

MINUTES
LINCOLN COUNTY PLANNING AND ZONING COMMISSION
August 15, 2011

7:00 p.m. Regular Meeting, Commission Room
Lincoln County Courthouse

ROLL CALL The regular meeting of the Lincoln County Planning and Zoning Commission was brought to order on August 15, 2011 at 7:00 p.m. by Chairman Craig Andersen with members June Nusz, Chad Nelson, Darrel Sogn, Ron Larson, Ron Albers and County Commissioner Dave Gillespie in attendance at the Lincoln County Courthouse, Commissioner's Meeting Room, 104 N Main, Canton, SD 57013.

Staff members present were Paul Aslesen-Director Planning and Zoning, Laurie Lundquist-Deputy Director

ITEM 1. APPROVAL OF AGENDA – A motion was made by Nusz and seconded by Larson to approve the agenda of August 15, 2011 with some administrative changes to set hearing dates. Motion was unanimous.

ITEM 2. APPROVAL OF MINUTES – A motion was made by Gillespie and seconded by Sogn to approve the minutes of July 22, 2011 as written. Motion was unanimous.

ITEM 3. REVIEW HEARING for CONDITIONAL USE PERMIT 06-CUP-018 Hearing scheduled for 7:30 pm. For the purpose of addressing allegations concerning noncompliance with any terms, conditions or requirements placed on Conditional Use Permit approved on March 20th, 2006.

Legal Description: W500' of the S1/2 of the SW1/4 except Lot H-1 & 2 and part sold in Section 4, Township 98, Range 51, Lincoln County, South Dakota
Location: 27980 SD Highway 17, Lennox, SD
Petitioner/Owner: Lynn Eining

General Information

Present Zoning: Agriculture
Existing Land Use: Agriculture
Parcel Size: 13.61 Acres

Presented by: Paul Aslesen presented the allegations and pictures showing non-compliance with the stipulations of the conditional use permit.

Mr. Eining spoke to the allegations and stated that he had been working on cleaning up the property and had made substantial progress.

Richard Schriever- Planning for the City of Lennox spoke as a proponent of the activity on the property. The Eining property lies within the growth area of the City of Lennox. He stated that the City of Lennox is working on a new Comprehensive plan and the business activity conducted on the property would fit in with that plan.

Following public comment Paul issued a recommendation to rezone to commercial. Meeting was closed to public comment at 7:50 pm.

Action:

Following discussion and questions by the Board a motion was made by Nusz that Mr. Einings business activity shall be in compliance with his Conditional Use Permit within one month of this hearing and he will apply within one (1) year to rezone to Commercial district in order to be in compliance with City of Lennox growth plan. The motion was seconded by Gillespie. The motion was unanimous.

ITEM 4. CONDITIONAL USE PERMIT 11-CUP-017 For the purpose of a Class 1 Home Occupancy, disc jockey, photography, entertainment business.

Legal Description: Allen Tract 1 North half Northeast quarter (N1/2NE1/4), Section 27, Township 100, Range 50'
Location: 27119 SD Hwy 115, Harrisburg, South Dakota
Petitioner/Owner: Garner Hansen

General Information

Present Zoning: A-1 Agriculture
Existing Land Use: Residential
Parcel Size: 6 Acre

Report By: Paul Aslesen

Applicant wants to operate a service oriented business involving the providing of disc jockey and photography to clients located outside his home of record. Applicant was advised by Planning and Zoning staff to apply for a Home Occupancy. Applicant is aware of the stipulations as indicated on page 52 of the Lincoln County Zoning Ordinance and as part of the staff recommendation.

Staff Analysis:

- 1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**
No adverse effect is anticipated with the imposed stipulations listed within the Class 1, Major Home Occupation identified on page 52 of the Lincoln County Zoning Ordinance.

- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
The property will retain its rural residential qualities and should not have an adverse effect on surrounding properties. Uses predominant in the area include commercial uses such as a metal recycling business, light manufacturing, residential subdivision and agriculture. Imposed stipulations for a Class 1 Major Home Occupation will provide guidelines for the conduct of the applied for use.

- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
No new utilities, roads and or other infrastructure needs are required.

- 4. That the off-street parking and loading requirements are met.**
Parcel size is large enough to accommodate the parking and loading requirements, if any, of this use. The applicant must follow the guidelines of the Class 1 in regards to parking and loading.

