



**LINCOLN COUNTY PLANNING COMMISSION
LINCOLN COUNTY COURTHOUSE – COMMISSION MEETING ROOM
104 N. Main Street, Canton, South Dakota**

**AGENDA
Tuesday January 21, 2020
6:30 P.M.**

1. CALL TO ORDER AND ROLL CALL

2. **APPROVAL OF MINUTES** – December 16, 2019 Regular Meeting

3. APPROVAL OF AGENDA

4. OPPORTUNITY FOR PUBLIC COMMENT NOT INVOLVING ITEMS ON THE AGENDA

5. PUBLIC HEARINGS –

a. CONDITIONAL USE PERMIT / USE-0088-2019: Application for a Conditional Use Permit to place a manufactured home. The property is legally described as the South 346.5' of the North 1737.5' of the West 462' of the Northwest quarter (NW1/4) of Section 24, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: David Rippentrop

Location: 27632 469th Ave - Lennox

b. CONDITIONAL USE PERMIT / USE-0094-2019: Application for a Conditional Use Permit to allow an electrical substation. The property is legally described as Tract 1 and Tract 2 of Johnson's Addition in the Northwest quarter (NW1/4) and the West 523' of the North 124' of the West half of the Northeast quarter (W1/2NE1/4) of Section 17, Township 99 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: East River Electric Power Coop Inc./Dakota Access LLC

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

c. CONDITIONAL USE PERMIT / USE-0092-2019: Application for a Conditional Use Permit to allow an adult oriented business. The property is legally described as Lot 1 of Block 3 of Kerslake 2nd Addition, in the South half (S1/2) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Willhelm Bowers/Red Roof Rentals LLC

Location: 27062 Katie Road, Unit E - Tea

6. OLD BUSINESS

a. LINCOLN COUNTY TAX INCREMENT DISTRICT #9: Review and recommendation of a Resolution and Project Plan on behalf of the City of Lennox for the development of affordable workforce housing

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

a. Correspondence received.

b. Comments from Planning Commission members.

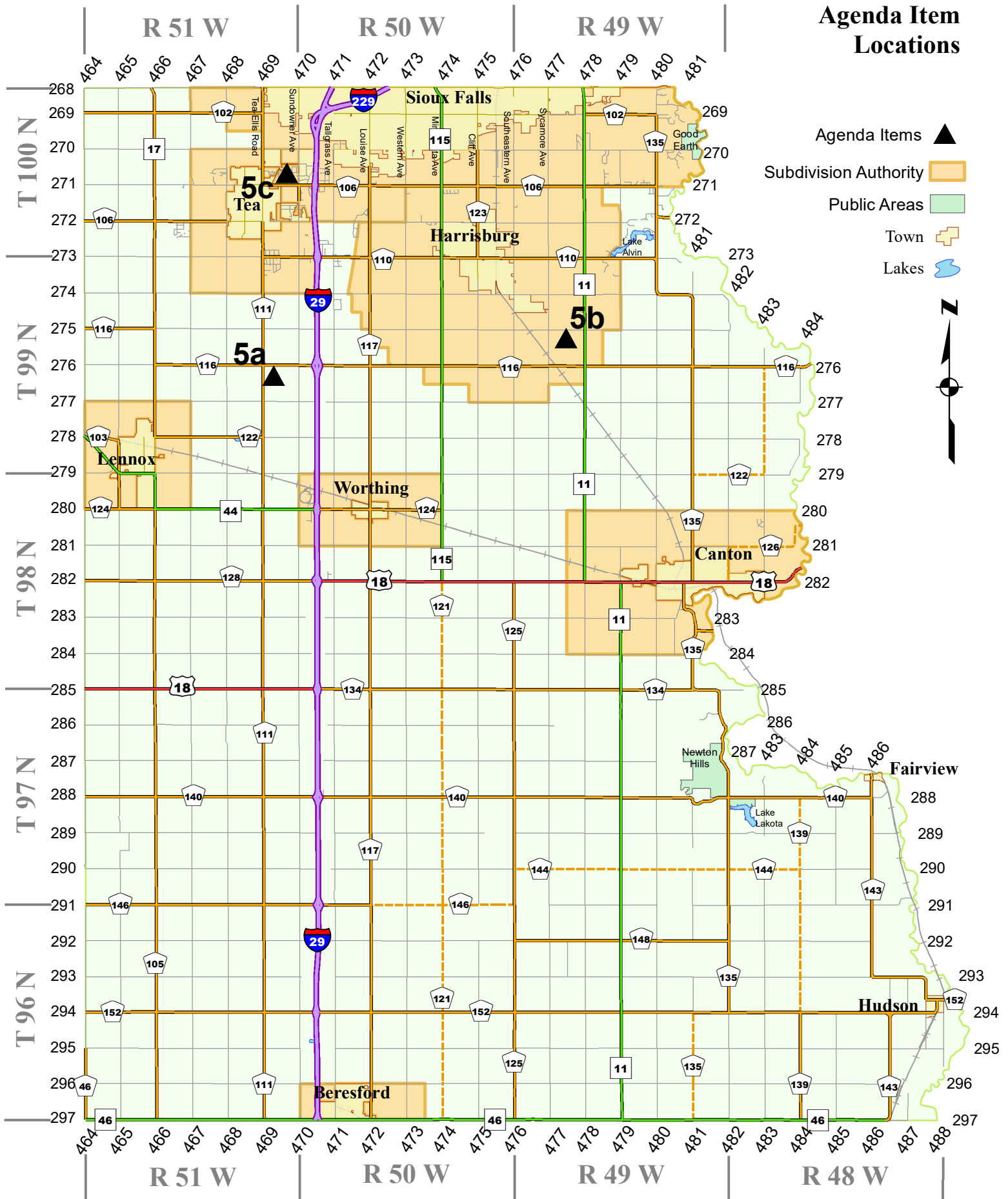
8. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION

