

MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

September 17, 2018

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Tyler Klatt, Darrel Sogn, Ron Albers, Monty Derausseau, and Stacey Namminga

STAFF PRESENT: Toby Brown, Joan Doss - County Planning

PUBLIC PRESENT (sign in sheet): Douglas Tinklenberg, Linda & Jim Dunham, Tom McKnelly, Brian Yock, Kevin Wheeler, Allen Kathy Rippentrop, Ira & Rhonda Sherman, Mary & Timothy Hoon, Leon Eich, Rod Fitts, Lyle Schapp, Tim Longstaff, Tony Ventura

1. CALL TO ORDER AND ROLL CALL

The regular meeting was brought to order on September 17, 2018 at 7:00pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derausseau.

2. APPROVAL OF AUGUST 20, 2018 MINUTES

Klatt motioned to approve the minutes from August 20, 2018, and was seconded by Albers. The motion passed unanimously (5-0).

3. APPROVAL OF AGENDA

Albers motioned to approve the agenda, and was seconded by Namminga. The motion passed unanimously (5-0).

4. PUBLIC HEARINGS

- a. REZONING / 18-REZ-003: 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 property is a portion (proposed Lot 1 Ponderosa Park 2nd Addition consisting of 5.8 acres +/-) of the property legally described as the Northwest quarter (NW1/4) (except Lots H-1 and H-4, Tower Estates Lots 1 through 8, Tract 1 Neeman's Addition and Ponderosa Park Addition Lots 1, 2, 3A and 3C) of Section 6, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota

Petitioner/Owner: Lyle Schapp – Schapp Investments, LLC/Teresa Herman

Location: Approx. 1/4 mile west of the intersection of Interstate 29 and 273rd Street - Tea

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in LaValley Township and is near the intersection of Interstate 29 and 273rd Street. The subject site is currently utilized for agricultural uses.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. Commercial uses are located adjacent to the east. Agricultural uses are located adjacent to the north, west and south. The corporate limits of Tea are approximately one mile to the northwest.

PROJECT DESCRIPTION. The applicant is proposing to utilize the property for recreational vehicle sales. The applicant was the developer of the adjacent Ponderosa Park Addition to the east. The existing zoning does not allow recreational vehicle sales. Therefore, the applicant is requesting to rezone the property from "A-1" to "C", where recreational vehicle sales would be allowed by conditional use.

Staff Recommendation: Staff recommends recommending approval of the application to rezone.

Public Comment:

Toby Brown presented the staff report, and noted the concept plan notes landscaping to separate commercial and residential uses. Toby then read two emails staff received, one from Dana Haan (proponent of the application) and the other from Rocky Welker (opponent of the application).

Lyle Schapp, the applicant, noted he is wanting a place to expand his business that is based in Sioux Falls. Derausseau asked what would be stored on site. Lyle noted recreation vehicles. Klatt asked about the amount of daily customers. Lyle said it is season, and not many daily customers.

Derausseau asked for public comment

Rhonda Sherman noted they were told when they bought their property that the rest of the area would be a residential development. She also noted concerns with traffic, lights, and drainage.

Kevin Wheeler noted he understood the need for development, but questioned why the applicant didn't move his business to any the lots on the east side of Ponderosa. He also noted concern for the amount of different uses the rezoning would allow and agreed with comments about drainage.

Randy Haber noted he does not see any reason to disrupt the existing neighborhood.

Hearing no further comments, Derrousseau closed the floor.

Discussion & Action:

Klatt motioned to recommend approval of the application, and was seconded by Namminga. Derrousseau noted that the request fits the comprehensive plan. Klatt noted the county board is able to decide if something else is a more appropriate fit for the area. Albers noted that the intersection will stay busy as it is today.

The motion passed unanimously (5-0).

