

Minutes
LINCOLN COUNTY PLANNING AND ZONING COMMISSION
July 20, 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.

APPROVAL OF AGENDA –A motion was made by Andersen and seconded by Nelson to approve the minutes of July 20, 2009. The motion was unanimous.

ITEM 1. APPROVAL OF MINUTES – A motion was made by Andersen and seconded by Portz to approve the minutes of June 15, 2009. The motion was unanimous.

ITEM. 2 PUBLIC HEARING FOR REZONING #09-REZ-002-The purpose is a major amendment to Tom Sawyer Planned Development

District **Date and Time 8:00 pm July 20, 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

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.**
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 regards to the stipulations/conditions raised by the City of Harrisburg, SD

Petitioners Testimony: A.J. Swanson presented the purpose on behalf of the petitioner, Dakotaland Builders, owner Mike Hoffman. A site plan with landscaping was presented along with an explanation of the proposed use.

Public Testimony in opposition:

Bret Merkle represented Carol and Tony Vaca abutting property owners who are trying to sell their home and are concerned that a trailer sales business is detrimental to the sale of their property. The Vaca's stated that it will contribute to the devaluation of their home.

Charles Robertson represented BHI, Apple View Properties and Ed Bernhard- Residence. Mr. Robertson stated that the purpose listed on the application was "too vague". He would like to have the type of trailers more clearly defined. The parties he is representing would also like a more specific definition of "other retail sales" as stated in the amendment.

Public testimony was closed at 8:40 pm and a motion was made by Andersen and seconded by Portz to table this petition until **August 17, 2009 at 7:30 pm** because one of the abutting property owners did not receive notification. He was unable to attend this meeting and would like the opportunity to voice his concerns to the Commission. The motion was unanimous.

ITEM 3. PUBLIC HEARING FOR REZONING #09-REZ-003-For the Purpose of rezoning proposed lots 21, 27, 28, 35, 40, 45 from Ag to Rural Residential **Date and Time 7:30 pm July 20, 2009**

Legal Description: Springdale Estates, an addition in the N1/2 of the NW1/4 of Section 26, Township 100, Range 50 Lincoln County, South Dakota

Location: SE Corner of Hwy 115 and 271st Street

Petitioner/Owner: James Fastert/Jan Fastert & Wayne Dullerud

General Information

Present Zoning: Agriculture

Existing Land Use: Rural Residential

Parcel Size: A portion of 31.98 Acres

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.**
The rezone of this property will provide like use.
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
The effect should be of a positive nature.
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**
Subdivision ordinances will apply and provide requirements.

4. **That the off-street parking and loading requirements are met.**
Not applicable
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.**
Not applicable.

Recommendation:

Staff recommends to approve as this is a continuation of the existing subdivision.

Action: The motion was by Molstad to "recommend to approve" the rezoning petition to the County Board of Commissioners. The motion was seconded by Portz. The motion was unanimous.

ITEM 4. CONDITIONAL USE PERMIT #09-CUP-014 Temporary storage of impounded vehicles and selling of unclaimed/unpaid vehicles.

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

Location: 27285 Verhey Place, Suite 3, Tea, SD 57064

Petitioner/Owner: Scott Aubuchon/Alan Rippentrop

General Information

Present Zoning: "C" Commercial

Existing Land Use: Commercial

Parcel Size: 1.143 Acres

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.**
No negative effect is anticipated by the petitioned use.
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.**
All of the above facilities are in place.
4. **That the off-street parking and loading requirements are met.**
As this use involves the towing of vehicles and the parking/storage of same, Lincoln County Ordinance pertaining to parking and loading must be adhered to.
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 petitioned use does not involve any type of manufacturing/industry. The potential for any type of nuisance generated by this use is possible if the site is not kept organized and managed correctly. The use cannot become one of a salvage or junk yard.

Recommendation:

Staff recommends approval with the following suggested stipulations: 1. Site cannot become a salvage/junk yard. 2. A site visit will be performed within 6 months of the date of approval. 3. Property owners stipulations/conditions should be filed with the county for clarification only. 4. Any verifiable negative impact caused by this use to neighboring properties will result in a review of the permit by the Planning Commission. Please reference ordinance 6.04 on page 16, items D. and F.

Petitioner testimony:

Petitioner gave a power point presentation of the improvements he intends to make for security purposes. He has stated he intends to place an *8 foot fence with security wire on top. He also intends to strategically light the premises for security.

Public comment in favor: Byron Whaler a tenant in the same building complex spoke in favor of the changes proposed by petitioner. He stated that the fence should be a deterrent to theft as well as the lighting proposed. He stated that petitioner is doing a good job already of keeping the property clean.

Action: A motion was made by Melcher and seconded by Andersen to approve the petition with stipulations suggested. The motion was unanimous.

