

MINUTES
LINCOLN COUNTY PLANNING AND ZONING COMMISSION
June 21, 2010

7:00 pm 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 June 21, 2010 at 7:00 pm by Chairwomen June Nusz with members Chad Nelson, Ron Larson, Darrel Sogn, Craig Andersen and County Commissioner Jason Melcher reporting for duty at the Lincoln County Courthouse, Commissioner's Meeting Room, 104 N Main, Canton, SD 57013. Dick Portz was absent.

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

ITEM 1. APPROVAL OF AGENDA—A motion to update the agenda of **June 21, 2010** and table B of Item 10 Plats, was made by Andersen and seconded by Melcher. A motion to approve the updated agenda was made by Andersen and seconded by Sogn. The motions were unanimous.

ITEM 2. APPROVAL OF MINUTES – A motion to approve the minutes of **May 17, 2010** was made by Nelson and seconded by Andersen. The motion was unanimous.

ITEM 3. CONDITIONAL USE PERMIT – 10-CUP-017 For the purpose of building a personal storage building over 1500 square feet (2560 Square Feet)

Legal Description: Country View Estates N1/2 SE1/4 Lot 4 Section 22, Township 100, Range 51, Lincoln County, South Dakota

Location: 46780 Valerie Place, Tea, SD 57064

Petitioner/Owner: Brian Corner

General Information

Present Zoning: Rural Residential

Existing Land Use: Rural Residential

Parcel Size: 3.13 Acres

Report By: Paul Aslesen

Please reference Article 19 on page 95 and Article 19.09 Conditional Use Criteria along with Article 12.06 Accessory Buildings and Uses, on pages 58 and 59 providing additional information.

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.**
Staff research indicates this use will be compatible with other similar uses/sizes of structures. Lot size of over 3 acres should provide for adequate room. Property values may be enhanced
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
Subdivision is characterized by above average lots and above average accessory buildings. No negative effect is anticipated.

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

All facilities are provided

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

No requirements for single family dwelling.

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 will not involve or constitute a nuisance factor.

Recommendation:

Staff recommends approval with the understanding that the proposed structure will be used for personal storage and that the structure will be positioned on the lot so that an additional drain field can be utilized when needed.

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

1. Structure will be used for personal storage
2. Structure will be positioned on the lot so that an additional drain field can be utilized when needed.

ITEM 4. CONDITIONAL USE PERMIT – 10-CUP-018 For the purpose of transferring one (1) building eligibility from NE1/4 of the NW1/4 to the NW1/4 of the NW1/4 & one (1) eligibility from SE1/4 of the NW1/4 to SW1/4 of the NW1/4

Legal Description: NW1/4 *Ex 2.52 Acres* Section 28, Township 98, Range 51, Lincoln County, South Dakota

Location: 28318 466th Ave, Lennox, SD 57039

Petitioner/Owner: Mark Kroger

General Information

Present Zoning: Agriculture

Existing Land Use: Agriculture

Parcel Size: 157.48

Report By: Paul Aslesen

Staff Analysis:

Please reference Article 3, the A-1 Agricultural District, specifically 3.04 Conditional Uses, Item Z. on page 8, and the transfer of a building eligibility from one parcel to another parcel. The application wished that a transfer be enabled to allow clustering of the eligibilities to allow the remaining portions to be farmed.

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; utilization of eligibilities will control population density and may enhance property values of the immediate vicinity.

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

Property not affected by the transfer will remain in ag production. No negative effect is anticipated. Property involved in the utilization of eligibilities must have legal description and have accessibility.

3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**
The process of approving the transferring of eligibilities is not dependent on the facilities being in place. Approval of the transfer will make sites available but not make them buildable. Facilities will be a requirement of the plat process and or the building permit application process.
4. **That the off-street parking and loading requirements are met.**
Not a requirement of a single family home/dwelling.
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 items are anticipated.

