

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

September 16, 2019

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Stacey Clay Namminga, Jerry Jongeling, Monty Derausseau, Gary Pashby, and Tiffani Landeen

STAFF PRESENT: Toby Brown, Joan Doss, & Joel Carlson - County Planning Jon Peters – County GIS

PUBLIC PRESENT (sign in sheet): Justin Zahrbock, D. Meyers, Tony Ventura, Jim Bolin, Corey Johnson, Dick Cook, Pat McGee, Evan Ingebrigtsen, Brad Schardin, Rebecca Terk, Tom Barry, Tim Doyle, Mike & Sue Sibson, Tony Tripp, Dan Lederman, Chuck Frey, Lisa Coleman, Chris Srubar, Benn Broach, Jared Bingman, Carol & Steve Messner, Max Shilstone, Kevin Jensen, Ernest Stratmeyer, Bryan Person, Mike Mechtenberg.

1. CALL TO ORDER AND ROLL CALL

The regular meeting was brought to order on September 16, 2019 at 6:30pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derausseau.

2. APPROVAL OF AUGUST 19, 2019 MINUTES

Pashby motioned to approve the minutes and was seconded by Landeen, with a correction to the meeting date. The motion passed unanimously (5-0).

3. APPROVAL OF AGENDA

Landeen motioned to approve the agenda and was seconded by Pashby. The motion passed unanimously (5-0).

4. OPPORTUNITY FOR PUBLIC COMMENT NOT INVOLVING ITEMS ON THE AGENDA – None

5. PUBLIC HEARINGS

- a. CONDITIONAL USE PERMIT / USE-0056-2019: Application for a Conditional Use Permit for motor vehicle sales, display, and service. The property is legally described as Lot C in Tract 39 of Sky Haven Heights in the Northwest quarter (NW1/4) of Section 30, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Justin Zahrbock/A&M Enterprises Inc. Location: 27140 470th Ave – Tea

Staff Presentation:

Toby presented the staff findings including the list of recommended conditions as follows:

1. This approval is for the project described per Conditional Use Permit (USE-0056-2019) to allow a motor vehicle sales, display, and service.
2. Vehicles shall not be parked within the road right-of-way and shall be parked on hard surfacing.
3. No more than four (4) vehicles shall be on display at any given time, as noted on the concept plan received September 4, 2019.
4. The outdoor storage of vehicle parts and dilapidated vehicles is prohibited.
5. The use 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:

Justin Zahrbock noted he leases the building for R & R Repair, and is agreeable to the conditions.

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

Discussion & Action:

Jongeling motioned to approve with the six conditions as recommended and was seconded by Landeen. The motion passed (5-0).

USE-0056-2019 Approved

- b. CONDITIONAL USE PERMIT / USE-0057-2019: Application for a Conditional Use Permit for motor vehicle sales, display, and service. The property is legally described as Tract 12 in D & L Industrial Addition in the Southwest quarter (SW1/4) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Staff Presentation:

Toby presented the staff findings including the list of recommended conditions as follows.

1. This approval is for the project described per Conditional Use Permit (USE-0057-2019) to allow a motor vehicle sales, display, and service.
2. Vehicles shall not be parked within the road right-of-way.
3. Any outdoor display of vehicles shall be parked by Unit 3.
4. The use 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.
5. 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:

Tony Tripp noted there won't be any test drives, and only a small display outside during business hours.

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

Discussion & Action:

Pashby noted a condition should be added to conform to the site plan.

Namminga motioned to approve with the six conditions, as amended, and was seconded by Landeen. The motion passed unanimously (5-0).

