

MINUTES
LINCOLN COUNTY PLANNING AND ZONING COMMISSION
November 21, 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 November 21, 2011 at 7:00 p.m. by Vice Chair Chad Nelson with members June Nusz, 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. Craig Andersen-Absent

Staff members present were Paul Aslesen-Director Planning and Zoning, Laurie Lundquist-Deputy Director, Gregg Thompson-Compliance Officer

ITEM 1. APPROVAL OF AGENDA—A motion was made by Gillespie to Table 11-CUP-036 until regular January meeting. The request to table was made by the petitioner in order to allow their engineer more time on the site plan. The motion was seconded by Albers. Motion was unanimous.

A motion was made by Sogn and seconded by Larson to approve the amended agenda for November 21, 2011. The motion was unanimous.

ITEM 2. APPROVAL OF MINUTES— A motion was made by Gillespie and seconded by Nusz to approve the minutes of October 17, 2011 as written. The motion was unanimous.

ITEM 3. REZONE – 11-REZ-002 Scheduled time is 7:30 pm. For the purpose of rezoning the property from Rural Residential to Commercial for a parking lot - storage with privacy fence.

Legal Description: Lot 15, Block 1 Smith's 2nd Addition in the Southeast quarter (SE1/4) of Section 31, Township 100, Range 50 Lincoln County South Dakota

Location: 47028 Smith's Circle, Harrisburg, South Dakota

Petitioner/Owner: Steve Ballenger

General Information

Present Zoning: Residential

Existing Land Use: Residential

Parcel Size: 1 Acre

Staff Recommendation/Comments:

The petitioned parcel is located in what is known as Smith's 2nd Addition. This addition is unique in its nature and its overall make up. Presently, parcels/lots have been designated for Commercial Development, Residential Development and some light industrial development or uses. It appears that this development may have been an attempt by the then County Commissioners to formulate a Planned Development. No residential structures are located on the petitioned lot and the lot abuts a current commercial business which needs more space for storage and parking. It can be argued that this is the best use of the property and is in compliance with The Lincoln County Comprehensive Plan. Staff encourages the Planning and Zoning Commission to recommend rezoning the parcel known as lot 15 to the "C" Commercial District.

Action: Following extensive discussion concerning drainage in the development, the petitioner requested that the rezoning be tabled until the regular December meeting. A motion was made by Gillespie and seconded by Sogn to Table 11-REZ-002 until the regular December meeting. Tabling the rezone will allowing the petitioners engineer along with review by the County engineer to devise a good drainage plan for the area to be rezoned. The motion was unanimous.

ITEM 4. REZONE – 11-REZ-003 Scheduled time is 7:30 pm. The purpose is to construct a metal recycling facility and relocate its business from the view of Interstate 29. Rezone from Agriculture to I-2 General Industrial

Legal Description: S585' of W482' of NW1/4 of Section 32, Township 96, Range 50, Lincoln County, South Dakota

Location: 29638 471st Ave, Beresford, South Dakota

Petitioner/Owner: Linco Properties, LLC/Darla Jacob represented by Tom Frieberg

General Information

Present Zoning: Agriculture

Existing Land Use: Commercial

Parcel Size: 6.47 Acres

Staff Recommendation/Comments:

The petitioned parcel is located in close proximity to the City of Beresford, SD, specifically; the parcel is of little or no value in its current state of zoning. The parcel was used formerly by a road building contractor who stored various types of equipment on the site as well as rubble and road building materials. The rezoning of this parcel to an I-2 General Industrial District is in compliance with the Lincoln County Comprehensive Plan as there is very little, if any, chance for any other type of positive growth in this area as the City of Beresford has authorized light manufacturing to the South of the petitioned site and has positioned the city's lagoon system to the North of the site. Staff encourages the Planning and Zoning Commission to rezone this parcel to I-2 General Industrial.

Action: A motion was made by Larson and seconded by Albers to recommend to approve the rezoning from Agriculture to I-2, General Industrial to the Lincoln County Commission. The motion was unanimous.

ITEM 5. CONDITIONAL USE PERMIT #11-CUP- 0035 For the purpose of a Major Home Occupation Class 1- Auto Repair

Legal Description: Lot 16, Block 1, Smith's 2nd Addition SE1/4, Section 31, Township 100, Range 50, Lincoln County, South Dakota

Location: 47090 Smith Circle, Harrisburg, SD 57032

Petitioner/Owner: Steve Ballenger

General Information

Present Zoning: Residential

Existing Land Use: Residential

Parcel Size: 1 Acre

Report By: Paul Aslesen

The Conditional Use under consideration is a result of the petitioner wanting to be in compliance with the current zoning ordinances. The petitioner has been authorized by the county to conduct/operate business using only family support. The continued growth of the business has resulted in the need for more help which can be gained by the awarding of the requested permit.

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.**
Because of the various commercial and light manufacturing uses already in the area, no additional negative effect is anticipated. Most of the abutting lots are already zoned commercial which appears to be the developer's intent with some exceptions. Abutting property owners to the West and North have used or are currently using their specific lots for a combined use of residential, commercial and industrial. The petitioner has demonstrated by his clean up efforts, his willingness to create a positive use for the petitioned lot.
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
Most of the immediate lots have their uses already locked in. The effect of the utilization of the petitioned use should have very little, if any, negative effect on the surrounding vacant lots.
- 3. Those utilities, access roads, drainage and/or other necessary facilities are provided.**
The applied for use will use the existing facilities, roads and utilities.
- 4. That the off-street parking and loading requirements are met.**
The applied for use may create a need for more parking for employees and for business. Petitioner is requesting the rezoning of property to the North to accommodate this increase.
- 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.**
Best management practices must be utilized to insure none of the above creates nuisances. All work of this major home occupation should be done within the building.