9. NEW BUSINESS

a. Setting public hearing dates.

b. Other new business.

10. ADJOURNMENT



MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

December 16, 2019

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Erik Scott, Tyler Klatt, Jerry Jongeling, Monty Derosseau, Gary Pashby, Tiffani Landeen, and Stacey Clay Namminga

STAFF PRESENT: Toby Brown & Joan Doss - County Planning

PUBLIC PRESENT: Bret Merkle, Russ VanderPol, Nate Vander Plaats, and Chad Conaway

1. WORK SESSION WITH LINCOLN COUNTY BOARD OF COMMISSIONERS

Staff presented an overview of permits approved in 2019 and discussed a work plan for 2020 which listed projects and ordinance amendments to be completed in the coming year.

2. CALL TO ORDER AND ROLL CALL

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

3. APPROVAL OF NOVEMBER 18, 2019 MINUTES

Pashby motioned to approve the minutes and was seconded by Jongeling, with a correction to the meeting date. The motion passed unanimously (7-0).

4. APPROVAL OF AGENDA

Landeen motioned to approve the agenda by removing items 6a, 6b, and 7a. The motion was seconded by Pashby. The motion passed unanimously (7-0).

5. OPPORTUNITY FOR PUBLIC COMMENT NOT INVOLVING ITEMS ON THE AGENDA

Nick Vander Plaats was available for questions about the TIF plan for Lennox.

Chad Conaway noted that the Lennox School District was supportive of the TIF plan.

6. PUBLIC HEARINGS

- a. Removed from agenda.
- b. Removed from agenda.
- c. CONDITIONAL USE PERMIT / USE-0084-2019: Application for a Conditional Use Permit to transfer two (2) building eligibilities. The original parcel is described as the South 208.71' of the West 208.71' of the Southeast quarter (SE1/4) of Section 16, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota. The receiving parcel is described as the North half of the North half of the Northwest quarter (N1/2N1/2NW1/4) of Section 21, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.
Applicant/Owner: Bret Merkle/Pente Farms LLC
Location: Southeast corner of the intersection of 276th Street and 472nd Avenue – Harrisburg

Staff Presentation:

Toby presented the application and noted the county highway department is working with the applicant regarding driveways for the eligibility sites. He concluded with a list of recommended conditions as follows:

1. The conditional use permit transfers two housing eligibilities to N1/2N1/2NW1/4 of Section 21, T99N, R50W.
2. Individual lots shall be platted prior to use of the second and third building eligibility.