Rezone 18-003 – Recommend Approval

- b. **CONDITIONAL USE PERMIT / 18-CUP-034:** Request for review and approval of a Conditional Use Permit proposing to allow the construction and operation of a contractor's shop and storage yard. The property is legally described as Lot 1A of Tempo Addition in the North half (N1/2) of the Southwest quarter (SW1/4) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Petitioner/Owner: A&T Rentals LLC

Location: Approx. 1/2 mile north of the intersection of 469th Avenue and 271st Street – Tea

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in Delapre Township and is approximately 1/2-mile north of the intersection of 469th Avenue and 271st Avenue. The site is a parcel of 6 acres. It is mostly made up of tillable land and includes no buildings. The current use is crop production. The subject site does have identified floodplain and floodway and so a floodplain development permit from Lincoln County is required.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. Neighboring properties to the north, west and east are cropland. Commercial uses are located adjacent to the south. The corporate limits of Tea are approximately 1,000 feet to the south and east.

PROJECT DESCRIPTION. The applicant is proposing to construct a building to be utilized for a contractor's shop and storage yard on the property. The property owner also owns the property adjacent to the south which is utilized for a contractor' shop and storage yard for RBS sanitation.

Staff Recommendation: Approve the application to allow the construction and 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 shops 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/owner 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.
8. Site shall be developed in accordance with the City of Tea's site plan.

Public Comment:

Toby Brown presented the staff report, and noted the project will require floodplain approval. Tom McKnelly, the applicant noted the building would be used to expand his business and house vehicles and dumpsters.

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

Discussion & Action:

Namminga motioned to approve the application, with the recommended conditions, and was seconded by Albers. There was no discussion. The motion passed unanimously (5-0).

Conditional Use 18-034 – Approved

- c. **CONDITIONAL USE PERMIT / 18-CUP-035:** Request for review and approval of a Conditional Use Permit proposing to allow the operation of outside storage/warehousing. The property is legally described as Tract 4 of Redeemer Free Lutheran Church’s Addition in the Southeast quarter (SE1/4) of the Southeast quarter (SE1/4) of Section 15, Township 98 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Rodney Fitts Location: 28189 West Avenue – Canton

Staff Analysis:

SITE DESCRIPTION AND PRESENT USE. The subject site is located in Canton Township. The site is near the intersection of West Avenue and US Hwy 18. The property currently has a 5,670-square foot warehouse building, along with approximately 11,000 square feet of a fenced-in storage space. It appears that this property has been used for warehousing and outdoor storage for a number a years, but was never granted a conditional use permit for the use.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding properties within Lincoln County’s jurisdiction are zoned “C” Commercial or “A-1” Agricultural and have a mix of land uses including warehousing, agricultural, residential, medical/personal services, and church. The corporate limits of Canton are adjacent to the property on the east.

PROJECT DESCRIPTION. The applicant is proposing to continue utilizing the property for indoor warehousing and outdoor storage. The applicant has included on the site plan an 8-foot wooden privacy fence surrounding the property and landscaping along the east of the property. In the submitted application materials, they describe this proposal as an improvement to the current condition of the property.

Staff Recommendation: Approve the application to allow warehousing with outdoor storage, subject to the following conditions:

1. The site improvements must substantially conform to plans submitted with the conditional use permit application on August 17, 2018.
2. The property shall be maintained in a clean, orderly, and safe manner.
3. The outdoor storage area shall be adequately screened from adjacent land uses.
4. The outdoor storage area shall be surfaced with crushed rock, crushed concrete, asphalt or concrete paving, or similar materials.
5. Any exterior lighting shall be directed downwards and shall not create any light glare or spillage onto adjacent property.
6. The applicant and/or property owner shall not deposit any snow or improperly direct water onto neighboring properties.
7. The security gate access code shall be made available to the Lincoln County Sheriff’s Office.
8. 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.
9. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning Department.

Public Comment:

Toby Brown presented the staff report, and noted this permit would continue the current use. Toby also noted that in conversations with the sheriff’s office they would appreciate access codes so they can have quicker response for emergencies. Rodney Fitts, the applicant, noted he is agreeable to the conditions.

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

Discussion & Action:

Namminga motioned to approve the application with the recommended conditions and was seconded by Klatt. There was no discussion. The motion passed unanimously (5-0).