- 5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**
The factors listed should not be present in this type of business. Applicant needs to comply with the Class 1 stipulations as listed in the staff recommendations.

Recommendation:

Staff recognizes this request as a request for a Major Home Occupation and further identifies the use as a Class one. The following stipulations are required to permit this classification:

Class 1:

1. The occupation shall be conducted entirely within a dwelling and/or accessory building and clearly incidental to the use of the structure for residential purposes.
2. The occupation shall be operated by a member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.

4. In addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.
5. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
6. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
7. No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
8. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
9. The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. There shall be only limited and incidental sale of products conducted on the premise.
11. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

Action: A motion was made by Nelson to table Conditional Use Permit 11-CUP-017 until September 19, 2011 because the petitioner was not present. The motion was seconded by Albers. Motion was unanimous.

ITEM 5. CONDITIONAL USE PERMIT 11-CUP-018 For the purpose of a Class 1 Home Occupancy painting and landscaping business.

Legal Description: Tracts 1 & 2 Flemings Addition in the North one Half of the Northwest Quarter (N1/2NW1/4) Section 32, Township 100, Range 50 in Lincoln County, South Dakota

Location: 27212 471st Ave, Harrisburg, SD 57032

Petitioner/Owner: Peter Gladush

General Information

Present Zoning: Agriculture

Existing Land Use: Residential

Parcel Size: 7.17 and 3.05 Acres

Report By: Paul Aslesen

Staff Analysis:

This site is located in an agricultural area that has a low density residential use. Staff has determined that the petitioned use may be authorized by classifying the use as a Major Home Occupation with conditions as per Article 12.0302. Staff investigation has also determined that other businesses occupy abutting parcels.

1. **The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**
See recommendations.
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
See recommendations.
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**

See recommendations.

4. That the off-street parking and loading requirements are met.

See recommendations.

5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

See recommendations.

Recommendation:

Staff recommends approval with the stipulations listed below and compliance with the 2009 Lincoln County Zoning Ordinance.

Class 1:

1. The occupation shall be conducted entirely within a dwelling and/or accessory building and clearly incidental to the use of the structure for residential purposes.
2. The occupation shall be operated by a member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
4. In addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.
5. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
6. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
7. No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
8. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
9. The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. There shall be only limited and incidental sale of products conducted on the premise.
11. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

Action: A motion was made by Nusz to table Conditional Use Permit 11-CUP-018 because the petitioner was not present. The motion was seconded by Sogn. Motion was unanimous.

ITEM 6. CONDITIONAL USE PERMIT 11-CUP-019 For the purpose of constructing an accessory building over 1500 square feet (3072 sq. ft.)

Legal Description: Tract 1 & 2 Flemings Addition in the North one Half of the Northwest Quarter (N1/2NW1/4) Section 32, Township 100, Range 50 in Lincoln County, South Dakota

Location: 27212 471st Ave, Harrisburg, SD 57032

Petitioner/Owner: Peter Gladush

General Information

Present Zoning: Agriculture

Existing Land Use: Residential

Parcel Size: 7.17

Report By: Paul Aslesen

Staff Analysis:

Please reference Article 12.06 Accessory Buildings and Uses, pages 58 and 59 and also the provisions of Article 19, Conditional Use Permit, pages 95 and Specifically, Article 19.09 Conditional Use Criteria of the 2009 Lincoln County Zoning Ordinance. This site is located in a low density residential area.

- 1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**
It is not uncommon to see existing buildings of the size similar to the requested oversize structure. Presently abutting parcels have buildings in sizes ranging from 3456 sq. 'to single wide garages of under 500 sq. '.
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
No negative effect is anticipated upon the remaining development of this area. Lot sizes are large enough to provide for oversize accessory buildings and not have a negative effect on drain field areas.
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
Facilities and utilities are provided. Access roads are available. Drainage must be monitored and not allowed on abutting properties or allowed to cross abutting intersections.
- 4. That the off-street parking and loading requirements are met.**
Parcel is large enough to accommodate authorized parking and loading.
- 5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**
Approval of the building size is relevant to this application and not the use.

Recommendation:

Staff recommends approval of the petitioned use. Applicant is reminded to secure a building permit prior to construction of the building, if approval is given.

Action: A motion was made by Nusz to table Conditional Use Permit 11-CUP-019 because the petitioner was not present. The motion was seconded by Sogn. Motion was unanimous.