Recommendation:

Staff recommends approval of the transfer of eligibilities with the stipulation that the "Right To Farm Covenant" be made available to any tentative buyer of the property.

Action: A motion was made by Larson to approve the transfer of single family eligibilities with stipulation that the potential buyer be notified of the "Right to Farm Covenant". The motion was seconded by Sogn. The motion was unanimous.

ITEM 5. CONDITIONAL USE PERMIT #10-CUP-019 For the purpose of obtaining an additional single family eligibility for a family member.

Legal Description: S817.4' Hanson Lot 2NW1/4 SW1/4 *Ex Johnson Tract A, Section 34, Township 100, Range 49, Harrisburg, SD 57032

Location: 27256 479th Ave

Petitioner/Owner: Eric Kittelson

General Information

Present Zoning: Agriculture

Existing Land Use: Rural Residential

Parcel Size: 7.40 Acres

Report By: Paul Aslesen

Staff Analysis:

Staff review indicates no acceptable method provided by the Lincoln County Zoning Ordinance to provide for another single family eligibility. Petitioner has been informed that the application will be filed with no action required and fee refunded.

Recommendation:

Staff recommends that an amendment to the Lincoln County Ordinance be proposed and staffed to allow for a method of helping with a growing need for health care for the elderly and or other family members by family members by allowing them to live in close proximity to each other.

Action: Work session scheduled for July 19, 2010 at 6:00 pm prior to regular meeting.

ITEM 6. CONDITIONAL USE PERMIT #10-CUP-20 For the purpose of transferring 1 single family eligibility from NE1/4 of the SW1/4 to SW1/4 of the SE1/4 of Section 12, Township 99, Range 50

Legal Description: W1/2 SE1/4 *Ex 526' S637'* Section 12, Township 99, Range 50, Lincoln County, South Dakota

Location: Near 47568 275th Street

Petitioner/Owner: Vernon Slack

General Information

Present Zoning: Agriculture

Existing Land Use: Agriculture

Parcel Size: 1 Acre +

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. Property owner will provide eligibility for family member.
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
Agriculture uses will continue as the dominate use as the eligibility will result in a very small number of acres being used.
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
Most of the above requirements will be provided at the site prior to the issuing of a building permit. This is not a requirement for the transfer of eligibilities.
- 4. That the off-street parking and loading requirements are met.**
Not required for a single family dwelling.
- 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 activities are anticipated by the transfer of eligibility for a single family residence.

Recommendation:

Staff recommends approval of the transfer with the stipulation that the dweller be notified of the "Right to Farm Covenant".

Action: A motion was made by Larson to approve the transfer of a single family building eligibility with the stipulation that the potential buyer be notified of the "Right to Farm Covenant". The motion was seconded by Sogn and was unanimous.

ITEM 7. CONDITIONAL USE PERMIT #10-CUP-021 for display of Custom Touch Homes for sale as well as the display and sales of motorized vehicles and recreational vehicles.

Legal Description: Smith's Addition SE1/4 Tract 2 * Ex Lot H-1 & N292.34', Section 31, Township 100, Range 50

Location: 27296 273rd St, Harrisburg, SD 57032

Petitioner/Owner: Ward L Miller/ Brad Meyer

General Information

Present Zoning: Commercial

Existing Land Use: Commercial

Parcel Size: 150' x 150' + office

Report By: Paul Aslesen

Please reference the Commercial District uses as listed under Article 6.04 Conditional Uses on page 16. Applicant wishes to display and sell "off site" built homes, display and sell motorized vehicles and recreational vehicles.

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 as current permitted uses are similar and include service oriented businesses along with equipment displays etc. This site is zoned commercial.
- 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. Area is well defined, clean and orderly and should be enhanced by the petitioned business.
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
Provided, no new structures are anticipated at this time.
- 4. That the off-street parking and loading requirements are met.**
Lincoln County Ordinance specifies set back distances and the parking and loading requirements. Site is large enough to provide adherence to ordinance.
- 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.**
Proposed use should not create factors that will constitute a nuisance.

