

MINUTES
LINCOLN COUNTY PLANNING AND ZONING COMMISSION
Sept 19, 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 September 19, 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. Commissioner Gillespie left at 9:00pm.

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 APPROVAL OF AGENDA - A motion was made by Nusz to approve the amended agenda, Item 8 was withdrawn at petitioner's request for health reasons. The motion was seconded by Albers. Motion was unanimous.

ITEM 2. APPROVAL OF MINUTES – A motion was made by Nelson and seconded by Gillespie to approve the minutes of the Regular Meeting on August 15, 2011 and a Special meeting held on August 25, 2011. The motion was unanimous.

Item 3. REVIEW HEARING CONDITIONAL USE PERMITS 05-CUP-39 and 05-CUP-041. Review is for the purpose of addressing allegations concerning noncompliance with any terms, conditions or requirements placed on Conditional Use Permits approved on June 20, 2005. Date/Time September 19, 2011 at 7:30 PM.

Staff Review:

- a. *Conditional Use Permits 05-CUP-39 and 41 were approved June 20, 2005 with no appeals filed. #39 is located at 47065 292nd Street and #41 is located at 29160 472nd Ave. Beresford, SD*
- b. *#39 is a Class C with a maximum of 999 animal units and #41 is a Class D authorized at 499 animal units.*
- c. *#39 has received a General Water Pollution Control Permit and has an approved Animal Waste Storage Facility.*
- d. *A copy of Article 19.12 Review of Permit by Planning Commission is available online or in the Planning and Zoning office.*

Recommendation:

Staff recommends amendments to 05-CUP-039 and 05-CUP-041 with the following stipulations:

1. Request county to stockpile
2. Provide site plans showing locations and haul roads.
3. Must be in compliance with DENR stockpiling requirements
 - a. Less than 14 days is allowed
 - b. Longer than 14 days must be covered
 - c. Provide start date for hauling and application times
4. Must be in compliance with all DENR general permit requirements

Action: 05-CUP-039 A motion was made by Nusz to amend with staff recommended stipulations listed. Motion was seconded by Larson. Motion was unanimous.

Action: 05-CUP-041 A motion was made by Nusz to amend with staff recommended stipulations listed. Motion was seconded by Gillespie. 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. **Tabled from August 15, 2011**

Action: A motion was made by Larson to remove from the table, the motion was seconded by Albers. Motion was unanimous.

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 approve with 1. the 11 class 1 stipulations listed above, 2. limiting hours of operation at this location to 8:00 am to 6:00 pm., and 3. a review of this Conditional Use in one year. The motion was seconded by Sogn. Motion was unanimous.

ITEM 5. CONDITIONAL USE PERMIT 11-CUP-018 For the purpose of a Class 1 Home Occupancy painting and landscaping business. **Tabled from August 15, 2011**

Action: A motion was made by Nusz to remove from the table, the motion was seconded by Albers. Motion was unanimous.

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.

One member of the public spoke in favor of the petitioner.

Action: A motion was made by Sogn to approve 11-CUP-018 with the 11 stipulations for a Class 1 Home Occupancy permit listed above. The motion was seconded by Larson; 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.) Tabled from August 15, 2011

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.

One member of the public spoke in favor of the petitioner.

Action:

A motion was made by Nelson and seconded by Larson to approve 11-CUP-019. The motion was unanimous.

ITEM 7. CONDITIONAL USE PERMIT 11-CUP-025 For the purpose of expansion of existing CAFO beyond what current permit allows. Expansion from Class C to a Class B.

Legal Description: N64.90 Ac of the NE1/4 *Ex Lot H-1* of Section 7, Township 96, Range 50, Lincoln County, South Dakota

Location: 47065 292nd St, Beresford, SD 57004

Petitioner/Owner: Darwin Hazel

General Information

Present Zoning: Ag

Existing Land Use: Ag

Parcel Size: 55.17 Ac

Report By: Aslesen

The applied for use will provide an increase in the number of animal units from 999 to 1, 999 animal units. Please reference Article three "The Agriculture District" and Article 12.09 Concentrated Animal Feeding Operations. Particular attention should be given to the Class B portion of the ordinance.

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 applied for permit will allow a feedlot with a range of animal units from 999 to 1,999 which equates to a maximum of 1,999 head of feeder cattle for this operation. The applicant has provided Lincoln County with waivers from impacted neighbors who reside within the set back distances. Currently, the applicant is permitted to house a maximum of 999 animal units. The CAFO will utilize locally grown product and will not negatively impact the use of abutting agricultural lands or uses. Property values of abutting properties should remain the same as they are under the current classifications.
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
All properties in the surrounding area are agriculture in use. Development or rezoning of this area is not anticipated. Area is in close proximity to the interstate system but does not have immediate access to provide for other types of zoning development.
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
Facility is equipped with a containment facility for the current level. Approval of the expansion rests with the Dept of Environment and Natural Resources as per containment requirements.
- 4. That the off-street parking and loading requirements are met.**
Requirement mandated by the county are for the most part not applicable for this facility. CAFO is located on an existing farmstead and has appropriate parking and loading areas so that traffic and public use of adjacent infrastructure will not be impacted.
- 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.**
A CAFO will always have the potential of creating odor that may be offensive to some. The use of good management methods is essential to curtail the smell of this activity as well as adherence to the set back requirements which should cut back on the exposure. Existing residents are familiar and accepting of this activity and any new residents will be required to sign a "Right To Farm Covenant" as indicated by Article 3.

