

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

July 16, 2018

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Darwin Sogn, Tyler Klatt, Ron Albers, Monty Derousseau, Gary Pashby, Jim Schmidt (arrived at 7:05, left at 9:40), and Stacey Namminga

STAFF PRESENT: Toby Brown, Joan Doss - County Planning

PUBLIC PRESENT (sign in sheet):Cindy Thomas, Tony Ventura, Tom McKnelly, Mark & Joyce Horstman, Paul Kostboth, Shane & Lindsay Zylstra, Marlys & Duane Clay, Brad & NoCole Venjohn, Eric Willadsen, Al Hoines, Andre & Kia Adams, Douglas Tinklenberg, Gerald Teunissen, Brad Gullickson, Steve Tibble, Wade Person, Faith & Larry Kinkner, Lester Vogeli, David Brouwer, Ernest Stratmeyer, Mike Pederson.

1. CALL TO ORDER AND ROLL CALL

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

2. APPROVAL OF JUNE 18, 2018 MINUTES

Klatt motioned to approve the minutes from June 18, 2018, and was seconded by Albers. The motion passed unanimously (6-0).

3. APPROVAL OF AGENDA

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

4. PUBLIC HEARINGS

- a. CONDITIONAL USE PERMIT / 18-CUP-024: Request for review and approval of a Conditional Use Permit proposing to allow a contractor’s shop and storage yard. The property is legally described as Lot 2 in Block 2 of LaValley Business Park in the Northwest quarter (NW1/4) of Section 5, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner/Owner: Tom McKnelly/McKnelly Properties

Location: 47120 Homefield Place - Harrisburg

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in La Valley Township, and is within the La Valley Business Park commercial subdivision. The subject site is approximately 1,000 feet east of the intersection of Homefield Place and 471st Avenue. The site is currently used as warehousing. The zoning code requires a conditional use permit for a contractor’s shop and storage yard in the “C” Commercial zoning district. The site was previously granted a conditional use permit for a contractor’s shop and storage yard in 2011, but the permit has since expired.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding area consists of a mix of commercial uses including contractor’s shops and warehousing. Ninemile Creek flows directly north of the subject property. The subject property is within the floodplain (Zone AE). The corporate limits of Harrisburg are approximately 2½ miles to the east of the subject site.

PROJECT DESCRIPTION. The applicant has proposed to operate a contractor’s shop and storage yard within the current building on the subject property. The application notes that there are no planned changes to the development of the property.

Staff Recommendation: Approve the application to allow the operation of a contractor’s shop and storage yard, subject to the following conditions:

- 1. The property shall be kept in a neat and orderly condition at all times.
- 2. Equipment, trailers, and vehicles utilized for the contractor’s shop may be parked outside on the property, provided they are screened from view from adjacent property and streets.
- 3. Any exterior lighting shall be directed downwards and shall not create any light glare or spillage onto adjacent property.
- 4. The owner of the subject property shall ensure that employees park on the subject property.
- 5. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
- 6. The Planning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner, to ensure that the property is in full compliance with the approved permit conditions and the Lincoln County Zoning Ordinance.

7. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning.

Public Comment:

Toby Brown presented the staff report. Tom McKnelly, the petitioner, noted he will be renting the building and that the property has been cleaned up since the time the aerial photo was taken.

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

Discussion & Action:

Pashby motioned to recommend approval of the application, and was seconded by Sogn. There was no discussion. The motion passed unanimously (7-0).

Conditional Use 18-024 – Approved

MOTION – Schmidt made a motion to move the next item (18-CUP-025) to the end of the agenda. Pashby seconded the motion, and the motion was passed unanimously.

