

MINUTES
LINCOLN COUNTY PLANNING AND ZONING COMMISSION
August 17, 2009

7:00 pm Regular Meeting, Commission Room
Lincoln County Courthouse

The regular meeting of Lincoln County Planning and Zoning Commission was brought to order at 7:00 pm by Chairwomen June Nusz with members Darrel Sogn, Chuck Molstad, Dick Portz, Chad Nelson, Craig Andersen and County Commissioner Jason Melcher reporting for duty at the Lincoln County Courthouse, Commissioners Room, 104 N Main Street, Canton, SD 57013.

Staff members present were Paul Aslesen-Director Planning and Zoning, Laurie Powell-Deputy Director and Jon Peters-GIS.

ITEM 1. APPROVAL OF AGENDA –A motion was made by Sogn to approve the minutes of August 17, 2009 and the motion was seconded by Portz. The motion was unanimous.

ITEM 2. APPROVAL OF MINUTES – A motion was made by Molstad to approve the minutes of July 20, 2009. The motion was seconded by Andersen. The motion was unanimous.

A motion was made by Portz and seconded by Andersen to take the Public Hearing for Rezoning # 09-REZ-002 and Conditional Use Permit #09-CUP-016 off the table. The motion was unanimous

ITEM 3. Previously Tabled PUBLIC HEARING FOR REZONING #09-REZ-002-The purpose is a major amendment

to the Tom Sawyer Planned Development District **Date and Time 7:30 pm August 17, 2009**

Legal Description: Lots 1 & 2, Block 1, Tom Sawyer Addition NE1/4, Section 34, Township 100, Range 50 Lincoln County, South Dakota

Location: 47391 Tom Sawyer Trail, Harrisburg, SD 57032

Petitioner/Owner: Dakotaland Builders, Inc. Tom Sawyer Adventures, LLC/AJ Swanson, Attorney

General Information

Present Zoning: Planned Development

Existing Land Use: Commercial

Parcel Size: Lot 1 consists of 2.11 Acres; Lot 2 consists of 2.44 Acres

Reported by: Paul Aslesen

Recommendation:

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.

Major Amendment should not have a negative effect on current permitted uses or property values.

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

Major Amendment has been reviewed by City of Harrisburg and has been approved with

stipulations. (This development is within the growth area of Harrisburg, SD)

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

It is not anticipated that the Major Amendment will have any effect on the already approved infrastructure.

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

Vacant lots will be used to display equipment with little change to the off-street parking and loading requirements already approved for the development.

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 Major Amendment does not contain any provisions for the manufacture of any product. Some set up and detail work is anticipated along with repair and maintenance. No nuisances are anticipated.

Recommendation:

Staff recommends approval with the understanding that the uses generated by the Major Amendment

will be as stated as per the June 10, 2009 "Letter of Request" on file with the Planning Office. Staff also recommends that items 1 thru 6 as indicated by a letter to Lincoln County Planning dated June 19, 2009 be complied with. Staff suggests that a more definitive time frame be established in regard to the stipulations/conditions raised by the City of Harrisburg, SD.

Petitioners Testimony:

Council for the Petitioner, A.J. Swanson was present to update the Board on landscape plans and negotiations with abutting property owners Tony and Carol Vaca. Petitioner Mike Hoffman was appearing before the Harrisburg City Council for consideration of his landscape proposal.

Mr. Hoffman arrived at 7:40 pm to report that he had appeared before the Planning and Zoning Board on August 12 and received approval of the landscape plan per Tom Sawyer Planned Development Pre-Annexation agreement with the City of Harrisburg. Mr. Hoffman appeared before the Harrisburg City Council for approval of the same landscape plan on August 17 prior to this meeting where he received approval by the City Council as well. Mr. Hoffman reported that the City of Harrisburg has agreed to allowing paving of the lot (stipulation per Pre-annexation agreement) to take place within one (1) year of annexation of the property to the City of Harrisburg.

The Petitioner has been working with the Vaca's (abutting residential property owners) regarding a buffer type landscape between the properties. He reported that proposed

plans were not acceptable to the Vaca's. He is willing to continue negotiations, within reason.

Speaking in Opposition:

Tony and Carol Vaca, abutting property owners spoke in opposition to the landscape plans that have been offered to them as a buffer between their property and the commercial property of the petitioner. The Vaca's don't feel that a trailer sales business will enhance the potential to sell their property and that they don't have 3-5 years to wait for the growth of sufficient vegetation for visual screening.

Discussion:

As referenced by Lincoln County Ordinance to a Planned Development a Rezoning Hearing was conducted

on July 17, 2009 and tabled until an abutting property owner could respond to the zoning issue. In addition the discussion centered on the landscaping issue between the Vaca's, Planning and Zoning, and the Developer. The intent of the berm and the number and type of trees to use to enhance the aesthetic qualities of the landscape and the creation of a barrier between residential and commercial properties. A.J. Swanson, counsel for the developer, reminded the board that this was a land use issue and not a landscape issue.

