

# MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

August 21, 2017

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Monty Derosseau, Ron Larson, Darwin Sogn, Gary Pashby, Ron Albers, Tyler Klatt, and Jim Schmidt (arrived at 7:05)

STAFF PRESENT: Toby Brown and Joan Doss - County Planning

PUBLIC PRESENT: Lloyd Twedt, Josh Hayers, Jerry Schreurs, Dale Peltier, Eric Willadsen, Kirk Peters, Tim & Kalli Blackstone, Peter Hegg, Dan Nelson, Lynn Hurley, Jesse Deffenbaugh, Dudley Deffenbaugh, David Reiners, DiAnn Klinghagen, Luke Hurley, Troy Anderson, Bob Anderson

The meeting was chaired by Monty Derosseau

## 1. CALL TO ORDER AND ROLL CALL

The regular meeting was brought to order on August 21, 2017 at 7:00pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derosseau.

## 2. APPROVAL OF JULY 17, 2017 MINUTES

A motion to approve the July 17, 2017 minutes was made by Klatt and seconded by Larson. The motion passed unanimously.

## 3. APPROVAL OF AGENDA

A motion to approve the agenda was made by Pashby and seconded by Albers. The motion passed unanimously.

4. **REZONING 17-REZ-009** Request for review and recommendation for approval to the Board of County Commissioners of a Rezoning from "A-1" Agricultural District to "C" Commercial District. The application is for a portion (approximately 52.26 acres) of the property legally described as the Northeast quarter (NE1/4) except Lots H-1, H-2, H-3 and H-4 of Section 6, Township 99 North, Range 50 West of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Peter Hegg*

*Owner: DiAnn Klinghagen*

*Location: 47083 273<sup>rd</sup> St - Harrisburg*

### **Staff Analysis:**

The site is located in the Rural Commercial/Industrial Planning Area. The future land use plan encourages the majority of commercial and industrial development to locate within the cities. However, it is recognized that convenience goods and services as well as some industrial uses could be appropriately sited within the rural commercial/industrial areas. These locations include existing commercial/industrial areas where some reasonable expansion is appropriate and at major highway intersections.

1. Policy 4.1 – Promote optimum land use relationships and minimize land use conflicts.
2. Policy 4.2 – Discourage the random and haphazard siting of commercial and industrial uses within the rural commercial/industrial areas.
3. Policy 4.7 – Locate commercial uses at interstate highway interchanges and high traffic intersections. Such uses should be developed in a nodal pattern and geared to the support of highway users.

**Staff Recommendation:** The proposal is in conformance with the Comprehensive Plan. The proposed zoning district is compatible with surrounding land uses within the area and along the corridor. The roadway corridor serving the development contains a mixture of commercial and industrial uses. A common zoning district on the subject site will facilitate development and the commercial use of the property. The Commercial use of the property is supported by easy access to Interstate 29.

### **Public Comment & Discussion:**

Toby Brown presented the staff report and noted the SD DOT would require a traffic impact study prior to development. Peter Hegg, the petitioner, noted they represent the land owner and will be in charge of marketing and developing the land. Schmidt noted that this part of the county should move toward more commercial development.

Derosseau asked for public comment on the application.

Eric Willadsen noted that although it had not been rezoned yet, this area was included on the preliminary development plans.

Dave Reiners asked about runoff plans. Derrousseau noted that they do not look at drainage plans as part of rezones. Schmidt also noted that the county is working on studying the drainage in the area.

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

**Action:**

A motion was made by Albers, and seconded by Sogn to recommend approval of Rezoning 17-009. The motion passed unanimously.

**Rezoning 17-REZ-009 – Recommend Approval**

5. **REZONING 17-REZ-010** Request for review and recommendation for approval to the Board of County Commissioners of a Rezoning from “A-1” Agricultural District to “C” Commercial District. The application is for a portion of the property legally described as M.K. Tract 1 except Lot A in the East half (E1/2) of the Southeast quarter (SE1/4) of Section 11, Township 98 North, Range 49 West of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota.