- b. **CONDITIONAL USE PERMIT / 18-CUP-026:** Request for review and approval of a Conditional Use Permit proposing to allow vehicle storage and auction facility and offices. The property is legally described as the East 72.42 acres of Government Lots 1 and 2 except Lots H-1 and H-2 and Lot BP in the Southwest quarter (SW1/4) of Section 18, Township 99 North, Range 50 West and Lot BP in the East 72.42 acres of Government Lot 1 of the Southwest quarter (SW1/4) of Section 18, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Eric Willadsen, Willadsen Lund Engineering/Hoogestraat Farms LLC

Location: Northwest corner of the intersection of Interstate 29 and 276th Street - Lennox

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in La Valley Township and is at the intersection of Interstate 29 and 276th Street. The property is currently vacant and utilized for agricultural uses.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The property was rezoned to “I-1” Light Industrial in 2016 for anticipated light industrial uses. The property is adjacent to Interstate 29 on the east. The surrounding properties to the north, south and west are utilized for agricultural uses.

PROJECT DESCRIPTION. The applicant is proposing to locate an insurance auto auction business on approximately 20 acres of the subject property. A concept plan for site improvements was provided with the application.

Staff Recommendation: Approve the application to allow the operation of vehicle storage and auction facility and offices, subject to the following conditions:

1. The use allowed by this Permit is limited to a vehicle storage and auction facility and offices. No other use, including but not limited to the sale of parts, vehicle wrecking, and vehicle dismantling, and vehicle repair or service (incidental or otherwise) is allowed.
2. No outdoor storage is allowed or permitted except for vehicle storage areas as shown on the approved site plan.
3. This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the County.
4. The property shall be kept in a neat and orderly condition at all times.
5. Any exterior lighting shall be directed downwards and shall not create any light glare or spillage onto adjacent property.
6. Driveways, parking lots, or loading/unloading areas shall be constructed with a hard surface. Vehicle storage areas may be gravel surfaced.
7. The applicant shall ensure that employees and customers park on the subject property.
8. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
9. 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.
10. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning.

Public Comment:

Toby Brown presented the staff report. Eric Willadsen, petitioner, noted this is a national company and they have no qualms with the recommended conditions. Schmidt asked how many vehicles would be onsite, and Eric noted several hundred but company representatives would have more information. Pashby asked for clarification on the type of vehicles on site. Steve Tibble, VP of Real Estate Acquisition, noted a majority of vehicles had been in an accident, but most are sold after the first week at auction. He also noted since they're a major corporation, image is very important. Steve went on to say no work is done to the vehicles on site since fluids are drained before arrival. Pashby also asked about complaints at the Sioux Falls location. Wade Person, manager, noted there was one neighbor that the city had to end up mediating issues since they were not able to get in contact with them personally and that the complaints were about mosquitoes and alleged nighttime traffic.

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

Discussion & Action:

Schmidt motioned to recommend approval of the application, and to add construction of a steel fence on the east and south side of the property, and was seconded by Namminga. There was no discussion. The motion passed unanimously (7-0).

Conditional Use 18-026 – Approved

- c. CONDITIONAL USE PERMIT / 18-CUP-027: Request for review and approval of a Conditional Use Permit to allow the construction and operation of a contractor's shop and storage yard. The property is legally described as Lot 6 in Block 3 of LaValley Business Park in the Northwest quarter (NW1/4) of Section 5, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Douglas Tinklenberg/DLRS Properties Inc

Location: Northwest corner of the intersection of Fairfield Place & LaValley Place – Harrisburg

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in La Valley Township and is within the La Valley Business Park commercial subdivision. The site is near the intersection of Interstate 29 and 471st Street. The property is currently vacant.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The site has commercial uses to the east and west and anticipated commercial uses on the vacant property to the north. The property directly to the south has been petitioned for rezoning to "C" Commercial. The corporate limits of Harrisburg are approximately 2½ miles to the east of the subject site.

PROJECT DESCRIPTION. The applicant is proposing to construct approximately 35,000 square feet of contractor's shops units (split into 11 units of varying size). The applicant indicated that outside storage would not be allowed.