Action:

Following extensive discussion on the major amendment to the Tom Sawyer Planned Development a motion was made by Molstad to "recommend to approve" the Major Amendment to the Lincoln County Board of Commissioners. The motion was seconded by Commissioner Melcher. Molstad, Nelson, Sogn, Andersen, Melcher voted in favor. Portz voted in opposition because he felt approval was injurious to the Vaca's. Motion carried.

ITEM 4. Previously Tabled CONDITIONAL USE PERMIT #09-CUP-016 To operate a new business selling and

servicing trailers, and other retail sales with outdoor display, consistent with major amendment to district.

Legal Description: Lots 1 and 2, Block 1, Tom Sawyer Addition, NE1/4, Section 34, Township 100, Range 50, Lincoln County, South Dakota

Location: 47391 Tom Sawyer Trail, Harrisburg, SD 57032

Petitioner/Owner: Prairie Wind Trailers, LLC/ AJ Swanson

General Information

Present Zoning: Planned Development District

Existing Land Use: Planned Development District

Parcel Size: Lot 1 consists of 2.11 Acres; Lot 2 consists of 2.44 Acres

Recommendation:

Staff review for Conditional Use is comparable to staff review for the major amendment petition for this Planned Development. Staff requests consideration of the utilization of the HZO's stipulations/conditions as stated in presented letters from the July 20th meeting. Staff realizes the need for zoning district separation by berm/utilization of nature driven methods such as trees and shrubs as already noted in the approved initial development

plan. Staff has also been advised that the petitioner has attempted to comply with the berm request.

Action: A motion was made by Melcher to approve the request and was seconded by Nelson with the stipulation as listed:

Acceptance of the Harrisburg landscaping plan with the stipulation that trees for the plan be of at least 4 feet in height.

The motion was unanimous.

ITEM 5. CONDITIONAL USE PERMIT #09-CUP-018 The purpose is to haul manure to Lincoln Co, SD land to

get proper Nitrogen, Phosphorus, and Potash levels on owned and leased land. The purpose is to allow for temporary manure storage.

A motion was made by Andersen and seconded by Melcher to approve a change in this agenda item at the request of the petitioner, from temporary manure storage to haul and apply manure with no storage.

General Information

Petitioner/Owner: Loren Van Regenmorter/Van Berkel Farms, Inc

Present Zoning: "A" Agricultural

Existing Land Use: Agricultural

Parcel Size: Approximately 1611.8 Acres

Report By: Paul Aslesen

Recommendation:

Staff recommendation for this application cannot be given as a yes or no at this time as a more

detailed study needs to be accomplished in the area of set-back distances which involve nuisance

eliminations or restrictions, environmental concerns and application distances and requirements.

Legal Description:

09-CUP-018-1 SE1/4 *Ex Strip 66' Wide SE1/4 SE1/4* Section 15, Township 97, Range 51, Lincoln County, SD

Opposition: None

Speaking in favor: Speaker works for USDA and indicated that with the use of GPS it is easy to indicate set-backs on properties to show where applications can occur.

A motion was made by Andersen and seconded by Melcher to approve the request. The motion was unanimous.

09-CUP-018-2 SW1/4 and SE1/4 including Van Berkel TR 1 Section 27, Township 97, Range 51, Lincoln County, SD

Opposition: Concerns of township road use. Indicated that the roads are in bad shape from other Iowa farmers hauling other products.

Speaking in favor: None

A motion was made by Portz and seconded by Molstad to approve the request. The motion was unanimous.

09-CUP-018-3 SW 1/4 Section 36, Township 97, Range 51, Lincoln County, SD

There were no comments in favor or opposition.

A motion was made by Melcher and seconded by Andersen to approve the request. The motion was unanimous.

09-CUP-018-4 SE1/4 & S1/2 1/2 NE1/4 Section 13, Township 96, Range 51, Lincoln County, SD

Opposition: Speaker indicated that the petitioner had pulled equipment into speakers neighboring field twice on already prepared field when he approached petitioner about it he stated that "that was what they did in Iowa." Not being a good neighbor. A motion was made by Nelson and seconded by Portz to approve the request. The motion was unanimous.

09-CUP-018-5 Lots 1 & 2 NW1/4 *Ex Van Regenmorter Addition* Section 5, Township 96, Range 51, Lincoln County, SD

Speaking in opposition: Speaker stated that at this point he felt citizens concerns have fallen on deaf ears. What are Boards decisions based on if not citizen concerns?

A motion was made by Andersen and seconded by Molstad to approve the request. The motion was unanimous.

09-CUP-018-6 S630.5' of Lot 1 NE1/4 & N1/2SE1/4 Section 5, Township 96, Range 49 Lincoln County, SD

Speaking in opposition: Speaker stated that the petitioners truck drivers are driving too fast, stated that he has stopped drivers in the past for speed. Tearing up the township roads.

A motion was made by Andersen and seconded by Molstad to approve the request. The motion was unanimous.