Conditional Use 18-CUP-035 – Approved

- d. CONDITIONAL USE PERMIT REVIEW / 15-CUP-019: Request for review of an existing Conditional Use Permit to operate a contractor's shop and storage yard. The property is legally described as Smeenk Tract 2 in the Southwest quarter (SW1/4) of Section 15, Township 99 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Douglas and Linda Tinklenberg Location: 47906 276th St - Harrisburg

Staff Analysis – Prior Action:

On May 18, 2015, Doug Tinklenberg was granted a Conditional Use Permit (15-CUP-019) which allowed for the operation of a contractor's shop and storage yard with the following conditions:

1. Petitioner provides organization and security to the parcel to enhance safety and downplay the possibility of pilferage and fire danger.
2. An approved site plan that demonstrates adherence to the county's parking and loading requirements.
3. Utilization of the petitioned parcel as a contractor's shop and storage area for business purposes and not as a collection area for nonbusiness items and or items that are nonbusiness related.
4. Parcel is to be used as a contractor's shop/storage area and not as a retail outlet for items for sale.

The conditional use permit was subject to a previous review on October 19, 2015 – staff recommended to revoke. The conditional use was also subject to another review on December 18, 2017 – staff recommended to amend. On December 18, 2017, the Planning Commission amended Conditional Use Permit 15-CUP-019 with the following conditions:

1. That Conditional Use Permit 15-019 shall allow a contractor's shop and storage yard.
2. The property shall substantially adhere to the site plan, attached hereto, submitted to the Lincoln County Planning Department after the October 19, 2015 public hearing.
3. No unscreened outdoor storage is permitted and the property shall be neat and orderly at all times. The owner shall provide a 90% opaque screening fence around the outdoor storage area within six months of the amended approval of the CUP.
4. There shall be no inoperable vehicles, trailers, or equipment parked or stored on site. For purposes of this stipulation, inoperable shall mean "a motor passenger vehicle, trailer, equipment, truck, bus, aircraft, boat, motorcycle, power sport equipment, or other motorized equipment or machine which is disassembled or wrecked in part or in whole or is unable to move under its own power."
5. All exterior lighting fixtures shall be shielded so as not to illuminate into adjoining properties.
6. Asphalt pavement conforming to Article 15 of the Regulations shall be installed as shown on the site plan within 12 months of approval of the amended CUP.
7. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
8. 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.
9. If at any time the use ceases to exist, or changes ownership, the owner shall notify Lincoln County Planning and Zoning.

Staff Recommendation: Staff recommends that the Planning Commission either amend Conditional Use Permit 15-CUP-019 by removing Conditions #3 and #4 or revoke Conditional Use Permit 15-CUP-019.

Public Comment:

Toby Brown presented the staff analysis, and noted we have told the applicant multiple times to complete the fences and moved everything behind the fence, which was never completed. Toby also mentioned that Pashby had called the office and recommended giving the applicant another 60 days. Albers asked why this should drag out any longer.

Doug Tinklenberg noted he has been out of the area a lot lately and agrees the site has gotten out of hand, but that he would appreciate 60 more days. Monty noted it might be time for a new location since it looks worse than before. Namminga noted that he's had 3 years to clean it up.

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

Discussion & Action:

Namminga motioned to revoke permit 15-CUP-019, and was seconded by Klatt. Klatt noted that this seems like a chronic issue. The motion passed unanimously (5-0).

Conditional Use 15-CUP-019 – Revoked

- e. CONDITIONAL USE PERMIT REVIEW / 07-CUP-053: Request for review of an existing Conditional Use Permit allowing a motor vehicle repair shop. The property is legally described as Lot 8 Verhey Addition in the South half (S1/2) of Government Lots 1 and 2 in the Southwest quarter (SW1/4) of Section 31, Township 100 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Brian Yock/Allen & Kathy Rippentrop Location: 27285 Verhey Place, Ste 2 - Tea

Staff Analysis – Prior Action:

The Planning Commission approved Conditional Use Permit 07-CUP-053, allowing for the establishment of an automotive repair shop, on October 15, 2007, subject to eight (8) conditions of approval.