Public Comment:

Bret Merkle provided a drawing of the site to the commission members, and noted he plans on building the homes on the high points of the land and would expand the low-laying areas into detention ponds.

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

Discussion & Action:

Pashby motioned to approve with conditions as recommended and was seconded by Klatt. The motion passed unanimously (7-0)

- d. CONDITIONAL USE PERMIT / USE-0087-2019: Application for a Conditional Use Permit to allow an accessory building to exceed 1,500 square feet – requesting a total of 4,312 square feet on the premise. The property is legally described as Tract 1 of Hagedorn's Addition, in the Northwest quarter of the

Northwest quarter (NW1/4NW1/4) of Section 8, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Applicant/Owner: Russell Vanderpol

Location: 47111 274th Street – Harrisburg.

Presentation:

Toby presented the application and read two letters received from Richard Smidt that noted concerns about commercial activity, traffic, and drainage issues. He concluded with a list of recommended conditions as follows:

1. The project (1,800 sq. ft. accessory building) is substantially developed in accordance with **Exhibit A** or as modified by the Planning Commission.
2. The Conditional Use Permit shall be valid for a period of two (2) years from this date and if not commenced shall expire on **December 24, 2021**. Prior to said expiration date, the applicant may apply for an extension of time, provided this approval shall not be extended beyond **December 24, 2022**.
3. A building permit must be issued prior to commencement of construction of the proposed accessory building.

Public Comment:

Russ VanderPol noted that the building would be used for his kid's cars and other personal storage. He noted that he stores some work vehicles on site in the winter, but does not operate his business from his home.

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

Discussion & Action:

Namminga motioned to approve with the findings and conditions as recommended. The motion was seconded by Landeen, and passed unanimously (7-0).

7. OLD BUSINESS

- a. Removed from agenda

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

- a. Correspondence received. – Correspondence was given to members at the beginning of the meeting.
- b. Comments from Planning Commission members. – None.

9. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION –

Landeen invited the Planning Commission members to the meeting on January 14th where representatives will answer questions about the Lennox TIF plan.

10. NEW BUSINESS

- a. Setting public hearing dates. No permit review hearings set for next month
- b. Review Section 15.04 Minimum Improvement and Maintenance Standards. Toby presented a draft of changes to Section 15.04, and consensus was to move forward with the draft of changes. A public hearing will be scheduled for the next meeting.
- c. Other new business - none.

11. ADJOURNMENT

Landeen motioned to adjourn at 7:15pm and was seconded by Namminga. Motion passed unanimously (7-0).

Respectfully submitted,
Joan Doss
Planner



***Planning and Zoning Department Staff Report
Planning Commission Meeting January 21, 2020***

Application #: USE-0088-2019 (Conditional Use Permit)

Owner/Applicant: David Rippentrop

Parcel #: 099.51.24.2030

Site Address: 27632 469th Ave - Lennox (See Attachment 1)

Legal Description: South 346.5' of the North 1737.5' of the West 462' of the Northwest quarter (NW1/4) of Section 24, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Land Area: 3.68 Acres

Existing Zoning: A-1 Agricultural

Existing Land Use: Single Family home, and agricultural buildings

Request:

The applicant requests the approval of a Conditional Use Permit to place a manufactured home on the property. The proposed manufactured home would replace the current stick-built home on the property.

Pursuant to the County's Zoning Ordinance, manufactured homes are allowed if there is a building eligibility available and if a conditional use has been obtained.

Evaluation:

Section 19.09 of the County's Zoning Ordinance requires that three findings be made prior to the approval of a Conditional Use Permit. The required findings are listed below in ***bold italics*** and are followed by an evaluation.