Stipulations are:

1. Lincoln County Ordinance pertaining to parking and loading must be adhered to.
2. The use cannot become one of a salvage/junk yard.
3. A site visit will be performed within 6 months of the date of approval.
4. Property owners stipulations/conditions should be filed with the county for clarification only.
5. Any verifiable negative impact caused by this use to neighboring properties will result in a review of the permit by the Planning Commission.

**The minutes will state that staff will work with petitioner to place a 6 foot fence per ordinance.*

ITEM 5. CONDITIONAL USE PERMIT #09-CUP-015 For the purpose of operating a Home Occupancy business, for parking and storage of the equipment and product for a tiling business.

Legal Description: Abbas Addition Tr1 in the E1/2 SE1/4 Section 15, Township 98, Range 50 Lincoln County, South Dakota

Location: 28177 SD Hwy 115, Worthing, SD 57077

Petitioner/Owner: Douglas Ovre

General Information

Present Zoning: Agriculture

Existing Land Use: Residential

Parcel Size: 3.87 Acres

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.**
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 negative effect is anticipated.
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**
Not applicable
4. **That the off-street parking and loading requirements are met.**
Site size will allow compliance with county ordinances.
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 nuisances are anticipated.

Recommendation: *Staff recommends approval with the following stipulation: 1. Use must be in compliance with ordinance 12.0302 Major Home Occupations item A. Class 1 located on page 52. Equipment and signage is currently on site. As indicated by ordinance, there are 11 items that are listed as requirements. Please reference Section 12.03 Home Occupations*

Action: A motion was made by Melcher and seconded by Portz to approve with stipulations.

1. Use must be in compliance with ordinance 12.0302 Major Home Occupations Item A. Class 1 located on page 52 of 2009 Revised Lincoln County Ordinance.
2. Sign must be in compliance.
3. July 2011 to have an accessory building for equipment storage.
4. Store equipment at father-in-laws farm until such time as an accessory building can be built.

The motion was unanimous.

ITEM #6. 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

Report By: Paul Aslesen

Action: This petition was contingent on Zoning petition 09-REZ-002 for a major amendment to the Tom Sawyer Planned Development. A motion to Table this petition as well as the major amendment petition until August 17, 2009 at 7:30 pm was made by Andersen and seconded by Portz. The motion was unanimous.

ITEM #7. CONDITIONAL USE PERMIT #08-CUP-017 New manufacturing facility over 25,000 square feet

Legal Description: Lots 1, 2, 3 and 12 in Block 5, Hagedorn Industrial Park Addition in the SE1/4 of Section 25, Township 100, Range 51 Lincoln County, South Dakota

Location: Southwest corner of Monty Street and 470th Ave

Petitioner/Owner: John N. "Jack" Shaw/D.T.S. Inc.

General Information

Present Zoning: "I" Industrial

Existing Land Use: Industrial

Parcel Size: 6 Acres

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.**
No negative effect anticipated.
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
Use should enhance and add to the development.
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**

Plans have been provided and are being reviewed by City of Tea Planning and Zoning. Review results will be provided prior to the meeting.

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

Plans indicate adequate site size to accommodate the parking and loading requirements.

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.

Use is within an Industrial District which allows for some degree of industrial noise. No major issues pertaining to nuisances are anticipated.

Petitioner testimony: Jack Shaw and Kent Barbee- President of DTS presented the plan for a manufacturing expansion of the DTS plant. The petitioner reported that the plan was approved by the City of Tea Planning Board earlier in the evening. A site plan was shown and note was taken that access to the facility will be onto Monty Street.

Recommendation:

Staff recommendation is to allow this manufacturing facility of over 25,000 square feet with the following suggested stipulations/conditions: 1. Recommendation by the city of Tea, SD to approve. 2. Building plans to be approved by a certified engineer for the State of South Dakota 3. Site specifications/site plan to be in compliance with the City of Tea, SD and Lincoln County.

Action: A motion to approve was made by Portz and seconded by Melcher with stipulations listed. The motion was unanimous.

ITEM # 8 PLATS:

1. Plat of Tracts A, B, C and D an Addition in the Southeast quarter (SE1/4) of Section 22, Township 97, Range 51, Lincoln County, South Dakota
2. Tract 1 of Burns Addition in the Northeast quarter (NE1/4) of the Southeast quarter (SE1/4) of Section 19, Township 100, Range 49, Lincoln County, South Dakota

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

ADDITIONAL ITEMS:

1. A focus group has been compiled of people from throughout Lincoln County to work on revising the Lincoln County Comprehensive plan. Meetings will be held twice monthly starting on the 3rd Thursday in August, with two sessions per month. Members of the Planning Commission decided that they would work on a rotation of two members per meeting.

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

Respectfully submitted by:

Laurie Powell

Deputy Director

Lincoln County Planning & Zoning