1. Commercial grade materials for outside storage.
2. All vehicles should have current plates and work orders.
3. Appropriate fencing should be utilized on the west side of lot to provide buffer.
4. Green area between road and parking to be developed with trees and shrubs recommended by Lincoln County Conservation District. Approved site plan submitted to Planning & Zoning Office within 15 days of CUP approval.
5. Letter from Sayre that site meets designed drainage plans.
6. Owner tasked with maintaining up keep of system.
7. Site plan approval
8. Review in six months.

The conditional use was subject to a review on April 16, 2018 – staff recommended to amend. On April 16, 2018, the Planning Commission amended Conditional Use Permit 07-CUP-053 with the following conditions:

1. That Conditional Use Permit 07-053 shall allow a motor vehicle repair shop.
2. The approved use shall comply with all applicable local, state, and federal, laws, rules, regulations and ordinances.
3. Buildings and vehicle storage areas shall meet the setback requirements of the zoning district.
4. There shall be no hazardous waste runoff. Storage of hazardous waste shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
5. Only vehicles owned by employees or customers awaiting service are allowed to be parked on site. Parking shall meet the requirements of Article 15, Parking and Loading Regulations, of the 2009 Revised Zoning Ordinance for Lincoln County.
6. All areas used for storage or trash disposal shall be fully screened from adjacent land uses and public roadways.
7. The outdoor storage of hazardous materials shall be prohibited.
8. The grounds and all structures shall be maintained in a clean and safe manner.
9. The outdoor storage of motor vehicle parts is prohibited, unless the vehicle parts are stored in a fully screened area. Vehicle parts shall not be stored for a period longer than ninety (90) days in the screened area.
10. All exterior lighting fixtures shall be hooded or controlled in some manner so as not to light adjacent property.
11. The applicant shall not deposit any snow or improperly direct water onto neighboring properties so as to constitute a nuisance.
12. The Lincoln County Planning and Zoning 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.
13. If at any time the use ceases to exist, or changes ownership, the owner shall notify the Lincoln County Planning and Zoning Department.
14. Vehicles stored in the front of the building shall be removed within 30 days.

Staff Recommendation: Staff recommends that the Planning Commission either amend Conditional Use Permit 07-CUP-053 by removing Conditions #8 and #9 or revoke Conditional Use Permit 07-CUP-053.

Public Comment:

Toby Brown presented the staff report, noted the front of the property had improved, but would like to clarify condition #14 and amend condition #9 since the time constraint would probably be impossible for the applicant.

Brian Yock, that applicant, presented photos of the progress he has made in the rear of the property. Monty noted concern that his operation is actually a salvage yard. Brian noted he has been selling items online, and have not brought in any new inventory in the last few months

Allen Rippentrop, the owner, also commented on the progress that Brian has shown, and asked for clarification on what needs to be cleaned up. Derausseau noted that all items need to be screened from view.

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

Toby presented new amendments as follows: remove the second sentence of #9 and replace #14 with a permit review in one year.

Discussion & Action:

Klatt motioned to amend permit 07-CUP-053 with the recommended amended conditions and was seconded by Namminga. There was no discussion. The motion passed unanimously (5-0).

Conditional Use 07-CUP-053 – Amended

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

6. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA

- a. Correspondence received. Toby noted the correspondence received was sent with the packet.
- b. Comments from Planning Commission members. Derausseau noted he saw Schmidt and Albers at the Hoogestraat open house.
- c. Comments from the audience – Tony Ventura presented numerous requests for CAFO requirements including refrigeration units for mortality storage, quarterly inspections, contact information signs, and biofilters.

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

8. NEW BUSINESS

- a. Setting public hearing dates –
Toby asked the commission members if they would like to set public hearing dates to review the following conditional use permits: 14- CUP-013 and 16-CUP-013. The members agreed to review the permits at the October 15, 2018 meeting.
- b. Other new business - none

9. ADJOURNMENT

Albers motioned to adjourn at 9:15pm, and was seconded by Sogn. Motion passed unanimously (5-0).

Respectfully submitted,
Joan Doss
Planner