*Petitioner/Owner: Timothy & Kalli Blackstone*

*Location: 28079 481<sup>st</sup> Ave - Canton*

**Staff Analysis:**

The site is located in the Agricultural Planning Area.

Agricultural areas are generally those areas which have experienced little or no competing non-farm development. These areas are intended to be preserved for farm related use where such activities can freely operate without the need to impose restrictions due to competing uses.

1. Policy 3.1 – Allow the siting of business activities at appropriate locations in the agricultural areas.
2. Policy 3.2 – Discourage the random and haphazard siting of commercial and industrial uses within the agricultural areas.
3. Policy 3.6 – The premature development of agricultural areas should be discouraged.
4. Policy A.8 – To support and encourage growth of the county’s economic base and promote the expansion of job opportunities.

**Staff Recommendation:** The proposal is not in accordance with the Future Land Use Map in the Comprehensive Plan but in accordance with policies. The proposed zoning district is compatible with adjacent land use. A common zoning district on the subject site will facilitate development and the commercial use of the property.

**Public Comment & Discussion:**

Toby Brown presented the staff report, and noted the reason for the rezoning application was to expand the existing business. Tim Blackstone noted they would like to have additional space for storage and future lodging.

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

**Action:**

A motion was made by Schmidt, and seconded by Larson to approve Rezone 17-010. The motion passed unanimously.

**Rezoning 17-REZ-010 – Recommend Approved**

6. **REZONING 17-REZ-011** Request for review and recommendation for approval to the Board of County Commissioners of a Rezoning from “A-1” Agricultural District to “RR” Rural Residential District. The application is for the property legally described Tract 1F Burgers Addition except East 53.6 feet North 406.8 feet in the Northwest quarter (NW1/4) of Section 34, Township 100 North, Range 49 West of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Eric Willadsen – Willadsen Lund Engineering*

*Owner: Lake Alvin, LLC – Jesse Deffenbaugh*

*Location: Portion of land south of Copperwood Cir.– Harrisburg*

**Staff Analysis:**

Agricultural areas are generally those areas which have experienced little or no competing non-farm development. These areas are intended to be preserved for farm related use where such activities can

freely operate without the need to impose restrictions due to competing uses. A density standard not exceeding one dwelling per quarter-quarter section of land should be maintained for the planning area.

1. Policy 3.4 – Restrict the density of residential uses within agricultural areas and direct higher developmental densities to municipalities and approved development areas.
2. Policy 3.6 – The premature development of agricultural areas should be discouraged.
3. Policy 3.11 – Limit rural densities so that current service levels are not exceeded.
4. Policy A.1 – To provide a choice of living environments for county residents.

**Staff Recommendation:** The proposal is not in accordance with the Future Land Use Map in the Comprehensive Plan but in accordance with policies. The proposed zoning district is compatible with adjacent land use. A common zoning district on the subject site will facilitate development and the residential use of the property.

**Public Comment & Discussion:**

Toby Brown presented the staff report, and noted there were no comments from surrounding property owners. Eric Willadsen noted that this should have been rezoned last month if not for a mistake on the application.

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

**Action:**

A motion was made by Pashby and seconded by Larson to table the preliminary plan application. The motion passed 6-0-1, with Schmidt abstaining.

**Rezoning 17-REZ-011 – Recommend Approval**

**7. PRELIMINARY SUBDIVISION PLAN – LAKEVIEW ESTATES.** Request for review and recommendation for approval to the Board of County Commissioners of a preliminary subdivision plan for a proposed rural residential subdivision named Lakeview Estates Addition, a nine lot subdivision. The application is for the property legally described as Tract 1B, 1F, and 1H of Burgers Addition in the Northwest quarter (NW1/4) of Section 34, Township 100 North, Range 49 West of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Jesse Deffenbaugh and Eric Willadsen – Willadsen Lund Engineering*

*Owner: Lake Alvin, LLC*

*Location: Approx. 24.8 acres south of Copperwood Cir. and Oak Ridge Pl. intersection – Harrisburg*