Recommendation:

*Staff recommends approval with the following ordinance stipulations: Reference Major Home Occupation on pg 52.
Class 1: Home occupation stipulations*

- 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 Gillespie to approve 11-CUP-035 with eleven stipulations listed above for Class 1 Major Home Occupation with emphasis on item #3. The motion was seconded by Larson and was unanimous.

ITEM 6. CONDITIONAL USE PERMIT #11-CUP- 036 For the purpose of operating a metal recycling facility.

Legal Description: S585' of W482' of W482' of NW1/4, Section 32, Township 96, Range 50, Lincoln County, South Dakota

Location: 29638 471st Avenue, ½ mile North of SD Hwy 46, Beresford, South Dakota

Petitioner/Owner: Linco Properties, LLC/Darla Jacob & Tom McKee represented by Tom Frieberg

General Information

Present Zoning: "A" Agriculture

Existing Land Use: "C" Commercial

Parcel Size: 6.47 Acres

Report By: Paul Aslesen

The Conditional Use under consideration will allow the petitioner to operate a metal recycling business in a proposed I-2 General Industrial District.

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.**

Property in this area is impacted by city lagoon system, by rail line development and by existing light manufacturing. Property values may increase and more enjoyment may take place upon approval of the petition as this use will create positive activity and has the potential for more I-2 development.

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

Vacant property is either owned by the city or is being utilized by the agricultural industry. Residential development, although possible, is not very likely in this area based on the city's current use and the approved manufacturing being conducted in close proximity.

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

Currently, the petitioned parcel is being served by a township gravel road. Negotiations are taking place with the city to provide water services. On site septic system will be utilized until municipal services are available. Applicant has been advised to provide an engineered site plan for the commission. Site plan will provide helpful data for the layout of buildings, driveways and drainage.

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

Site plan will provide the required data and prove compatibility with Lincoln County Ordinances pertaining 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.

This use will generate noise, dust, some smell and vibration. Site is located away from any current activity that may be negatively impacted by it.

Recommendation:

Staff recommends approval of the petitioned use as far as the use being in compliance with the Lincoln County Comprehensive Plan. The petitioned use should generate commission questions pertaining to security, site beautification requirements, dust control, township road maintenance agreements, compliance with all Dept of Environment regulations and compliance with the engineered site plan. Staff recommends a review of the operation within one year of operation to determine compliance.

Action: None taken. Tabled until January at petitioners request.

ITEM 7. CONDITIONAL USE PERMIT 11-CUP-037 For the purpose of parking and storing vehicles.

Legal Description: Lot 6, Block 2 Hagedorn Industrial Park Addition in the Southeast quarter (SE1/4) of Section 25, Township 100, Range 51, Lincoln County, South Dakota

Location: 46979 Mindy St, Tea, SD 57064

Petitioner/Owner: Jay Van Essen/Steven P Olson

General Information

Present Zoning: "Commercial"

Existing Land Use: "Commercial"

Parcel Size: 1 Acre

Report By: Paul Aslesen

Please reference page 16, Article 6.04 Conditional Uses, item C Equipment sales, display and repair and item D Motor Vehicle Sales, display, service and rental.

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 petitioned use should not have any negative effect as other uses in the immediate area include warehousing, service oriented businesses, contractor shops, and uses similar in nature to 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. Parcel has an existing structure of 4,800 square feet which will be used for cold storage.

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

Lot is developed.

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

Site plan indicated enough room to provide compliance with Lincoln 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.

Signage to be in compliance with Lincoln County Ordinances. No nuisance factors/issues are anticipated.

Recommendation:

Staff recommends approval with stipulation(s):1. No outside unsecured storage of non-end items.

Action: A motion was made Nusz and seconded by Larson to approve 11-CUP-037. The motion was unanimous.

ITEM 8. CONDITIONAL USE PERMIT 11-CUP-038 For the purpose of constructing a 17,430 square foot addition.

Legal Description: Lot 4, Block 4, Kerslake Addition, West one-half (W1/2) of the Southeast quarter (SE1/4) of Section 24, Township 100, Range 51, Lincoln County, South Dakota

Location: 27077 Gayle Ave, Tea, SD 57064

Petitioner/Owner: Gary Marshik/Marshik Family Limited Partnership, LLLP

General Information

Present Zoning: "Commercial"

Existing Land Use: "Commercial"

Parcel Size: 2 Acres +/-

Report By: Paul Aslesen

The petitioned request is for an expansion of an existing structure to accommodate the growing business. Please reference Article 6.03 item 3 on page 15. Applicant was awarded a similar CUP in April 2011.

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.**
This expansion should provide a positive effect on continued development.
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
Items listed are provided. Site plan being formulated and will be provided to the commission.
- 4. That the off-street parking and loading requirements are met.**
Expansion will not create any loading or parking problems.
- 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.**
Request will not cause any more nuisance factors than the previous conditional use allows. Some noise and odor is anticipated.

Recommendation:

Staff recommends approval with the approval of the site plan by the city of Tea. Site plan needs to be followed and the plans for the addition must be engineered and approved by same.

Action: A motion was made by Nusz to approve 11-CUP-038 with staff recommended stipulations. The motion was seconded by Sogn. Motion was unanimous.

Adjourn: A motion was made by Sogn and second by Albers to adjourn the meeting. Motion was unanimous.

ADDITIONAL ITEMS:

Respectfully submitted by:

Laurie Lundquist

Deputy Director

Lincoln County Planning & Zoning