09-CUP-018-7 Lots 1 & 2 SW1/4 & SE1/4 *Ex Van Berkel Tr1* Section 6, Township 97, Range 49 Lincoln County, SD

Speaking in opposition: Speaker 1. Speaker stated that she had issues with water quality; she has gone to the expense of having her own well water tested. The quality is fine at this time. Tiling in the surrounding field was done some time ago and drainage run in ditch in from of their acreage. She would like to see this corrected in some manner.

Speaker 2. Indicated that manure produced in Iowa should stay in Iowa. Speaker also indicated that he had concerns about water quality and the manure contaminating his well.

Speaker 3. Stated that manure stinks and he had a problem with bringing it in from Iowa. Wouldn't have a problem with it if it were a neighbor living in the area.

Speaker 4. Individual stated that he had checked with the DENR and confirmed that manure was already being hauled to one of the properties. He stated that he had talked to professors at SDSU in regard to water quality in Lincoln County; he stated that he was told that some studies were going to be done in the next several years.

A motion was made by Molstad and seconded by Nelson to approve the request. The motion was unanimous.

09-CUP-018-8 SW1/4 Section 9, Township 97, Range 50, Lincoln County, SD

Speaking in opposition: Speaker voiced concerns about both township and county roads being abused by the hauling.

A motion was made by Nelson and seconded by Portz to approve the request. The motion was unanimous.

09-CUP-018-9 W1/2SW1/4 Section 29, Township 96, Range 48, Lincoln County, SD

There were no comments.

A motion was made by Molstad and seconded by Andersen to approve the request. The motion was unanimous.

09-CUP-018-10 W1/2NW1/4 *Ex Lot H-2* Section 27, Township 96, Range 49, Lincoln County, SD

Speaking in opposition: Speaker voiced concerns with a large ponding area on this parcel and setback distances from the ponding which flows onto land that they farm. Runoff may affect their crops negatively. Also voiced concerns with setbacks from four (4) farmsteads in close proximity, some with private wells.

A motion was made by Andersen and seconded by Portz to approve the request. The motion was unanimous.

ITEM # 6. CONDITIONAL USE PERMIT #09-CUP-019 For the purpose of a Home Occupancy business

"Superior Tree Care" Article 12.03, 3.04 DD; to include forestry, snow removal; lawn care; landscaping;
tree spraying & injections.

Legal Description: N1/2 NW1/4 Section 15, Township 98, Range 50 Lincoln County, SD

Location: 47333 281st Street, Worthing, SD 57077

Petitioner/Owner: Doug & Sharon Wildeboer

General Information

Present Zoning: Agriculture

Existing Land Use: Agriculture

Parcel Size: 80 Acres

Report By: Paul Aslesen

Recommendation:

Reference

12.0302 Major Home Occupations A. Class 1

Recommend approval with compliance to the above referenced ordinance listed on page 52. Recommend a one year review.

Action: A motion to approve the request was made by Andersen and seconded by Nelson with the following stipulations.

1. Building a screening fence by Spring of 2010-per petitioner
2. Two (2) years to build a building to house equipment-per petitioner
3. Conduct a two (2) year review of the Conditional Use Permit
4. Compliance with 12.0302 Major Home Occupations A. Class 1 (Ordinance)

The motion was unanimous.

ITEM # 7. CONDITIONAL USE PERMIT #09-CUP-020

Legal Description: Verhey Addition- Lot 8, S1/2 Gov't Lots 1 & 2 SW1/4 Section 31, Township 100, Range 50 Lincoln County, SD

Location: 27285 Verhey Place, Suite 2 Tea, SD 57064

Petitioner/Owner: APS Autocare Pro Services/Byron Whaler

General Information

Present Zoning: "C" Commercial

Existing Land Use: Commercial

Parcel Size: 1.143 Ac

Report By: Paul Aslesen

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.**

This use is compatible with other uses in this commercial district. No negative effect is anticipated.

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

No disruption of current development is anticipated. Improvement of the property should be one

of the products of this use as enhancement of the parcel is anticipated in order to present the vehicles for sale to the general public.

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

All are provided.

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

Lincoln County requirements should be followed.

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 negative effect is anticipated with the use of good management tools and keeping the car lot from becoming an eye sore or allowing it to be a nuisance.

Recommendation:

Recommend approval with the following suggested stipulation:

1. Must be in compliance with all State Requirements.
2. Must be in compliance with all signage, parking and loading requirements of the county.

Example: No vehicles parked in the right of way.

Action: A motion was made by Molstad and seconded by Andersen to approve Conditional Use Permit #09-020 with the stipulations listed:

1. Must be in compliance with all State Requirements.
2. Must be in compliance with all signage, parking and loading requirements of the county.

Example: No vehicles parked in the right of way.

3. May display 5 vehicles in front of the building.

The motion was unanimous.

A motion to adjourn was made by Andersen and seconded by Portz. The motion was unanimous.

1. Workshops start on Lincoln County Comprehensive Plan, August 20, 2009 at 7:00 pm.

Respectfully submitted by:

Laurie Powell

Deputy Director

Lincoln County Planning & Zoning