**Staff Analysis:**

Staff has reviewed Article 4 of Lincoln County’s Subdivision Ordinance to determine that all requirements have been met. The applicant has not provided all of the required information for a Preliminary Plan including: 401.B.2 – Erosion control plan (required for subdivisions disturbing greater than 5 acres), 401.B.3 – Covenants, including road maintenance agreements, and 401.B.4 – Agreements between developer and township outlining responsibility to undertake or pay for the cost of improving roads, bridges, culverts, drainage ways, etc. The proposed lot layout creates two new roads. An erosion control plan is necessary prior to further residential development which requires additional platting. The sizes of the lots within the proposed residential development range in size from between 1.8 acres to 3.4 acres. Any future development will likely utilize on-site wastewater disposal systems and would connect to Lincoln County Rural Water.

**Staff Recommendation:** Based upon the information and materials provided by the petitioner and the staff analysis in the staff report, staff recommends the Planning Commission recommend approval of the preliminary subdivision plan, with the following conditions.

- 1) Prior to County Board approval, any proposed covenants to run with the land and any other pertinent agreements shall be provided.
- 2) Prior to County Board approval, erosion control plans shall be provided.

**Public Comment & Discussion:**

Toby Brown presented the staff report. He noted that the county engineer had submitted comments, and the petitioner submitted responses which were handed out this evening. He also noted that staff has concerns that there is only one ingress and egress since previously emergency management pointed out concerns with such long cul-de-sacs. Eric Willadsen, the petitioner, noted they would be able to provide a draft set of covenants and the erosion control plan. He also noted the intent was to connect to the existing subdivision, but there was

pushback to connect the streets, in addition there are a number of other long cul-de-sacs within the county. Pashby asked if the road would gravel or paved. Eric noted it would be up to the owners.

Derausseau asked for public comments.

Jesse Deffenbaugh noted the roads will be paved and that the covenants would restrict road side parking.

Paul Krustman noted he was concerned that the road was so close to a steep hill along Lake Alvin. Eric noted that the approach meets sightline distance for the speed limits.

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

**Action:**

A motion was made by Klatt and seconded by Larson to recommend approval of the Preliminary Plan with the conditions as recommended. The motion passed 6-0-1 with Schmidt abstaining.

**Lakeview Estates - Recommend Approved**

**8. CONDITIONAL USE PERMIT 17-CUP-023:** Request for review and approval of a Conditional Use Permit to operate a group daycare. The property is legally described as Kennedy Tract 1 in the Northeast quarter (NE1/4) of Section 27, Township 96 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner/Owner: Ted and Molly Norling*  
*Location: 29533 468<sup>th</sup> Ave - Bereford*

**Staff Analysis:**

The petitioner is proposing operating a group daycare within their home. The operation is named Molly's Day Care. Staff finds that the petitioner's proposal is reasonable: The proposal would meet the general and specific conditional use permit criteria for group daycares. The proposal meets all required setbacks.

**Staff Recommendation:** Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal meets the standards for granting the CUP as established in the 2009 Revised Zoning Ordinance for Lincoln County. Staff recommends **APPROVAL** of the CUP contingent upon the following conditions:

1. No more than twelve (12) children under the age of fourteen, including children of the petitioner that are under the age of six, may be at the daycare at one time.
2. On premise signage, in accordance with Section 12.0302(8) of the Lincoln County Zoning Ordinance, shall be allowed.

**Public Comment & Discussion:**

Toby Brown presented the staff report, and noted the a group day care is a specific use and not a home occupation. Molly Norling, the petitioner, noted that at most she has 8 children on site, with ages between 11-weeks to preschool age.

Derausseau asked for public comments.

Bob Anderson spoke in favor of the application.

Hearing no further comments, Derausseau closed the floor to public comment.

**Action:**

A motion was made by Albers and seconded by Larson to approve Conditional Use Permit 17-023 with the conditions as recommended. The motion passed unanimously.