- 1. 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 land use designation of the subject property is A-1 Agricultural District. The Comprehensive Plan includes the goal to provide a choice of living environments for county residents. The Comprehensive Plan also relies on the Development Standards contained in the Zoning Ordinance to regulate the placement of manufactured housing within the county. The project is consistent with the Development Standards located in the Zoning Ordinance and is therefore consistent with the Comprehensive Plan.

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

Manufactured homes are permitted, provided they meet the development standards of the zone. The table below includes the applicable Development Standards of within the A-1 Agricultural zoning district. As shown in Table 1 below, the proposed manufactured home complies with the pertinent development standards.

Table 1: Applicable Development Standards

Criteria	A-1 Zoning District or Specific Use Standard	Proposed Manufactured Home
Front Yard Setback	50'	Exceeds – 255'
North Side Setback	7'	Exceeds – 120'
South Side Setback	7'	Exceeds – 200'
Rear Yard Setback	30'	Exceeds – 107'
Structure Height	35'	Meets – single story
Exterior Dimensions	No less than 22'	Meets – 27' x 52'

3. *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.*

The subject property is 3.68 acres, with sufficient room for the proposed manufactured home to conform to the outlined standards in the zoning ordinance. Staff has reviewed the proposed location, size, design, and operating characteristics of the structure and concludes the manufactured home is compatible with the character of the property and the neighborhood. Furthermore, staff has not identified any detrimental effects of this project upon the public health, safety, and welfare; or upon property or improvements in the vicinity of the project site.

Public Notification:

In accordance with Section 19.05(A) of the Zoning Ordinance, a public notice of the Planning Commission hearing was distributed to all property owners within 500 feet of the project site and a sign was posted on the property.

Other Agencies and Permitting:

The property owner will be required to apply for a building permit prior to placement of the manufactured home.

Conclusion:

As proposed and conditioned, the project complies with the Lincoln County Comprehensive Plan and the Zoning Ordinance. The project is consistent with the development standards of the A-1 zoning district, as well as with the findings for approval of a Conditional Use Permit.

Recommendation:

The Planning and Zoning Department recommends the Planning Commission adopt the three (3) findings of fact as stated in the evaluation of the staff report and approve the **Conditional Use Permit – USE-0088-2019** subject to four (4) conditions of approval:

1. The project (a manufactured home) is substantially developed in accordance with **Exhibit A** or as modified by the Planning Commission.
2. The Conditional Use Permit shall be valid for a period of two (2) years from this date and if not commenced shall expire on **January 29, 2022**. Prior to said expiration date, the applicant may apply for an extension of time, provided this approval shall not be extended beyond **January 29, 2023**.
3. A building permit must be issued prior to the commencement of construction.
4. The existing home shall be removed from the property or shall not be used as habitable space once the manufactured home is complete.

Attachments

1. Vicinity Map

Exhibits

- A. Site Plan

Note to Applicant and/or Developer: Please contact the Planning and Zoning Department staff at (605) 764-2938 prior to the Planning Commission meeting if you have any questions on any of the recommended conditions for your project.



Planning and Zoning Department Staff Report
Planning Commission Meeting January 21, 2020

Application #: USE-0092-2019 (Conditional Use Permit)

Owner: Red Roof Rentals LLC

Applicant: Wilhelm Keen Bowers

Parcel #: 100.50.64.H301

Site Address: 27062 Katie Road – Tea (See Attachment 1)

Legal Description: Lot 1 in Block 3 of Kerslake 2nd Addition in the South half (S1/2) of Section 24, Township 100 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Land Area: 1.012 Acres

Existing Zoning: C Commercial

Existing Land Use: Warehousing, contractor’s shop (multi-unit)

Request:

The applicant requests the approval of a Conditional Use Permit to operate an adult oriented business in Unit E on the subject property. Unit E of the structure most recently housed a printing business that was approved as a conditional use permit in 2012. The application included no detailed information on proposed building modifications. Pursuant to the County’s Zoning Ordinance, an adult oriented business in the C Commercial District requires the approval of a Conditional Use Permit.