ITEM 7. CONDITIONAL USE PERMIT 11-CUP-020 For the purpose of operating an auto repair and sales business.

Legal Description: Lot 15, Block 3, Hagedorn Industrial Park Southeast Quarter (SE1/4) of Section 25, Township 100, Range 51 in Lincoln County, South Dakota

Location: 46951 Mindy St, Tea, SD

Petitioner/Owner: Donald Voorhees

General Information

Present Zoning: I-1, Light Industrial

Existing Land Use: I-1 Light Industrial/Commercial

Parcel Size: 1 Acre

Report By: Paul Aslesen

Staff Analysis:

Please reference page 19 of the 2009 Lincoln County Zoning Ordinance. Specifically item 7.04 E. Conditional Uses and page 16 which lists the conditional use of the Commercial District. Applicant requests auto repair and sales which is defined by item D Motor vehicle sales, display, service and rental.

- 1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**
The applied for use should not have a negative effect on other properties uses and value as the subdivision has numerous businesses of a like nature to include car lots, light manufacturing, auto body shops and various commercial service business.

- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
The development continues to grow with new businesses and has been managed in an orderly fashion. The applied for use should not have a negative effect on development or improvement.

- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
The development has been engineered and is in the City of Tea's growth area. The applied for parcel
Will utilize the existing infrastructure, adhere to the engineered drainage plans and will utilize holding tanks prior to main sewer lines being put in.

- 4. That the off-street parking and loading requirements are met.**
Applicant will provide site plan (currently being engineered) which will indicate required parking and loading. Parcel size will accommodate the building and with management the parking and loading requirements can be accomplished.

- 5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**
No nuisance issues are anticipated.

Recommendation:

Staff recommends approval with the following stipulation(s): 1. Outside storage of non-end items is discouraged and must be secured. 2. Displayed vehicles must be operable, and not for sale as salvage or parts.

Action: A motion was made by Larson to approve Conditional Use Permit 11-CUP-020 contingent upon the approval of plans submitted to City of Tea and staff recommended stipulations listed above. The motion was seconded by Albers. Motion was unanimous.

ITEM 8. CONDITIONAL USE PERMIT 11-CUP-021 For the purpose of constructing an accessory building over 1500 sq. ft. (3072 sq. ft.)

Legal Description: Lot 1 Meadow Ridge 2nd Addition in the Northeast Quarter (NE1/4) of Section 4, Township 99, Range 49, Lincoln County, South Dakota

Location: 27327 479th Ave, Harrisburg, SD

Petitioner/Owner: Leonard & Gail Iwinski

General Information

Present Zoning: Agriculture

Existing Land Use: Agriculture

Parcel Size: 10.6 Acres

Report By: Paul Aslesen

Staff Analysis:

Please reference Article 12.06 Accessory Buildings and Uses located on pages 58 and 59. Reference the provisions of Article 19 Conditional Use Permit on page 95 and specifically Article 19.09 Conditional Use Criteria of the 2009 Lincoln County Zoning Ordinance. The site is located in a low density area.

1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

It is not uncommon to see requests for structures of the size greater than authorized when the parcel size is of this nature. Staff has not received any comments from abutting property owners at the time of publication but has been assured by the applicant that there would not be any objections to the application. The parcel size is adequate for the applied for structure and the use is for the enjoyment of applicant's raising and training horses as well as providing safe harbor for the livestock. Staff will advise commission of any reactions.

2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The effect of the structure should be minimal in nature. Abutting properties would be able to accommodate over size structures for like or similar reasons.

3. That utilities, access roads, drainage and/or other necessary facilities are provided.

Water, electricity are the responsibility of the applicant. Access road meets the requirements of the subdivision ordinance. Lot size gives the applicant plenty of room to control roof top drainage.

4. That the off-street parking and loading requirements are met.

Requirement is not applicable for this application.

5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

No nuisance issues are anticipated with good management techniques.

Recommendation:

Staff recommends approval as this structure will for all practical purposes be the main building and not the accessory building until the residence is built. Building will provide safe harbor for livestock.

Action:

A motion was made by Nusz to approve Conditional Use Permit 11-CUP-021; the motion was seconded by Larson. Motion was unanimous.

ITEM 9. CONDITIONAL USE PERMIT 11-CUP-022 For the purpose of wholesale and retail sales of industrial and construction supplies. Some of the products will contain hazardous materials. Parts will be sold and warehoused.