**Conditional Use Permit 17-CUP-023 - Approved**

**9. CONDITIONAL USE PERMIT 17-CUP-024:** Request for review and approval of a Conditional Use Permit to operate an establishment that is licensed to sell alcoholic beverages, a bar/lounge. The property is legally described as M.K. Tract 1 Lot A, in the East half (E1/2) of the Southeast quarter (SE1/4) of Section 11, Township 98 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner/Owner: Canton Barn LLC*  
*Location: 28079 481<sup>st</sup> Ave - Canton*

**Staff Analysis:**

Staff finds that the petitioner’s proposal is reasonable: The proposal would meet the general and specific conditional use permit criteria for bar/lounge. The proposal meets all required setbacks. The proposal does not include expansion of the current facilities. The closest residences, other than the owner’s, are approximately ½ mile away to the north, south, and southwest, of the proposal.

**Staff Recommendation:** Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal meets the standards for granting the CUP as established in the 2009 Revised Zoning Ordinance for Lincoln County. Staff recommends **APPROVAL** of the CUP contingent upon the following conditions:

1. Alcoholic beverages shall not be allowed outside of the building.
2. The number of parking spaces shall remain in accordance with Section 15.02(P) of the Lincoln County Zoning Ordinance.
3. Parking areas shall be constructed with a hard surface, in accordance with Section 15.04(A) of the Lincoln County Zoning Ordinance.
4. If at any time the business ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning.

**Public Comment & Discussion:**

Toby Brown presented the staff report. Tim Blackstone, the petitioner, noted the intent would be to be able to serve liquor during events, and be open for business during specific times in the ears, but not a full time bar.

Derousseau asked for public comments on the application, hearing none, he closed the floor to the public.

**Action:**

A motion was made by Sogn and seconded by Larson to approve Conditional Use Permit 17-024 with the recommended conditions. The motion passed unanimously.

**Conditional Use Permit 17-CUP-024 - Approved**

**10. CONDITIONAL USE PERMIT 17-CUP-025:** Request for review and approval of a Conditional Use Permit to operate fireworks sales. The property is legally described as Tract 2 of Smith’s Addition Southeast quarter (SE1/4) except Lot H-1 and N292.34’ in Section 31, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Nalini Jagram-Payer*

*Owner: Heibult Investments LLC*

*Location: 27296 Ironworks Ave - Harrisburg*

**Staff Analysis:**

Staff finds that the petitioner’s proposal is reasonable: The proposal would meet the general and specific conditional use permit criteria for fireworks sales. The proposal meets all required setbacks. The proposal does not include any new construction, though the building may be divided into different units in the future.

**Staff Recommendation:** Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal meets the standards for granting the CUP as established in the 2009 Revised Zoning Ordinance for Lincoln County. Staff recommends **APPROVAL** of the CUP contingent upon the following conditions:

1. There shall be no outside storage allowed.
2. The retail sales of fireworks must abide by all applicable SD laws and regulations.
3. The petitioner shall consult the Lincoln County Building Inspector prior to beginning operation to confirm code compliance.

**Public Comment & Discussion:**

Toby Brown presented the staff report, and noted they currently sell outside. Josh Hayers, representative for the project, noted they would prefer to have the business inside.

Derousseau asked for public comments on the application, hearing none, he closed the floor to public comment.

**Action:**

A motion was made by Pashby and seconded by Albers to approve Conditional Use Permit 17-025 with the recommended conditions. The motion passed unanimously.