Evaluation:

Section 19.09 of the County’s Zoning Ordinance requires that three findings be made prior to the approval of a Conditional Use Permit. The required findings are listed below in ***bold italics*** and are followed by an evaluation.

- 1. 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 land use designation of the subject property is C Commercial District. The Comprehensive Plan does not contain any policies specifically related to the location and size of adult oriented businesses. Instead, the Comprehensive Plan relies on the Development Standards contained in the Zoning Ordinance to regulate the placement of an adult oriented business. The Zoning Ordinance does not contain specific location standards for an adult oriented business, rather these regulations are found in South Dakota Codified Law (SDCL). The proposed project is not consistent with the location standards found in SDCL 11-12-2 and is therefore not consistent with the Comprehensive Plan.

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

Adult oriented businesses are permitted, provided they meet the development standards of the zone. The table below includes the applicable Development Standards of adult oriented businesses. As shown in Table 1 below, the proposed adult oriented business does not comply with the adult oriented business development standards.

Table 1: Applicable Adult Oriented Business Development Standards

Criteria	C Zoning District Standard	Proposed Adult Oriented Business
Front Yard Setback	30'	Katie Road – 70+ feet; W. Industrial Street – 50+ feet
Side Setback	10'	14+ feet
Rear Yard Setback	20'	29+ feet
Height	35'	16 feet (sidewalls)
Location (SDCL 11-12-2)	1,320' (child welfare agency, private or public school, public playground, public recreational facility, residence, place of worship)	Does not meet - less than 1,320' from a residence (27076 469 th Avenue)

3. *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.*

The subject property is just over 1 acre, with an 11,200 square foot structure. The structure was originally constructed in 2003 as a 4,000 square foot structure and in 2012 a 7,200 square foot addition was attached to the east. The 2012 addition was constructed with five overhead doors of which Unit E is located. The structure is currently utilized for a plumbing shop and contractor's shops.

The property directly to the north (27058 Katie Road) is utilized for warehousing (mini-storage). The property directly to the east (27067 Kerslake Place) is utilized for warehousing and light manufacturing. The property directly to the west is utilized for warehousing (mini-storage) and contractor's shops. The property directly to the south is utilized for contractor's shops and a car lot.

Staff has reviewed the proposed location, size, design, and operating characteristics of the structure and concludes the adult oriented business is not compatible with the character of the property and the neighborhood due to the setback from a residence.

Public Notification:

In accordance with Section 19.05(A) of the Zoning Ordinance, a public notice of the Planning Commission hearing was distributed to all property owners within 500 feet of the project site and a sign was posted on the property.

Other Agency:

No additional concerns were noted.

Conclusion:

As proposed, the project does not comply with the Lincoln County Comprehensive Plan and the Zoning Ordinance. The project is not consistent with the development standards, specifically SDCL 11-12-2, of the C Commercial zoning district, as detailed in the findings for approval of a Conditional Use Permit.

Recommendation:

The Planning and Zoning Department recommends the Planning Commission adopt the three (3) findings of fact as stated in the evaluation of the staff report and not approve the **Conditional Use Permit – USE-0092-2019**.

Attachments

1. Vicinity Map

Exhibits

- A. Site Plan

Note to Applicant and/or Developer: Please contact the Planning and Zoning Department staff at (605) 764-2938 prior to the Planning Commission meeting if you have any questions on any of the recommended conditions for your project.



**Planning and Zoning Department Staff Report
Planning Commission Meeting January 21, 2020**

Application #: USE-0094-2019 (Conditional Use Permit)

Owner: Dakota Access LLC

Applicant: East River Electric Power Coop, Inc.

Parcel #: 099.49.17.1020

Site Address: Approximately ½ mile west of SD Hwy 11 and 275th St intersection – Harrisburg (See Attachment 1)

Legal Description: Tract 1 and Tract 2 of Johnson’s Addition in the Northwest quarter (NW1/4) and the West 523’ of the North 124’ of the West half of the Northeast quarter (W1/2NE1/4) of Section 17, Township 99 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

Land Area: 24 Acres

Existing Zoning: A-1 Agricultural

Existing Land Use: Future pipeline pumping station, Agricultural

Request:

The applicant requests the approval of a Conditional Use Permit to construct and operate an electrical substation. Pursuant to the County’s Zoning Ordinance, electrical substations in the A-1 Agricultural District requires the approval of a Conditional Use Permit.