Staff Recommendation: Approve the application to allow the operation of contractor's shops and storage yards, subject to the following conditions:

1. The property shall be kept in a neat and orderly condition at all times.
2. Equipment, trailers and vehicles utilized for the contractor's shops may be parked outside on the property, provided they are screened from view from adjacent property and streets.
3. Exterior lighting is allowed only for security purposes. Any exterior lighting shall be directed downwards and shall not create any light glare or spillage onto adjacent property.
4. The owner of the subject property shall ensure that employees park on the subject property.
5. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
6. The Planning Department reserves the right to enter and inspect the property at any time, after proper notice to the owner, to ensure that the property is in full compliance with the approved permit conditions and the Lincoln County Zoning Ordinance.
7. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning.

Public Comment:

Toby Brown presented the staff report, noted the application would be for the contractor's shops on the west side since the storage units on the east side would be a permitted use. Douglas Tinklenberg, petitioner, noted that he had sold some property in Sioux Falls and was looking for a location for commercial rental. Albers asked about the surfacing on site, and Doug responded it would be concrete or blacktop.

Derousseau 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 Klatt. There was no discussion. The motion passed unanimously (7-0).

Conditional Use 18-CUP-027 – Approved

Commissioner Namminga recused herself, and left the room for the following item.

- d. CONDITIONAL USE PERMIT / 18-CUP-025: Request for review and approval of a Conditional Use Permit proposing to allow the construction and operation of a Class C Swine CAFO (2,499 head). The property is legally described as a portion of the Northeast quarter (NE1/4) of Section 3, Township 96 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Shane Zylstra/Mark & Joyce Horstman

Location: Southwest corner of the intersection of 291st Street & 474th Avenue - Beresford

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in Pleasant Township at the intersection of 291st Street and 474th Avenue. The site is currently used for crop production. The zoning code requires a conditional use permit for a Class C CAFO in the “A-1” Agricultural zoning district if the site has not sought coverage under the South Dakota DENR General Water Pollution Control Permit. The proposal will parcel out at least 5 acres from the current 160 acres.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding area consists of agricultural crop production, with a limited amount of residences in the vicinity. There are two vacant farmstead properties to the north. The corporate limits of Beresford are approximately 5 miles to the southwest of the subject site.

PROJECT DESCRIPTION. The applicant has proposed to construct and operate a Class C CAFO (2,499 head of swine over 55 pounds). The plans submitted with the application notes that the manure will be applied to three separate fields, which are located at the subject site and within section 28 and 34 of Lincoln Township. The building appears to be a standard confinement barn (51’W x 393’L). The odor model submitted with the application shows that the three closest residences all exceed the 98% annoyance-free estimation and the ¼-mile setback from dwellings. The applicant also notes he will use pit additives for controlling odor and flies, which he states have been successful at his other sites.

Staff Recommendation: Approve the application to allow construction and operation of a Class C CAFO (2,499 head of swine over 55 pounds), subject to the following conditions:

1. The total confinement barn shall be located on a single, legally described parcel consisting of a minimum of five (5) contiguous acres.
2. The total confinement barn shall be limited to 2,499 swine over 55 pounds (Class C CAFO).
3. All building and waste storage facility plans associated with the concentrated animal feeding operation shall be approved by an engineer that is licensed in the state of South Dakota.
4. All waste applied to farm fields must be knifed or injected into soil.
5. All manure application records, soil analysis, and manure analysis shall be retained on file for a period of at least three (3) years, and shall be available to the Planning and Zoning Department upon request.
6. The Waste (Nutrient) Management Plan must be updated annually, be retained on file for a period of at least three (3) years, and shall be available to the Planning and Zoning Department upon request.
7. Adequate measures shall be taken to minimize or control offensive odor, fumes, dust, noise, or vibrations so that none of these will constitute a nuisance.
8. Additional fly control shall be addressed with pesticides when necessary.
9. Landscaping be installed after the completion of the total confinement barn and that all exposed earthen surfaces be seeded into grass or utilized as crop acreage.
10. Planning and Zoning Department Staff may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules and ordinances.
11. The conditional use permit will be periodically reviewed by the Planning and Zoning Department to assure compliance with the permit and permit conditions.
12. Test boring location and test boring results be furnished prior to issuance of a building permit.