Recommendation:

Staff recommendation is to approve with the following stipulations: 1. All parking and loading must be in compliance with Lincoln County Ordinances. Specifically, no displayed item can be placed in the road right of way. 2. All on site signage must be in compliance with Lincoln County ordinance. 3. No displayed item shall be placed in a location that may create a safety issue with traffic. 4. No displayed item shall interfere with properly placed existing signs.

Action: A motion to approve the request was made by Nelson with 4 stipulations listed. The motion was seconded by Andersen. The motion was unanimous.

ITEM 8. CONDITIONAL USE PERMIT #10-CUP-022 For the purpose of using the existing facility as a Railroad Terminal for a loading and unloading facility and/or storage of off-loaded equipment for non-agronomy activity.

Legal Description: Govt Lot 1 NW1/4 and Govt lots 1 & 2 of SW1/4 *Ex Lot H-1 and H-2 in Section 6, Township 98, Range 50

Location: Intersection of I-29 (exit 64) and State Hwy #44 NW corner by RR tracks

Petitioner/Owner: Tony Van Overschelde /CHS Inc

General Information

Present Zoning: Commercial

Existing Land Use: Commercial

Parcel Size: 175.18 Acres

Report By: Paul Aslesen

Please reference the Commercial Districts Conditional Uses listed under Article 3.064 on page 16.

The applied for use is defined by item F., Transportation, including gasoline service stations, truck shop and terminal.

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 site is zoned commercial with its principal use defined as an agronomy center. Other commercial uses permitted in this area include a car/truck dealership, a motor home distributor, a bird actuary, and a couple of trucking companies. The applied for use should not have a negative effect on permitted uses or property values in the immediate area.

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

The effect of terminal activity involved with railhead activities should create a positive and orderly path of improvement and development. Terminal/railhead area will provide for an ever changing economy and may inspire addition growth in this area of Lincoln County.

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

Site is equipped with the basic facilities and utilities and drainage issues were identified and properly administrated when the agronomy center was built. Access to the site is provided off of a township road. The township Road will be subjected to a use not compatible with its current status or conditions. Stipulations should address the protection of the township road and the safety of use.

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

Site is able to accommodate essential parking and loading and the temporary on site storage of off loaded equipment. Stipulations should address the utilization of permanent pads for vehicle parking, up loading and turn around areas to eliminate the possibility of mud clumps etc being placed on the township road.

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.**

Dust control, light discipline and noise discipline should be measures taken to keep this activity from becoming a nuisance.

Recommendation:

Staff recommends approval with the following stipulations: 1. Lincoln County Planning and Zoning will be notified of any 24 hour operations. 2. Lincoln County and any impacted townships shall be advised of haul roads to be utilized from terminal activity to ensure road maintenance and readiness is maintained. 3. Request appropriate warning signs indicating slow moving vehicles etc. 4. Provide dust control measures and educate operators on light and noise discipline. 5. Township/county road agreements pertaining to the applied for use will be stipulated.

Speaking in Opposition: Several members of the community spoke in opposition. Those concerns included dusty roads, blocked access from their homes, trucks parked on the roads waiting for loading and pilot cars blocking the road. Another concern was that the township road is not built to handle long-term heavy traffic of this nature. List of persons speaking in opposition located in minutes book Lincoln County Planning and Zoning office.

Action: A motion by Andersen to approve the Conditional Use Permit with stipulations was seconded by Nelson. Stipulations are as listed:

Phase 1:

1. Lincoln County Planning and Zoning will be notified of any 24 hour operations.
2. Lincoln County and any impacted townships shall be advised of haul roads to be utilized from terminal activity to ensure road maintenance and readiness is maintained.
3. Request appropriate warning signs indicating slow moving and heavy vehicles etc.
4. Provide dust control measures and educate operators on light and noise control.
5. Acceptance of Agreement between the Township and Eastern Farmers Coop with the exception of line 2 of Item 3 and change of President to General Manager

Phase 2:

1. Plan for alternate route with timeline for change.
2. Review of plans in 30 days.

The motion was unanimous.