**Conditional Use Permit 17-CUP-025 - Approved**

**11. CONDITIONAL USE PERMIT 17-CUP-026:** Request for review and approval of a Conditional Use Permit to construct and operate one new total confinement swine finishing facility capable of holding 2,499 finishing pigs (Class C). The property is legally described as the East half (E1/2) of the Northeast quarter (NE1/4) except 3.15 acres RY in Section 18, Township 98 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Luke Hurley*

*Owner: Marilyn Hurley*

*Location: Approx ¼ of a mile south of intersection of 281<sup>st</sup> St and 477<sup>th</sup> Ave, west side - Canton*

**Staff Analysis:**

Staff finds that the petitioner's proposal is reasonable: The proposal would meet the general and specific conditional use permit criteria for concentrated animal feeding operations. The proposed location is within the A-1 Agricultural zoning district. The proposed location is within a predominantly agricultural area with scattered farmsteads. The site meets the required setbacks for the size of the facility, and the closest dwelling is 1,656 feet to the northeast. As mentioned previously, the petitioner submitted documentation from the South Dakota Odor Footprint Tool (SDOFT) that shows all dwellings are beyond the 97% annoyance free area. Since the surrounding area is primarily agricultural land uses, the proposed CAFO will have little effect on current use and enjoyment of surrounding properties. The proposal appears to be typical of feedlot developments within the County and there exist no extraordinary circumstances regarding the project. The predominant land use in the area is agricultural production. 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. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling. The proposal locates an agricultural use within an existing agricultural area, thereby avoiding the mixing of uses which may result in potential land use conflict. The petitioner is requesting a new CAFO. The inherent nature of a CAFO like this has the potential to create nuisances if not managed properly. This is especially true for odor, fumes and dust. The petitioner has submitted management plans and site plans to aid in reducing nuisances. The proposal will meet the applicable county standards for manure handling and management. Anything included in the narrative and site plan will be expected to be carried out. In addition, the Planning Commission has the ability to add conditions if they feel the petitioner's plans and staff recommendations are inadequate to mitigate nuisances.

**Staff Recommendation:** Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal meets the standards for granting the CUP as established in the 2009 Revised Zoning Ordinance for Lincoln County. Staff recommends **APPROVAL** of the CUP contingent upon the following conditions:

1. The total confinement barn shall be located on a single, legally described parcel consisting of a minimum of two (2) contiguous acres.
2. That the total confinement barn shall be limited to 2,499 finishing pigs (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. (Per Section 12.09(D) of the 2009 Revised Zoning Ordinance)
4. All waste applied to farm fields must be knifed or injected into soil. (Per Section 12.09(D)(3) of the 2009 Revised Zoning Ordinance)
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.

**Public Comment & Discussion:**

Toby Brown presented the staff report, and noted there are other nearby CAFOs, and only heard general inquires. Luke Hurley, the petitioner, noted that this type of barn uses the best technology available, and emits less odor than traditional barns. Pashby asked if there was any specific reason to pick this location. Luke noted the railroad, highway access, and distance to neighbors are reasons.

Derausseau asked for public comments on the application.

Kirk Peters noted the Hurley family always stays in-tune with how their work affects their neighbors.

Lloyd Twedt noted that as long as the odor is contained he is fine with the barn, but was a bit concerned that this would be the third in the area.

Hearing no further comments, he closed the floor to public comment.

**Action:**

A motion was made by Larson and seconded by Klatt to approve Conditional Use Permit 17-026 with the recommended conditions. The motion passed 6-1, with Sogn dissenting.

**Conditional Use Permit 17-CUP-026 - Approved**

**12. OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISSION - None**

**13. OLD BUSINESS –**

Continuation of discussion on text amendments to 2009 Revised Zoning Ordinance:

Toby presented a first draft of both an amendment to CAFO setbacks and WECS lighting. The Planning Commission noted they were agreeable with the drafts and would like to go ahead with the public hearing next month.

**14. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA**

- a. Correspondence received – No longer will be publishing comments to website, any correspondence be shared at meetings.
- b. Comments from Planning Commission members - None
- c. Comments from the audience:  
Winnie Peterson noted she was happy to report property was beginning to sell since the vote in July.

**15. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS’ REPRESENTATION - None**

**16. NEW BUSINESS – None**

**17. ADJOURNMENT**

Motion to adjourn at 9:20pm was made by Albers and seconded by Pashby. The motion passed unanimously.

Respectfully submitted,  
Joan Doss  
Planner