Recommendation:

Staff recommends approval with the following stipulations:

1. The use must be permitted by the Dept. of Environment and Natural Resources and a copy of the permit provided to Lincoln County.
2. The nutrient management plan must be permitted by the Dept. and a copy provided Lincoln County
3. Adherence to the provisions of the Lincoln County Concentrated Animal Feeding Operation to include waivers being recorded with the Lincoln County Register of Deeds within 30 days.
4. Feedlot records will be available to Lincoln County Inspection to aid Lincoln County in the determination of compliance to the maximum numbers allowed.
5. Applicant must be in compliance with all Dept. of Environment and Natural Resources General Permit requirements.

One member of the public inquired if the current lagoon system was large enough to handle the additional runoff of the requested increase. He also questioned maintenance of the township road.

Mr. Hazel stated that the lagoon was overbuilt and would indeed handle the additional runoff. In regard to the township road Mr. Hazel stated that he would be glad to pay for construction supplies for maintenance of the township road.

Action: A motion was made by Gillespie to approve Conditional Use Permit 11-CUP-025 for an expansion from Class C to Class B with staff recommended stipulations; the motion was seconded by Albers. Motion was unanimous.

ITEM 8. CONDITIONAL USE PERMIT 11-CUP-026 For the purpose of constructing an addition making the building over 10,000 square feet.

Legal Description: Lot 2 Lund Addition in the Southeast quarter of the Southeast quarter (SE1/4SE1/4) Section 31, Township 100 North, Range 50 W, Lincoln County, South Dakota

Location: 47090-273rd St, Harrisburg, SD 57032

Petitioner/Owner: Douglas Lund

General Information

Present Zoning: "C" Commercial

Existing Land Use: Commercial

Parcel Size: 1.60 Ac

No action: Petition was withdrawn by Petitioner due to ill health.

ITEM 9. CONDITIONAL USE PERMIT 11-CUP-027 For the purpose of operating a retail fireworks sales business.

Legal Description: Tract 21 and a 50 foot by 180' abandoned drive in Sky Haven Heights in the NW1/4 of Section 30, Township 100, Range 50 Lincoln County, South Dakota

Location: 27117 S Skylane Dr

Petitioner/Owner: Todd Voss/Alex Gladush

General Information

Present Zoning: "C" Commercial

Existing Land Use: "C" Commercial

Parcel Size: 36,000 Square feet

Report By: Aslesen

Petitioner is seeking a permit to sell fireworks from a permanent structure located in a Commercial District. Please reference the commercial uses in Article 6.04.

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.**
Uses already permitted or active in this area include firework sales, vehicle and trailer display and sales, construction contractor's shops, retail and wholesale businesses and service oriented businesses. No negative effect is anticipated by this use as it is compatible with existing.

2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
This area has been developed and has very few developmental opportunities available at this time. The applied for use will cause improvement as it will serve as a retail store serving the public. Improvement of the area is anticipated as the use will be competitive with other retail businesses.

3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**
The parcel is served by existing utilities and access roads.

4. **That the off-street parking and loading requirements are met.**
The site plan indicates the parking and loading areas to be in compliance with Lincoln County Ordinances. Plans may be generated to utilize a portion of the lot to the South for parking when needed as this business is very seasonal.

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 effects are anticipated from this retail business.

Recommendation:

Staff recommends approval of this use with stipulation(s):

1. *Business must be in compliance with State licensing.*
2. *Business must notify Lincoln County Emergency Management of the type and nature of the hazardous materials sold and stored on the site.*
3. *Business must notify Tea, SD fire department of the type and nature of the hazardous materials sold and stored on the site.*

Action: A motion was made by Nelson and seconded by Larson to approve 11-CUP-027 with stipulations listed above. Motion was unanimous.

ITEM 10. CONDITIONAL USE PERMIT 11-CUP-028 For the purpose of used vehicles sales, RV, trailer and prime movers.

Legal Description: Tract 7 of Southtown Addition in Govt Lots 1 & 2 NW1/4 of Section 7, Township 98, Range 50 in Lincoln County South Dakota

Location: 28020 Boondocks Ave, Worthing, SD 57077

Petitioner/Owner: Pam Frankman/Joe Hurley

General Information

Present Zoning: "C" Commercial

Existing Land Use: "C" Commercial

Parcel Size: 10.397 Acres

Report By: Aslesen

Petitioner is requesting that Lincoln County provide a permit for a like use on the referenced parcel.

Great Plains RV received a permit to operate on July 23, 2001 and is now working an agreement with the Petitioner to provide space and facilities to accommodate the like use.

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. Current like use has had no complaints over the last ten years.
- 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 as no increase in size of parcel or structure is being planned.
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**
Appropriate utilities and infrastructure are provided and no negative effect is anticipated.
- 4. That the off-street parking and loading requirements are met.**
Parcel size is large enough to accommodate Lincoln County parking and loading regulations.
- 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 same stipulations as the parent company. 1. Signs to be in compliance with Lincoln County Ordinances and 2. no outside storage of parts or materials.

Action: A motion was made by Nelson and seconded by Sogn to approve 11-CUP-028 with staff recommended stipulations. The motion was unanimous.

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

Respectfully submitted by:

Laurie Lundquist

Deputy Director

Lincoln County Planning & Zoning