Legal Description: Lot 2, Block 5, Kerslake 2nd Addition in Section 24, Township 100, Range 51, Lincoln County, South Dakota

Location: 27091 Katie Rd, Tea, SD

Petitioner/Owner: Jamie Eide/Jason Klein

General Information

Present Zoning: Commercial

Existing Land Use: Commercial

Parcel Size: 1.25 Acres

Report By: Paul Aslesen

Staff Analysis:

Referencing Article 6.04 "Commercial" District on page 15. Applicant is representing a company that provides wholesale and retail trade to the building and industrial trades. Some of the product line has been classified as hazardous which requires a conditional use.

- 1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**
Applied for use will be utilizing a parcel with existing vacant structure. The use will provide a service to abutting property owners and the general public. Use should provide for a positive impact on property values and upon the use and the enjoyment of abutting property.
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
No negative effect is anticipated.
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
The above items are provided as this is a use to be conducted in an existing building on a developed lot.
- 4. That the off-street parking and loading requirements are met.**
Lot is large enough to provide for the requirements listed.
- 5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**
No nuisance generating activities are anticipated.

Recommendation:

Staff recommends approval with the following stipulations: 1. Any outside storage must be secured by an approved method. 2. Local emergency service provider must be notified of hazard material storage.

Action: A motion was made by Nelson and seconded by Sogn to approve Conditional Use Permit 11-CUP-022 with staff recommended stipulations listed above. The motion was unanimous.

ITEM 10. CONDITIONAL USE PERMIT 11-CUP-023 For the purpose of operating a 9,940 square foot auto parts warehouse and retail facility, including storage and mixing and distribution of oil, batteries, and paint; will have fenced outdoor storage area.

Legal Description: Lot 1C, Block 5, Kerslake 2nd Addition in the South half (S1/2) of Section 24, Township 100 N, Range 51 W, Lincoln County, South Dakota

Location: County Highway 106 and S Katie Road, Tea, SD

Petitioner/Owner: Cody Bozied on behalf of Naiem, Inc/Cody Bozied on behalf of Alcoba, LLC

General Information

Present Zoning: Commercial

Existing Land Use: Commercial

Parcel Size: 73,537 sq. ft.

Report By: Paul Aslesen

Staff Analysis:

Please reference the Commercial District on page 15 of the 2009 Lincoln County Ordinance. The applied for use needs a conditional use permit based on the need for outside storage and the possibility for storage of hazardous materials.

1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The applied for use will be located on a parcel within a development that has many in kind uses to include electrical and painting businesses along with storage rental uses. Other uses involve light manufacturing, lawn care, vehicle care facilities etc. This use will add to the development and provide a service to the abutting neighbors and the general public. Use should have a positive effect on abutting property uses and values.

2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

Development of this subdivision continues with the development of this lot and the applied for use. The parcel is in the City of Tea's growth area and is subject to Tea's rural subdivision ordinance. The development of this lot should provide positive improvement to the area.

3. That utilities, access roads, drainage and/or other necessary facilities are provided.

Development of the area provided existing roads and plans for main sewer lines from the City of Tea are available to enable appropriate placing of septic holding tank. Service utilities are available for applicant use.

4. That the off-street parking and loading requirements are met.

County requirements for parking and loading are addressed by the site plan. Off street loading and parking are identified.

5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

No nuisance issues are identified or are anticipated.

Recommendation:

Staff recommends approval contingent on the City of Tea's approval of the division of the lot by the pending plat and compliance with the City engineer's check list.

Action: A motion was made by Gillespie to approve Conditional Use Permit 11-CUP-023 with staff recommended approval contingent on the City of Tea's approval of the division of the lot by the pending plat and compliance with the City engineer's check list. The motion was seconded by Albers and motion was unanimous.

ADDITIONAL ITEMS:

1. A request for "Review Hearing" of Conditional Use Permits 05-CUP-39 and 05-CUP-041.

Action: A motion was made by Nelson and seconded by Albers to hold a "Review Hearing" concerning the listed Conditional Use permits. Date/Time set for regular meeting on September 19, 2011 at 7:30 PM.

A motion was made by Larson and seconded by Albers to adjourn the meeting. Motion was unanimous.

Respectfully submitted by:

Laurie Lundquist

Deputy Director

Lincoln County Planning & Zoning