Plains Dairy East will operate in partnership with the original Dakota Plains Dairy which is located in the NE ¼ of Section 33 and was populated in 2015. Both operations will be permitted as a single operation with a combined nutrient management plan under the State's General Permit for Concentrated Animal Feeding Operations.

The Zoning Ordinance sets forth separation criteria in Section 12.09(F). The separation criteria between a dwelling and a concentrated animal feeding operation of this size is 3,564 feet. There is one dwelling within this setback. The dwelling is owned by the petitioner and will be the home for Timothy Den Dulk. Timothy is the operations manager onsite and the son of the owner.

**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 majority of the surrounding land is in agricultural uses and will likely continue in these uses in the future. The site meets the required setbacks for the size of the facility. Since the surrounding area is primarily agricultural land uses, the proposed CAFO will have little effect on current use and enjoyment of surrounding properties.

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

The surrounding land uses of the proposed CAFO are predominantly agricultural with scattered single family dwellings and farmsteads. There is potential for further development of agricultural uses, such as CAFOs, and residential uses in farmsteads and acreages. The land use of a CAFO will unlikely affect further agricultural development in the area.

**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.**

Staff finds that 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 odor control practices. The petitioner has submitted fly and odor control practices with the permit application.

**Recommendation:** Staff recommends **approval** of conditional use permit #16-022 with the following conditions:

1. The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
2. Contingent upon receiving an approved CAFO Permit from SD DENR.
3. Any agreement with affected township(s) regarding the upgrading and continued maintenance of any affected road use shall be submitted in writing to the Lincoln County Planning and Zoning office prior to construction. Staff from the Lincoln County Planning and Zoning office, affected township(s) and the CAFO shall meet one year after construction to discuss road use.

**Public Testimony**

Toby Brown of the County Planning Department presented the staff report.

The petitioner, Tim Den Dulk, spoke on behalf of the application. Mr. Den Dulk stated that the existing facility has been operational for thirteen months. Mr. Den Dulk stated that the plan is for his son to live on the property and that he has sold part interest of the operation to his son.

Commissioner Pashby stated that the road is minimum maintenance and that it probably needs to be improved. He further stated that the odor during his visit last week was not bad and Mr. Den Dulk responded that the animals are confined so there is less smell.

Commissioner Pashby asked about the information in the application packet that discussed purchases and asked why not list dollar amounts and Mr. Den Dulk responded that he didn't want to include specific dollar amounts and that they try to buy local whenever they can.

Commissioner Pashby asked about flies and Mr. Den Dulk responded that they construct the barns to allow air flow and they don't store manure inside which draws flies.

Commissioner King asked about water and Mr. Den Dulk responded that they bought excess water from Lewis and Clark.

Todd Van Maanen stated that he was the engineer for the project. Mr. Van Maanen referenced the application submittal.

Commissioner Pashby asked if there was assurance against lagoon leaks and Mr. Van Maanen stated that they look at material surrounding and that soil borings show clay soil.

Gary Dann, 28979 469<sup>th</sup> Avenue, stated that he farms the half section to the north. Mr. Dann stated his main concern is 290<sup>th</sup> street. Mr. Dann stated that odor is inevitable when they empty lagoons and it turns over.

Robert Runyan, 28863 469<sup>th</sup> Avenue, stated that the bridges are bad.

Darren Wiebers, 29025 469<sup>th</sup> Avenue, stated that he owns the property to the east. Mr. Wiebers asked if the tile to the west was going to be cut and if so it would cause water to back up on his ground.

**Discussion**

None.

**Action**

A motion was made by Commissioner Klatt and seconded by Commissioner Pashby to approve Conditional Use Permit #16-022 with recommended conditions. The motion passed unanimously.

**Conditional Use Permit #16-022 – Approved**

9. **CONDITIONAL USE PERMIT 16-CUP-023:** To allow a contractor’s shop on the property legally described as Verhey Additon, Lot 3, S1/2 Government Lots 1 and 2, Section 31-T100N-R50W.

**General Information:**

Petitioner: Chad Javers Construction Inc.  
Property Owner: Thomas & Amanda McKnelly  
Location: 27294 Verhey Place - Tea  
Present Zoning: C Commercial  
Existing Land Use: Agriculture  
Parcel Size: 1.37 Acres

This would allow a contractor’s shop.

**Staff Report:** Toby Brown

**Staff Analysis:**

The petitioner is requesting a conditional use permit for the purpose of a contractor’s shop. The subject property is located in the Verhey Addition and is to the west of the Harrisburg/Tea exit off Interstate 29. The property to the east is zoned A-1 Agricultural and the remaining properties adjacent to this parcel are zoned C Commercial. The site plan indicates that there will be one proposed building.

- 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 plan indicates the proposed building meets all applicable setbacks and the placement of the building will not impact the neighboring properties. This is a commercial zoned area, so the proposed use will blend well and should not impact the use and enjoyment of the other properties in the area. This type of business will not

impact property values in the immediate vicinity. Utilization of a vacant lot should provide a positive effect to existing uses and property values.

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

This use will not affect the adjacent uses. The proposed building should have no impact on further construction or development within the general area.

**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.**

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

**Recommendation:** Staff recommends **approval** of conditional use permit #16-023 with the following conditions:

1. That no unlicensed vehicles, inoperable or partially dismantled vehicles or equipment, or parts shall accumulate on the property.
2. That the lot shall adhere to the submitted site plan and application dated June 6, 2016.
3. A building permit is required.

**Public Testimony**

Toby Brown of the County Planning Department presented the staff report.

The petitioner, Chad Javers, spoke on behalf of the application. Mr. Javers stated that the building may be subdivided into four separate businesses or utilized for one business.

**Discussion**

None.

**Action**

A motion was made by Commissioner Darwin Sogn and seconded by Commissioner Dan King to approve Conditional Use Permit #16-023 with recommended conditions. The motion passed unanimously.

**Conditional Use Permit #16-023 – Approved**

**10. OTHER BUSINESS**

None.

**11. ADJOURN**

A motion was made by Commissioner Darrel Sogn and seconded by Commissioner Klatt to adjourn the meeting. The motion passed unanimously.