USE-0057-2019 Approved

- c. CONDITIONAL USE PERMIT / USE-0059-2019: Application for a Conditional Use Permit for lumberyard. The property is legally described as Lot A of Tract 1 of Clark's Addition in the Southwest quarter (SW1/4) of the Southwest quarter (SW1/4) of Section 5, Township 98 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Tim Doyle, NP Holdings LLC

Location: 47102 280th St - Worthing

Staff Presentation:

Toby presented the staff findings including the list of recommended conditions as follows:

1. This approval is for the land use described per Conditional Use Permit (USE-0059-2019) to allow for a lumberyard.
2. The property shall be maintained in general conformance with the application materials.
3. The access and parking areas along 280th Street (Co. Hwy 124) shall be hard-surfaced in accordance with Article 15 of the 2009 Revised Zoning Ordinance within two (2) years of permit approval.
4. The use 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.
5. Conditional Use Permits 09-CUP-028 and 10-CUP-002 are hereby null and void.
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:

Tim Doyle noted his business caters mostly to professionals, and there will only be about 4 employees on site. He mentioned though he disagreed with requiring hard-surfacing the parking and access since the previous owner wasn't required to pave it at the time, and that is would be an undue hardship for his business.

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

Discussion & Action:

Pashby noted the ordinance regulations are clear when it comes to whether or not it needs to be hard-surfaced.

Pashby motioned to approve with the six conditions as recommended and was seconded by Jongeling. The motion passed unanimously (5-0)

USE-0059-2019 Approved

- d. CONDITIONAL USE PERMIT / USE-0061-2019: Application for a Conditional Use Permit for warehousing exceeding 10,000 sq. ft (requesting up to 39, 975 sq. ft). The property is legally described as Tract 6 of Southtown Addition in Government Lots 1 and 2 in the Northwest quarter (NW1/4) of Section 7, Township 98 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: I-29 Storage LLC

Location: Approximately 1/4 mile south of the intersection of SD Hwy 44 and Boondocks Ave - Worthing

Staff Presentation:

Toby presented the staff findings including the list of recommended conditions as follows:

1. This approval is for the project described per Conditional Use Permit (USE-0061-2019) to allow warehousing to exceed 10,000 square feet which shall be substantially located and constructed as depicted in the presented plans, except as modified with the conditions below.
2. Appropriate building permits shall be obtained. No additional warehousing structures, exceeding, 39,975 square feet, shall be allowed on the property, without the issuance of a new CUP.
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:

Bryan Person noted they store mostly boats and campers, and would be completing the construction three phases.

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

Discussion & Action:

Pashby said a condition should be added to conform to the site plan.

Landeen motioned to approve with the four conditions, as amended, and was seconded by Pashby. The motion passed unanimously (5-0).

USE-0061-2019 Approved

- e. CONDITIONAL USE PERMIT / USE-0062-2019: Application for a Conditional Use Permit for accessory building exceeding 1,500 square feet (requesting 1,872 square feet). The property is legally described as Lot 3A of Meadow Ridge 2nd Addition in the Northeast quarter (NE1/4) of Section 4, Township 99 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Richard & Deborah Cook

Location: 47894 Prairie Circle – Harrisburg

Staff Presentation:

Toby presented the staff findings including the list of recommended conditions as follows:

1. This approval is for the land use described per Conditional Use Permit (USE-0062-2019) to allow for an accessory building up to 1,872 square feet.
2. The property shall be maintained in general conformance with the concept plan received on August 16, 2019.
3. The accessory building shall not be used for commercial purposes or converted into living space.
4. The structure 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.
5. 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:

Dick Cook noted he is needing more personal storage space.

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

Discussion & Action:

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

USE-0062-2019 Approved

- f. **CONDITIONAL USE PERMIT / USE-0058-2019:** Application for a Conditional Use Permit for public utility facility. The property is legally described as Tract 1 and Tract 2 of Johnson's Addition in the Northwest quarter (NW1/4) and a portion (13.50 acres) of the West half (W1/2) of the Northeast quarter (NE1/4) of Section 17, Township 99 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Dakota Access Pipeline LLC/Steve & Carol Messner and Margaret Johnson

Location: Approximately 1/2 mile west of the intersection of SD Hwy 11 and 275th St - Harrisburg

Staff Presentation:

Toby presented the staff findings, specifically noting it is roughly 2,000 feet to the nearest residence. He then listed the recommended conditions as follows:

1. This approval is for the project described per Conditional Use Permit (USE-0058-2019) to allow a public utility facility which shall be substantially located and constructed as depicted in the presented plans, except as modified with the conditions below.
2. Appropriate building permit(s) must be obtained prior to beginning construction.
3. The proposed screening for the site should be located along the entire northern, western and eastern property lines, except where easements restrict.
4. The permittee shall be responsible for obtaining, if applicable, a road use agreement with Dayton Township prior to construction to ensure repairs for any damage to roads.
5. The pumping station shall be designed and constructed to limit the operating noise to a maximum of 55 decibels dba as measured at Dakota Access' property lines.
6. All buildings shall be painted in earth tones.
7. Exterior lighting shall be down-shrouded.
8. The permittee shall not deposit any snow or water onto neighboring properties and dispose of stormwater onsite through an approved engineering method.
9. The permittee shall coordinate with the Lincoln County Emergency Management Director to conduct annual training for local emergency responders.
10. The permittee shall follow all federal, state and local laws pertaining to this project.
11. The conditional use permit will be reviewed in one year.
12. The Planning and Zoning 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 2009 Revised Zoning Ordinance for Lincoln County and any other County, State and Federal Codes, ordinances, resolutions and laws that may apply.

Public Comment:

Chris Srubar, project manager, and Chuck Frey, VP of Liquids Engineering, noted this project would optimize the pipeline to keep up with demand. Additionally, they noted that there are a variety of safeguards and controls to be able to shut down quickly, and that it is monitored 24/7 from Texas.

Derausseau asked for public comment

Jim Bolin noted he was firmly convinced that this project will be a safe way to increase the capacity and would provide important revenue to the community.

Kevin Jensen noted he has met with the pipeline company to ask questions, and he was satisfied by the proposal.

Brad Schardin from Southeastern Electric noted that by working with the pipeline they will be able to improve transmission throughout the county.

Rebecca Terk, Dakota Rural Action, noted the Iowa and Illinois are requiring permit amendments due to these proposals, and this permit would put the cart before the horse since they don't have permission from other states. She additionally felt the area should be rezoned.

Sue & Mike Sibson noted they live 1¾ miles away from a pumping station on the Keystone pipeline in Howard, SD and that the noise from it is annoying since it is a constant hum.

Hearing no further comments, Derousseau closed the floor.

Commissioner Pashby requested Chris Srubar and Chuck Frey back to the podium for some questions.

Chuck Frey noted that he cannot speak to the construction of a different company's pumping station, but this building will be engineered to meet an average decibel level of 55dBA at the property line. He also noted they understand the permit will be reviewed in a year, which is a common condition from other jurisdictions they have worked with.

Discussion & Action:

Pashby noted that the review should be one year after the start of the operation and that another condition should be added to substantially conform to the site plan.

Pashby then motioned to approve the permit with thirteen (13) conditions as amended and was seconded by Namminga. The motion passed unanimously (5-0).

USE-0058-2019 – Approved

6. OLD BUSINESS - None

7. OPEN DISCUSSION FOR COMMISSION MEMBER FOR ISSUES NOT ON THE AGENDA

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

8. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION –
Landeem noted the county is in the process of purchasing Goeman's property outside of Lennox for 4H.

9. NEW BUSINESS

- a. Lincoln County Master Drainage Plan – Tom Berry, WENCK Engineering presented an update about the master drainage plan process.
- b. Setting public hearing dates. – Toby noted the October Joint Jurisdiction meeting would need to be rescheduled, and after next month staff would begin presenting more permits that should be reviewed.
- c. Review fee schedule. – Discussion was deferred for another month.
- d. Other new business. – None.

10. ADJOURNMENT

Namminga motioned to adjourn at 8:37pm and was seconded by Landeem. Motion passed unanimously (5-0).

Respectfully submitted,
Joan Doss
Planner