ITEM 9. CONDITIONAL USE PERMIT #10-CUP-023 For the purpose of wholesale trade of golf course and landscaping supplies, storage of fertilizer and other related products.

Legal Description: Hagedorn Industrial Park Addition, Lot 11, Balk 1, SE1/4, Section 25, Township 100, Range 51, Lincoln County, South Dakota

Location: 46958 Mindy St, Tea, SD

Petitioner/Owner: Arlan Kruger/Tessman Company

General Information

Present Zoning: Industrial

Existing Land Use: Commercial

Parcel Size: 159' x 295', 1.08 Acres

Report By: Paul Aslesen

Please reference the I-1Light Industrial District uses located on page 18 and 19.

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.**
Permitted uses in The Hagedorn Industrial park include warehousing, light industrial, service oriented uses, lumber yards, contractors yards etc. The applied for use should be compatible and should not have a negative effect on existing or on property values.

- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
The subdivision has been approved by Lincoln County and the city of Tea and should improve the area and should not have a negative effect on future development.

- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
Utilities and facilities are for the most part available in the subdivision.

- 4. That the off-street parking and loading requirements are met.**
Utilization of county parking and loading requirements are required.

- 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 applied for use is for indoor and outdoor storage and wholesale trade which should not contribute any factors that may constitute a nuisance.

Recommendation:

Staff recommends approval with the following stipulations: 1. Parking and loading be in compliance with county ordinances. 2. Signage must be in compliance with county ordinance. 3. Storage of non-end items must be within the building or be in a fenced area.

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

ITEM 10. PLATS

- A. Tract 1 of Wiebers' Addition in the Northeast Quarter of Section 35, Township 97, Range 51 Lincoln County, South Dakota

- B. Timm's Addition in the E1/2 of the SE1/4 of Section 19, Township 99, Range 49, Lincoln County, South Dakota- Director's decision to remove from agenda due to lack of signatures.

- C. Tract 1 of DeVries Addition in the Southeast Quarter of Section 31, Township 99, Range 50, Lincoln County, South Dakota

- D. Tract 1 of Javers' Addition in the Northeast Quarter of Section 30, Township 98, Range 51, Lincoln County, South Dakota

- E. Tract 3 of Merkle Addition in the Northeast Quarter of Section 8, Township 99 North, Range 50 West of the 5th P.M., Lincoln County, South Dakota

- F. Lot 1 of Tract 3 of Merkle Addition, in the Northeast Quarter of Section 8, Township 99 North, Range 50 West of the 5th P.M., Lincoln County, South Dakota
- G. Lot 3 in Tract 1 Kolb's Addition in the NW1/4 of Section 4, Township 99 North, Range 50 West of the 5th P.M., Lincoln County, South Dakota
- H. Lot A in Tract A, Dawley Farm Village Wetland Easement of Tract 1 of Kolb's Addition, in the NW1/4 of Section 4, Township 99 North, Range 50 West of the 5th P.M., Lincoln County, South Dakota
- I. Tract 1 and Tract 2 of Kroger's Addition in the Northwest Quarter (NW1/4) of Section 28, Township 98 North, Range 51 West the 5th P.M., Lincoln County, South Dakota

Action:

A motion was made by Sogn and seconded by Larson to approve plats A and C through I, Item B having been tabled. The motion was unanimous.

ADDITIONAL ITEMS:

1. Work session on temporary single family dwelling for supportive care, scheduled for July 19, 2010 at 6:00 pm prior to regular monthly meeting.

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

Respectfully submitted by:

Laurie Powell

Deputy Director

Lincoln County Planning & Zoning