Public Comment:

Toby Brown presented the staff report, and noted the applicant chose to not get coverage under the state’s general water pollution control permit and instead applied for the conditional use permit. Shane Zylstra, the petitioner, explained in depth the conversations he had with neighbors and the remedies to issues at his second site. He also mentioned he has been in contact with his pit additive vendor to troubleshoot issues. Pashby asked why he wanted to build in the corner, and if it could be moved west. Shane noted it is the dry spot on the property and the property owner was contemplating installing an irrigator in the wetter area to the west. Albers asked if the pit fans run on hot humid days. Shane said no, only ventilation is through the open curtains. He also noted he plans on planting silver maples on the property for screening.

Derausseau asked for public comment.

Paul Kostboth, consultant for Shane, noted that his company focuses on how each site may affect neighbors. He also noted that SDSU has not found any difference between curtain and tunnel barns.

Hal Schroeder, noted that he knows Shane personally and he is always willing to do anything to right a wrong.

John Thompson noted he is a farmer and that property tax revenue needs to come from somewhere and without economic development such as this it will be impossible to improve the county infrastructure.

Lindsay Zylstra noted that the difference with Sioux County is that neighbors support each other and that there is a much higher density of swine barns than will be possible in Lincoln County. She also noted that the only days the barns have a noticeable odor are the hot humid days. She closed by saying that farmers are needing to diversify their operations in this economy.

Mark Horstman noted that he chose to work with Shane because he wanted to insure the site would be kept neat and clean.

Toby then read letters in opposition from Gay Gubbrud and John Meyer/Judy Ripke.

Andre Adams noted he lives about 1 mile SE of the proposal and was concerned about the property value of his acreage due to the odor.

Troy Ventura asked to table the item since he couldn’t read the items on the website. He also argued that the 5-acre site wasn’t shown on the plans.

Mike Pederson noted he lives close to Shane’s second site and he doesn’t feel that pit additives work.

Faith Kinkner noted she lives directly south and is concerned about her asthma.

Ernest Stratmeyer noted he lives 6 miles north and he can smell two other sites near his house.

Cindy Thomas noted that the packet was difficult to read and would like more information about the odor footprint.

Don Abbas noted that they should listen to Jim Schmidt when he wants to ban curtain barns like Sioux County.

Lester Vogeli concerned about the road conditions.

Hearing no further comments, Derausseau closed the floor.

Discussion & Action:

Schmidt motioned to table the application for one month, and was seconded by Pashby. Schmidt proposed going to the site to see the properties that would be impacted. Pashby said he would like to learn more about the closed facilities versus curtain facilities. The motion passed 5-1 with Albers dissenting.

Conditional Use 18-CUP-025 – Tabled

Commissioner Namminga returned to the room.

5. OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISSISON

Staff requested clarification on the condition that was added to Bryan Yock’s permit a few months ago. The commission members noted that staff should interpret it as no vehicles shall be stored in the front of the building, but his personal vehicle and vehicles that are currently being be repaired may be parked in front of his unit.

6. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA

a. Correspondence received. Toby passed out correspondence received since last meeting.

- b. Comments from Planning Commission members. None.
- c. Comments from the audience -
David Brouwer, WeCare, noted that the WeCare organization does not have an official stance on CAFOs. He also noted he feels that there is still work to be done on the WECS ordinance regulations. Tony Ventura noted he wants a ban on curtain barns.

7. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION – None

8. NEW BUSINESS

- a. Setting public hearing dates - none
- b. Other new business – A work session meeting was scheduled with the comprehensive plan committee for July 26th, after 1pm.

9. ADJOURNMENT

Pashby motioned to adjourn at 10:10pm, and was seconded by Klatt. Motion passed unanimously (6-0).

Respectfully submitted,
Joan Doss
Planner