Evaluation:

Section 19.09 of the County’s Zoning Ordinance requires that three findings be made prior to the approval of a Conditional Use Permit. The required findings are listed below in ***bold italics*** and are followed by an evaluation.

- 1. 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 land use designation of the subject property is A-1 Agricultural District. The Comprehensive Plan does not contain any policies specifically related to the location and size of electrical substations. Instead, the Comprehensive Plan relies on the Development Standards contained in the Zoning Ordinance to regulate the placement of electrical substations. The project is consistent with the Development Standards located in the Zoning Ordinance and is therefore consistent with the Comprehensive Plan.

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

Electrical substations are permitted, provided they meet the development standards of the zone. The table below includes the applicable Development Standards of electrical substations. As shown in Table 1 below, the proposed electrical substation complies with the applicable development standards.

Table 1: Applicable Electrical Substation Development Standards

Criteria	RR Zoning District Standard	Proposed Electrical Substation
Front Yard Setback	50’	300+ feet
Side Yard Setback	7’	200+ feet on west property; 40+ feet on east property
Rear Yard Setback	30’	50+ feet on west property; 40+ feet on east property

3. *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.*

The subject property is approximately 24 acres, with ample room on the property to accommodate the electrical substation. The site will also accommodate a previously approved public utility facility (Dakota Access Pipeline, LLC Pumping Station).

The closest rural residence to the site is approximately 2,000 feet southwest and the corporate limits of the City of Harrisburg are approximately 3,500 feet northwest of the proposed pumping station. Several additional rural residences are generally located more than 2,500 feet away. The surrounding area is primarily utilized for agriculture uses.

Staff has reviewed the proposed location, size, design, and operating characteristics of the electrical substation and concludes the electrical substation is compatible with the character of the property and the neighborhood. Furthermore, Staff has not identified any detrimental effects of this project upon the public health, safety, and welfare; or upon property or improvements in the vicinity of the project site.

Public Notification:

In accordance with Section 19.05(A) of the Zoning Ordinance, a public notice of the Planning Commission hearing was distributed to all property owners within 500 feet of the project site and a sign was posted on the property.

Other Agency:

The proposed project is located within a flood risk area. The applicant will need to make application to the Lincoln County Floodplain Administrator and receive project approval prior to the issuance of a building permit.

Conclusion:

As proposed and conditioned, the project complies with the Lincoln County Comprehensive Plan and the Zoning Ordinance. The project is consistent with the development standards of the A-1 zoning district, as well as with the findings for approval of a Conditional Use Permit.

Recommendation:

The Planning and Zoning Department recommends the Planning Commission adopt the three (3) findings of fact as stated in the evaluation of the staff report and approve the **Conditional Use Permit – USE-0087-2019** subject to nine (9) conditions of approval:

1. The project (electrical substation) is substantially developed in accordance with **Exhibit A** or as modified by the Planning Commission.
2. The Conditional Use Permit shall be valid for a period of two (2) years from this date and if not commenced shall expire on **January 29, 2022**. Prior to said expiration date, the applicant may apply for an extension of time, provided this approval shall not be extended beyond **January 29, 2023**.
3. A building permit must be issued prior to commencement of construction of the proposed electrical substation.
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. All buildings shall be painted in earth tones.
6. Exterior lighting shall be down-shrouded.
7. The permittee shall not deposit any snow or water onto neighboring properties and dispose of stormwater onsite through an approved engineering method.
8. The permittee shall follow all federal, state and local laws pertaining to this project.
9. The conditional use permit will be reviewed one year after the start of operation.

Attachments

1. Vicinity Map

Exhibits

- A. Site Plan

Note to Applicant and/or Developer: Please contact the Planning and Zoning Department staff at (605) 764-2938 prior to the Planning Commission meeting if you have any questions on any of the recommended conditions for your project.